

City Council  
Regular Meeting  
February 25, 2003

The City Council of the City of Titusville met in regular session on Tuesday, February 25, 2003 in the Council Chamber of City Hall, 555 South Washington Avenue, at 6:30 p.m.

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Present were Mayor Ron Swank, Vice-Mayor Jeff Rainey, and Council Members Chris Broome, Conrad Eigenmann, and Ken Ward. Also in attendance were City Manager Tom Harmer, and City Attorney Dwight Severs.

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Mayor Swank called the meeting to order. Reverend Jim Govados, pastor of Indian River City United Methodist Church was present for the invocation. The entire assembly stood to recite the Pledge of Allegiance to the Flag.

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The first item of business was the approval of minutes of regular meeting February 11, 2003. Vice-Mayor Rainey moved to approve the minutes as submitted. Member Ward seconded the motion and it carried unanimously.

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Presentations *F.I.R.S.T* robotics demonstration – Jaci Diesel of Titusville High School and Tony Simpson of Astronaut High School gave background information on the organization and reported on upcoming competitions. *(Correction made by Mayor Swank at the March 11, 2003 meeting).*

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Indian River Festival Update-Marcia Gaedcke, President of the Titusville Area Chamber of Commerce, distributed handouts, which highlighted the 28<sup>th</sup> Annual Indian River Festival. The event was scheduled from Thursday, April 24, 2003 through Sunday, April 27, 2003 at Sand Point Park. Ms. Gaedcke indicated that the Chamber Board had two specific requests for the event. She requested permission to allow beer sales for Friday, April 25 through Sunday, April 27, 2003. In addition, she requested permission to close Sandpoint Park to the general public during the 2003 Indian River Festival to provide controlled access, with the intention of charging a one-price admission fee.

It was noted that the fee would include all of the activities, in addition to free unlimited rides and access to all the live entertainment. Ms. Gaedcke discussed several reasons for the proposed change for the 2003 Festival such as: (1) Increase in insurance premiums; (2) Value; and (3) Increased entertainment. She also commented that the idea was presented to the Parks and Recreation Commission on February 13, 2003 and it was approved unanimously.

There being no further discussion, Member Broome moved to approve beer sales from Friday, April 25, 2003 through Sunday, April 27, 2003. The motion passed by vote (4) yes- (1) no; Vice-Mayor Rainey stated opposition. Vice-Mayor Rainey moved to allow gated admission, which included charging a one-price admission fee on a one-year trial basis. Member Broome seconded the motion and it passed unanimously.

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Consent Agenda Member Broome moved to approve all consent items in accordance with the following recommendations:

- A. Approve defacto purchase order to Brevard Road Materials of Rockledge in an amount not-to-exceed \$20,000 for base rock used in the reconstruction of Tropic Street from Park Avenue to the F.E.C. railroad tracks. Recommendation: Authorize purchase as recommended. Funds in the amount of \$20,000 were available in the Resurfacing Program.
- B. Accept water/fire line and sewer line easements from Park Villas Associates, Ltd. and authorize recordation of the document on the Public Records of Brevard County, Florida. Recommendation: Accept easements as prepared by the City Attorney.
- C. Accept water/fire line easement from DGN Associate for the Hammocks Warehouse on the south side of State Road 50 and authorize recordation of the documents on the Public Records of Brevard County, Florida. Recommendation: Accept easement as prepared by the City Attorney.
- D. Accept water/fire line and drainage easements from Jana Hall for 3040 Hobbs Place and authorize recordation of the documents on the Public Records of Brevard County, Florida. Recommendation: Accept easements as prepared by the City Attorney.
- E. Accept water/fire line easement from New Life Christian Fellowship for new facility on the east side of U.S. Highway One just north of its intersection with Riveredge Drive and authorize recordation of the documents on the Public Records of Brevard County, Florida. Recommendation: Accept easements as prepared by the City Attorney.
- F. Approve the FY 02/03 agreement between the City of Titusville Housing & Community Development Department and the Board of County Commissioners of Brevard County, Florida in the amount of \$161,689 for the allocation of HOME Investment Partnership Program (HOME) funds to the City. Recommendation: Authorize execution of agreement. Funds in the amount of \$161,689 were available from the FY 2002/2003 HOME grant.
- G. Resolution No. 4-2003 urging the Florida Legislature to maintain the local and state housing trust funds and to urge its local delegation to restore funding at the full appropriation levels to the local and state housing trust funds. Recommendation: Adopt resolution that supported continuation of SHIP funds as a dedicated source of funds for local and state housing trust funds.
- H. Award Bid No. 03-B-013 in the amount of \$65,100 to Comfort Service Heating and Air of Titusville for the air conditioning system replace at the Mourning Dove Water Production Plant. Recommendation: Award the air conditioning system replacement at the Mourning Dove Water

Production Plant to Comfort Service Heating and Air of Titusville, Florida for a cost of \$65,100. Funds in the amount of \$65,100 were available in the Water Resources Capital Improvement Mourning Dove A/C replacement account.

- I. Authorize foreclosure of special assessment lien and code enforcement lien on property at 487 N. Washington Avenue. Recommendation: Authorize foreclosure on property at 487 N. Washington Avenue.
- J. Advisability to proceed with changing the name of Woodlake Lane lying in Village Woods Phases II and III to Village Lane. Recommendation: Authorize staff to proceed with public hearing on request to change street name on March 11, 2003.

Member Ward seconded the motion and roll call was:

Mayor Swank	yes
Vice-Mayor Rainey	yes
Member Broome	yes
Member Eigenmann	yes
Member Ward	yes

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Petitions and Requests from the Public Present W.C. Duke expressed the need for a recreational facility for the youth in the community (i.e. skating and bike park). Member Eigenmann commented that funding was the main issue but agreed that it was important to have a recreational facility available for the youth of Titusville. He offered to meet privately with Mr. Duke to include City Manager Harmer to discuss the matter in further detail. Member Ward commented on the current skateboard park facility. Member Broome suggested that staff consider having volunteers assist with planning a recreational facility.

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Molly Farace advised that Internal Improvement Fund approval was necessary before locating a business along the Max Brewer Causeway. She also commented that the traffic signal located at Dairy Road and Singleton Avenue was malfunctioning. Ms. Farace suggested that staff repair the cracked asphalt and lighting surrounding the Vietnam Veterans Memorial Plaque located at City Hall. Member Broome questioned the traffic signal malfunctioning at Dairy Road and Singleton Avenue. City Manager Harmer indicated that he would have staff investigate the following morning.

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Alfonso Gutierrez felt that the proposed ordinance addressing tree removal was an infringement of private property rights. He urged council to review and recommended that council not adopt the ordinance. Mayor Swank indicated that the said ordinance was in draft format only.

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Walter Pine commented on Freedom of Speech. He also felt that it was inappropriate for council to take action to allow paid admission to the Indian River Festival without taking citizen input. He felt that the city should share in any profit received from the event. Vice-Mayor Rainey commented that the Indian River Festival was a fundraiser for the Chamber of Commerce. Member Eigenmann said that the majority of the profit was received from beer sales.

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Joan Wheeler commended council for its goals workshop held on Saturday, February 22, 2003. She also offered some suggestions for city- wide savings.

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Dez McKenna was not opposed to an admission fee for the Indian River Festival.

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Thelma Roper commented on the American Patriot Act. In her opinion, the Act violated an individual's right to privacy. She suggested that council pass a resolution stating its opposition to the American Patriot Act.

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Linda Fletcher discussed personal issues she faced at the Indian River high-rise apartments and asked for help. Mayor Swank requested that City Manager Harmer get input from Police Department as well as speak with Bob Lambert of the Titusville Housing Authority on her behalf.

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Bea Polk asked about the time frame for receipt of a proposal from Vectorworks. She felt that it was important that council establish a deadline. Mayor Swank responded that no official proposal has been received. Member Eigenmann commented that council had expected to receive a proposal at its February 11, 2003 meeting; however, to date no official proposal had been received.

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Susan Canada felt that it was important to allow everyone the right to speak his or her opinion (s). She agreed with comments made by Ms. Polk that there should be a deadline for submittal of a proposal from Vectorworks.

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The meeting recessed at 7:45 p.m. and reconvened at 7:55 p.m.

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Ordinances-Second Reading, Public Hearings & Related Action Attorney Severs read ORDINANCE NO. 12-2003 AN ORDINANCE AMENDING ORDINANCE NO. 5-1993 OF THE CITY OF TITUSVILLE, FLORIDA, BY AMENDING THE ZONING MAP MADE A PART OF SAID ORDINANCE BY REFERENCE BY CHANGING PROPERTY LOCATED ON IONA STREET WEST OF 600 ORADELL AVENUE FROM ITS PRESENT RURAL RESIDENTIAL (RR) CLASSIFICATION TO SINGLE

FAMILY MEDIUM DENSITY RESIDENTIAL (R-1B) CLASSIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE the second time by title only.

City Manager Harmer gave a brief overview. It was noted that the applicant wished to construct a single-family residence on the property. The current Rural Residential (RR) zoning required a minimum half-acre lot; the subject property was only .24 acres. The applicant had two options (1) Request a variance to the minimum lot size requirement; or (2) Rezone to a zoning district that would make the lot conforming. The applicant chose to rezone the property. City Manager Harmer noted that the Planning and Zoning Commission reviewed the request on February 5, 2003 and the request passed unanimously.

Mayor Swank opened the public hearing. No one wished to speak. Mayor Swank closed the public hearing.

Vice-Mayor Rainey moved to approve Ordinance No. 12-2003 as recommended. Member Broome seconded the motion. The roll call was:

Vice-Mayor Rainey	yes
Member Eigenmann	yes
Member Broome	yes
Member Ward	yes
Mayor Swank	yes

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Old Business Impact Fee Review Committee Report. Charlie Moehle spoke regarding the report. Mr. Moehle asked that council consider additional time before re-imposing the impact fees. He felt that the additional time would allow for potential annexations, and an opportunity for new businesses within the City of Titusville. Mr. Moehle felt that the additional time would give the city an opportunity to benefit from the additional income. Joan Wheeler felt that commercial businesses should contribute just as much in impact fees as residential contributions.

Mayor Swank felt that the Columbia tragedy would have a huge impact on reinstating impact fees. Vice-Mayor Rainey felt that the impact fees should be reinstated March 1, 2004 with commercial businesses reviewed on an annual basis. Member Ward thanked the committee for its report and agreed with the committee’s decision to re-instate impact fees on residential properties. Member Ward also agreed with the committee’s decision not to re-instate impact fees on the industrial land use categories, nor on the commercial sector.

Discussion continued regarding the use of fees for fire stations, equipment, parks etc. Member Broome moved to reinstate impact fees as recommended by the Impact Fee Review Committee. Member Eigenmann seconded the motion. Member Ward was opposed to the motion. Vice-Mayor Rainey amended the motion to re-instate residential impact fees effective March 1, 2004 and defer re-instatement of impact fees on October 1, 2003 as recommended by the committee. Member Eigenmann seconded the motion. The amended motion passed by vote (4) yes -(1) no; Member Ward stated opposition. Attorney Severs confirmed that staff could begin the public hearing process. Inherent in the motion was direction to staff to prepare an ordinance re-instating residential impact fees as of March 1, 2004 (and deferring re-instatement of impact fees on October 1, 2003 per Ordinance No. 44-2001).

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Next, was the Interlocal Agreement for Public School Planning Facility City Manager Harmer provided a brief update. He commented that the new legislation required Brevard County and all its municipalities to have adopted an agreement by March 1, 2003. The agreement would address school siting, enrollment forecasting, school capacity, infrastructure, and sharing of school board and local government facilities. Member Broome moved to approve Inter-Local Agreement for Public School Facility Planning as recommended. Vice-Mayor Rainey seconded the motion and it passed unanimously.

Council agreed to select a member to serve as its representative to the Brevard County School Board. Vice-Mayor Rainey moved to select Member Eigenmann as council's representative to the Brevard County School Board. Member Broome seconded the motion and it passed unanimously.

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New Business Authorize execution of agreement between the City of Titusville and North Brevard Charities Sharing Center in the amount of \$92,856 for the construction of transitional housing for the homeless in Titusville. City Manager Harmer indicated that Marie Engblom, Housing and Community Development Director would provide an update. Ms. Engblom stated that in order to utilize the city of Titusville's 99/00 CHDO funds in addition to previous years funds, an RFP was developed for a transitional home for the homeless in Titusville. This was based on transitional housing identified as the number one priority need for homeless persons identified in the City's Consolidated Plan.

Discussion continued relative to the location of the proposed home and the total price to construct the transition home. Mr. Joe Richardson of the North Brevard Charities responded as to the location of the lot. Thelma Roper felt that the city should consider other options for sheltering the homeless instead of constructing a new transitional home. Member Broome moved to approve authorization to execute an Agreement between the City of Titusville and North Brevard Charities Sharing Center in the amount of \$92,856 for construction of transitional housing. Member Ward seconded the motion and it passed unanimously.

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Action Plan Update-Group Health Insurance Fund Ms. Connie Collins, Human Resources Director updated council on the status of the action plan. She provided a PowerPoint presentation, which addressed funding shortfalls in the group health insurance fund. A cost distribution chart was also displayed. Mr. Al Waters indicated that his consulting firm would be reviewing proposals for commercial and self-insurance options and report back to council at its regular meeting on April 8, 2003. Ms. Collins requested immediate transfer of \$535,000 to the group health fund, from the city's various undesignated unreserved fund balances to ensure an adequate reserve to pay ongoing claims, and administrative costs.

Discussion continued regarding the transfer of funds, and mid-year review. Attorney Severs indicated that a 60-day fund balance must be maintained. City Manager Harmer noted that as mid-year approaches the average losses could be evaluated. Member Broome wanted to ensure that this was the

best option for the city. Bob Erickson, Finance Director responded that staff would be able to provide an update within the next month. Vice-Mayor Rainey moved to authorize transfer of \$535,000 to the group health. Member Eigenmann seconded the motion and it passed unanimously.

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Next, was vested rights determination request by Titusville-Cocoa Airport Authority for Arthur Dunn Airport City Manager Harmer gave a brief overview. It was noted that the airport was seeking relief to the code that restricted the impervious coverage to twenty percent because it had relied on a previous city statement, which indicated that impervious surface restriction would not apply. The Titusville Airport Authority had also indicated that it had a FDOT Construction Grant for the T-Hangers in the amount of \$864,000 and those funds have not been expended pending resolution with the City of Titusville. City Manager Harmer asked that Attorney Severs also provide some background information.

Attorney Severs noted that generally, the issuance of a permit contrary to the Code of Ordinances was illegal. However, there were exceptional circumstances. He mentioned that Florida Courts applied the doctrine equitable to vested rights if a property owner can show the following: (1) relied in good faith; (2) on an act or omission of the government; and (3) had made substantial change in position or incurred extensive obligations and expenses that it would be inequitable or unjust to destroy the rights acquired.

David Edwards, Executive Director of the Airport Authority, provided additional information relative to the T-Hanger project. Mr. Edwards discussed the cost and design. Discussion continued regarding the impervious coverage and relation to the active municipal well on the airpark. Ray Haskell spoke in opposition of the item. He felt it was unsafe to expand the T-Hangers because of previous accidents. Roy Crawford, Executive Director of Community Development, commented on the vested rights request. Mayor Swank indicated that there was no guarantee that municipal wells on the airpark could not be activated in the future.

Member Ward moved to approve the vested rights determination request by Titusville Cocoa Airport Authority for Arthur Dunn Airpark as requested. Member Eigenmann seconded the motion and it passed unanimously. Member Eigenmann said if there was expansion in the future regarding the airpark a public meeting would be held.

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Petitions and Requests from the Public Present Susan Canada mentioned that various hazardous materials were used by Vectorworks and related manufacturers in the area. She asked council to establish a deadline for Vectorworks to submit a proposal for use of Marina Park.

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Molly Farace spoke in support of the mock city council meeting. She said council should commend the teachers and staff who support that effort.

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Bea Polk asked whether Vectorworks was entitled to vested rights given certain assumptions. Attorney Severs indicated that any action would be addressed in the agreement.

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Thelma Roper suggested that council review the record as to the plans for development of the riverfront. She felt there were plans on the books that had not been rescinded.

W.C. Duke suggested that council utilize the Old Business portion of the agenda to update council on various issues. He asked whether impact fees could be utilized to upgrade services in an annexed area. Mayor Swank asked that Attorney Severs research and respond to Mr. Duke.

Boards and Commissions Confirm the appointment of Erick Brookins as chairman and Reverend Lloyd Clough as the clergy representative to the Titusville Community Service Award Committee. Vice-Mayor Rainey moved to approve appointment as recommended. Member Eigenmann seconded the motion and it passed unanimously.

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Mayor and Council Reports Mayor Swank provided a written report on his activities since the last meeting. He commended the new hospital on its quality of services. Mayor Swank reminded council of the Mock City Council Meeting on Thursday, February 27, 2003. He also noted that he attended the city/county summit and a video of the session would be provided.

Member Eigenmann requested that staff look at solid waste trucks that were leaking oil. Also mentioned that numerous streetlights along U.S. Highway One were out. Asked staff to contact Florida Department of Transportation as to repairs of pothole on U.S. Highway One. Member Broome announced he would be in annual military reserve training through the first two weeks in March. Council excused all meeting absences during this time period. Vice-Mayor Rainey asked that staff check illumination on all flagpoles throughout the city. Mayor reported that Florida Department of Transportation would be instituting protected turns at the State Road 405/Windover Trail traffic signal in front of Walmart.

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City Manager's Report City Council acknowledged his written report. He read names of employees who had received letters of appreciation. Police Department: Tony Bollinger, Adrienne Schultz, Deadra Andis, Bobby Mutter, Frank Ross, Kevin Hickey, Wayne Wilson, Zsolt Rimoczi, Jon Dasno, Larry Skidmore, and Penny Aiken. Fire and Emergency Services: Rick Talbert, Bill Feagan, Tiffany Callahan, Tony Damiano, Rod Donhoff, Chris Threlkeld, Mike Woodward, Chuck Bogle, Brian Marfitt, and Brian Litterilla.

Announced upcoming events: March 18<sup>th</sup> – special meeting on service levels; April 1<sup>st</sup> and May 6<sup>th</sup> – special meetings on Comprehensive Plan; and August 14 – 16 – Florida League of Cities annual conference. Member Eigenmann asked if staff could provide him with a copy of the questions that were submitted on the city survey.

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City Attorney Report Advised that Fish & Wildlife promulgated new rules with regard to manatee regulations. Reported on his attendance at Brevard County Water Supply Board. Board voted to defer action on ordinance to create a special water and sewer district within the unincorporated area of Brevard County. County also to seek funding from St. Johns River Water Management District to facilitate a process that would support cooperation among water suppliers. Vice-Mayor Rainey moved to direct the city attorney to continue to make city's interests/concerns known to the Water Supply Board. Member Eigenmann seconded the motion and it passed unanimously.

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The meeting adjourned at 10:35 p.m.

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Ronald G. Swank, Mayor

ATTEST:

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Karan J. Rounsavall, City Clerk