

City Council
Regular Meeting
March 11, 2003

The City Council of the City of Titusville met in regular session on Tuesday, March 11, 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 Members, Conrad Eigenmann, and Ken Ward. Also in attendance were City Manager Tom Harmer, and City Attorney Dwight Severs. Chris Broome was absent due to military reserve commitments.

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Mayor Swank called the meeting to order. Shelby Davis of New Life Christian Fellowship 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 25, 2003 and special meetings February 4 and 22, 2003. Mayor Swank requested that the minutes of February 25, 2003 identify the F.I.R.S.T Robotics Team. Vice-Mayor Rainey moved to approve with corrections to February 25, 2003 minutes. Member Eigenmann seconded the motion and it carried unanimously.

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Special Recognitions Billing & Collections Utility Billing Team Coordinator Cindy Fisher and Collections Coordinator Patti Woodward gave a brief overview of the operations of their division.

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Presentations Municipal Code Enforcement Board-semi annual report. Chairman Mike Cunningham reported on activities from period covering August 2002 to March 2003. He reviewed the amount of hours spent in deliberations, number of cases reviewed, and all relative costs.

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

- A. Resolution No. 5-2003 renaming Woodlake Lane lying in Village Woods Phases II and III to Village Lane. The Planning and Zoning Commission recommended approval. Recommendation: Adopt resolution for the street name change.
- B. Resolution No. 6-2003 renaming various private streets in the Whispering Pines Manufactured Home Community. The Planning and Zoning Commission recommended approval. Recommendation: Adopt resolution, which changes and names the private streets in the Whispering Pines Manufactured Home and RV Community.

- C. Authorize execution of Florida Department of Environmental Protection agreement for Garden Street Stormwater Park in the amount of \$825,000. Recommendation: Authorize execution of agreement for the Garden Street Stormwater Park with matching funds available as follows: St. Johns River Water Management District Surface Water Improvement Program- \$83,600; Stormwater Utility -\$271,569 and Community Redevelopment Agency-\$175,000. Council also authorized staff to negotiate contract with Environmental Research and Design (ERD) for design of Stormwater Park. (The *Community Redevelopment Agency* approved earlier in the evening).
- D. Advisability to proceed with amendment to ordinance regulating bonfires and outdoor rubbish fires. Recommendation: Directed staff to proceed with amendment. Public hearing was scheduled for April 22, 2003.
- E. Resolution No. 7-2003 to authorize replacement of letter of credit for Multi-Purpose Revenue Bonds and remarketing of bonds by Sun Trust, the City's banking services institution. Recommendation: Adopt resolution as presented.

Member Eigenmann seconded the motion and roll call was:

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

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Petitions and Requests from the Public Present Walter Pine commented on the recent resignation of the Human Resources Director and suggested an audit of all accounts for which she was responsible. He also questioned whether the placement of sprinkler heads in the medians of State Road 50 met Florida Department of Transportation standards.

Thelma Roper advised council of proposed federal legislation which would suspend an individual's right of habeas corpus. She considered such a proposal an infringement upon her civil rights and asked council to voice its opposition to members of Congress. Also, in her observation, certain members of the public were treated differently when addressing city council. She felt this was unfair and discriminatory.

Al Gutierrez commented on privatization of city services. He acknowledged his support to Ms. Roper's comments and suggestion that council oppose any legislative threat to habeas corpus as well as the patriot's act. Mayor Swank advised that the city currently contracted for street sweeping, janitorial service at City Hall, State Road 50 beautification, and bill printing. City Manager Harmer reiterated comments made by Mayor Swank as to the extent of contracted services received by the city.

City Manager Harmer also advised that the Human Resources Director resigned in good standing and there was no outstanding investigation. Mayor Swank asked Ms. Roper and/or Mr. Gutierrez to provide the bill numbers for the federal legislation referenced.

Walter Pine, representing Center for Civil Rights Advocacy, advised that the Americans with Disabilities Act did not require a 24-hour notice for special accommodations as stated on the agenda and television broadcast. Staff was asked to investigate the issue. Vice-Mayor Rainey and Member Ward felt that it was a non-issue as the council chamber was wheelchair accessible and every effort was made to accommodate persons with disabilities.

Joan Wheeler felt that the Community Redevelopment Agency meeting was not properly advertised for its 4:30 p.m. meeting. She also felt that staff briefings on park referendum projects should be open to the public.

Mary Sigmore reminded council members of their responsibilities to those that elected them. She would be back when a full council was present to say a few words about impact fees and seniors homestead exemption.

Bea Polk felt that members of the public should not be denied the right to attend staff meetings between city and county officials on park referendum projects. Ms. Polk said it was important that council conduct themselves in a positive manner as their actions could negatively influence the youth.

Penny Farrar suggested that council members listen to citizens and not criticize.

Susan Canada stated that the application for an occupational license for Vectorworks was incomplete as it related to emergency contact information. Ms. Canada felt that her proposal for Marina Park should have been an item on the agenda. She questioned whether there was a voting conflict relating to Vectorworks proposal on the part of certain council members that accepted campaign contributions from the business. Mayor Swank asked that City Manager Harmer investigate the emergency contact information on Vectorworks' occupational license application.

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Ordinance First-Reading- Attorney Severs read ORDINANCE NO. 13-2003 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 AT 605 NORTH WASHINGTON AVENUE FROM ITS PRESENT SINGLE FAMILY HIGH DENSITY RESIDENTIAL (R-1C) AND MULTI-FAMILY, MEDIUM DENSITY RESIDENTIAL (R-3) CLASSIFICATION TO COMMUNITY COMMERCIAL (CC) CLASSIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE the first time by title only.

Second reading and public hearing were scheduled for March 25, 2003.

Greg Valdyke, spoke in opposition of the request. He felt that rezoning the property to construct a restaurant with lounge and tiki bar would not be an appropriate establishment for the adjacent property owners. Mayor Swank asked that City Manager Harmer meet with staff to review.

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Ordinance-Second Reading, Public Hearings and Related Action Mayor Swank confirmed the quasi-judicial rules of procedure and council's comments if they had spoken with anyone regarding an item to be considered.

Conditional Use Permit No. 1-2003 to allow an educational facility in a Neighborhood Commercial (NC) zoning district at 2940 Columbia Boulevard as requested by William Arnoff of Ramsay Youth Services.

City Manager Harmer reported that the request was to allow an educational facility in a Neighborhood Commercial (NC) zoning district for grades K-12. It was noted that the NC zoning district permitted the previous use as an adult education facility as a professional service, but according to the City of Titusville Land Development Regulations, a conditional use permit was required for all schools throughout the city. The facility would accommodate 66 special needs students.

City Manager Harmer commented on the hours of operation. He indicated that the facility would be required to comply with Florida Department of Education facility requirements. City Manager Harmer advised that the Planning and Zoning Commission unanimously recommended approval with conditions noted in the staff report.

Mayor Swank opened the public hearing. Hank Evans, Attorney for William Arnoff, spoke in favor of the request. He introduced Michael Lyons, Executive Director of Ramsay Youth Service, and Sue Carver, Principal of Alternative Sites, as expert witnesses and queried them on school activities. He distributed handouts that highlighted the educational program, and the services that would be provided at the school.

Mr. Evans noted that the school professional team consisted of a psychiatrist, and licensed clinicians. He mentioned that the school's clinician had extensive knowledge in working with children and adolescents with emotional and behavioral challenges. Sid Chehayeb also spoke in favor of the request. No one else wished to speak. Mayor Swank closed the public hearing.

Vice-Mayor Rainey moved to approve Conditional Use Permit No. 1-2003 with conditions. Member Eigenmann seconded the motion and roll call was:

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

The motion carried.

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The meeting recessed at 8:00 p.m. and reconvened at 8:10 p.m.

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Next was Conditional Use Permit No. 2-2003 to allow outdoor recreational activities in a Community Commercial (CC) zoning district at 2035 Cheney Highway (Shamrock & Thistle Pub), specifically

annual St. Patrick's Day celebration and other outdoor activities on a quarterly basis not to exceed four per year as requested by Steven Berman the owner

City Manager Harmer gave a brief overview. He mentioned that the request allowed quarterly outdoor activities. Discussion continued regarding the noise, parking, sanitation, beer/wine, and security. City Manager Harmer mentioned that the Planning and Zoning Commission unanimously recommended approval with conditions. He also noted that a subsequent discussion among staff, amended the original conditions to include: (1) all outside activities cease at 7 p.m.; (2) the conditional use permit applies to the applicant and was conditioned upon continuing to showing proof of permission to park on adjacent parking; and (3) the applicant shall attempt to obtain proof of no parking on SR 50.

Mayor Swank opened the public hearing. Steve Bermer, Ray Gammor and Thelma Roper spoke in favor of the request. Discussion continued regarding the length of time Mr. Bermer had been the owner of the establishment. Mayor Swank recommended that the outdoor activities be granted on a trial basis for one-year. Vice-Mayor Rainey suggested waiving the application fee for one-year with the exception of advertising cost. No one else wished to speak. Mayor Swank closed the public hearing.

Vice-Mayor Rainey moved to approve Conditional Use Permit No. 2-2003 as recommend by staff with conditions on a one-year trial basis; in addition, to waive the application fee for ensuing year with the exception of advertising cost. Member Eigenmann second the motion and the roll call was:

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

The motion carried.

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Old Business The only item under old business was to discuss Vectorworks, Inc. proposal dated February 28, 2003. Jeff Gray, President of Vectorworks, Inc. presented details of his proposal for shared parking and stormwater improvements at Marina Park. Mr. Gray indicated that he was pleased that Vectorworks, Inc. had the opportunity to work with city and county staff, in addition, to working with council and county commission to develop a plan that he felt would meet the needs of Titusville Little League and Vectorworks, Inc.

Mr. Gray discussed specific details from the proposal such as: Vectorworks being responsible for constructing parking facilities adjacent to the southwest property line sufficient for 200 vehicles. He mentioned that Vectorworks would pay 100 percent of the cost of parking, stormwater facility, and parking lot maintenance. He requested that the county continue to provide maintenance for the common grass or landscaped areas only.

Mayor Swank said he was disappointed *at first* that Mr. Gray did not submit a conceptual plan. *Then he understood* ~~He felt~~ that a conceptual plan would *not* allow county officials ~~more~~ flexibility to address parking issues. *(Mayor Swank made corrections at the April 8, 2003 meeting).* Member Eigenmann

asked if Vectorworks was seeking ownership of any public properties. Mr. Gray indicated that Vectorworks was not seeking ownership of any public land. Discussion continued relative to the construction cost for the parking area.

It was noted that the proposal would allow Vectorworks, Inc. the majority of the parking area during the daytime and park goers would use the parking area during the late evening hours. Member Eigenmann asked if Vectorworks would be willing to sign a written agreement stating that fact. Mr. Gray responded that Vectorworks was willing to sign an agreement regarding parking arrangements.

City Manager Harmer noted that the parking would require stormwater retention. Mayor Swank expressed concern regarding vested rights. Mr. Gray indicated that his attorney would respond to that issue. Member Eigenmann asked had there been any discussion regarding the annual Fourth of July Fireworks display on the subject property between county or city staff. City Manager Harmer indicated that he would address this matter.

Ray Haskell, representing Titusville Little League, indicated its support for the proposal as long as it met the interest of the citizens. He also thanked Member Ward for attending the Little League opening season. John Evans, Attorney for Vectorworks, reiterated that there would be no claim of ownership by Vectorworks, Inc. He requested that council direct its staff to work with county officials to prepare a nice plan that would support the citizens and Vectorworks, Inc.

Walter Pine, Susan Canada, Jennifer Sypien, Thelma Roper, Joan Wheeler, Bea Polk, and John Pine spoke in opposition to the proposal. They felt that council should consider other alternatives as it related to parking and stormwater retention. In addition, the citizens also felt that it was dishonest to give public land away for private use. Attorney Severs advised if there was to be any private use of public property such as Marina Park, consent from the State of Florida Internal Improvement Fund Trustees should be obtained. Member Eigenmann asked if Vectorworks would consider the possible vacation of Marina Road. Mr. Gray indicated that Vectorworks would consider that as an option.

Vice-Mayor Rainey moved to direct staff to negotiate with Brevard County and Vectorworks, Inc. to address details of the proposal, which considered the possible vacation of Marina Road as that would help minimize the use of public land for the use of parking and stormwater retention. He further explained that results of the negotiations would be brought back to City Council for final approval after which it would be determined if the proposal would be submitted to the State. Member Ward seconded the motion and it passed unanimously.

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The meeting recessed at 9:25 p.m. and reconvened at 9:30 p.m.

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New Business The first item under new business was to reaffirm council's acceptance of maintenance of Florida Department Transportation funded landscaping improvements at various state intersections.

City Manager Harmer indicated that Jim Herron, Public Works Director would provide an overview. Mr. Herron provided a PowerPoint presentation, which highlighted several Florida Department of

Transportation (FDOT) enhancement grant projects: specifically S.R. 50/I-95 & S.R. 406 (Garden Street)/ I-95; interchanges, S.R. 50/S.R. 405 intersection, & S.R. 50 streetscape; and between I-95 and S.R. 405. He discussed several components, which identified future city maintenance requirements that would impact the general fund in Fiscal-Year 2004/2005 up to \$100,000 annually. Council discussed the importance of curb appeal as it related to the City of Titusville. Council also discussed its previous decision to move forward with, these FDOT projects (originally granted in April 2000). Discussion continued regarding ways to minimize maintenance cost.

City Manager Harmer commented that there were some impacts involved; however he would work with FDOT to examine options to minimize maintenance costs. Member Eigenmann moved to have City Manager Harmer reaffirm its previous decision to accept maintenance responsibility and examine options to minimize maintenance costs with FDOT. Vice-Mayor Rainey seconded the motion and it passed unanimously.

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Next was the authorization to have staff negotiate a lease agreement with The Titusville-Cocoa Airport Authority for the future site and development of Public Works Facility.

Jim Herron, Public Works Director, discussed the necessity for replacing garage facility. Mr. Herron also highlighted the reasons for considering TICO airport property. Mayor Swank asked if staff had spoken with Knight Enterprises regarding leasing or purchasing property for possible future site for the new Public Works Facility.

Mayor Swank felt that the property located at Knight Enterprises was a viable alternative *for fee simple acquisition* provided acceptable access *for Knight Industries* could be *provided to his property* obtained. Council continued discussion regarding TICO airport property and Knight Enterprises for consideration. Member Eigenmann thought it was an excellent idea to consider the county school bus facility as an option. Member Ward reiterated comments made by Member Eigenmann and suggested that staff consider it as an option (i.e. school buses). *The proposed knight option was a build-to-suit lease option. (Mayor Swank made corrections at the April 8, 2003 meeting).*

Member Ward moved to authorize staff to negotiate with TICO Airport Authority and Knight Enterprises for future public works facility. In addition, negotiations with Knight Enterprises included purchase options. It was also noted that the option of school bus facility should be included. Member Eigenmann seconded the motion and it passed unanimously.

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Next was award proposal for consulting services to prepare a study on the impact of growth to PMG Associates, Inc. of Deerfield Beach for an amount not to exceed \$65,000.

Joellen Moore, Corporate Services Director, gave a brief overview. She commented on the services that PMG would provide. Member Eigenmann asked why Michelle Mellgren & Associates, the lowest bidder wasn't recommended. Ms. Moore indicated that there were some additional charges involved. Member Eigenmann moved to award Proposal No. 03-P-020 to PMG Associates as recommended.

Vice-Chairman Rainey seconded the motion and it carried unanimously. Funds were available in the Professional Services and Salaries and Wages accounts.

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Petitions and Requests from the Public Present Thelma Roper reminded council that both the Florida Constitution and the United States Constitution guaranteed an individual's freedom of speech. She felt that council guidelines attached to the agenda abridged her freedom of speech. Ms. Roper also took objection to council seeming to be uninterested in federal issues (i.e. habeas corpus and patriots act).

Walter Pine assumed that council and staff exercised due diligence as it related to matters coming before them. As to Marina Park, he urged council to listen to its city attorney. He could not understand why council was so bent on Vectorworks, Inc. proposal unless they had something personal to gain.

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Mayor and Council Report Mayor Swank provided a written report. Vice-Mayor Rainey expressed his enjoyment to have spoken at Eagle Scout Council for Brian Gast. He also welcomed Porky's restaurant to Titusville. Member Eigenmann and Mayor Swank both commented on the mock city council meeting, which was held on February 27, 2003.

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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: Bobby Mutter, Jan Scofield, Alexia Ferran, and Zsolt Rimoczi. Fire and Emergency Services: Rick Talbert. City Manager's Office: Jim Thomas, Corporate Services: Richard Stillwagon.

City Manager Harmer commented on the surplus property at 1708 Elizabeth Avenue. Member Eigenmann moved to authorize sale of property located at 1708 Elizabeth Avenue. Vice-Mayor Rainey seconded the motion and it passed unanimously. Reported on status of repairs on South Hopkins Avenue. He mentioned that FDOT would meet city officials on site.

City Manager Harmer reported on the award of bid for air conditioning system replacement at water plant;, the successful bidder did have current occupational license and city would receive a warranty. He provided follow-up on council items: (1) traffic signal at Singleton Avenue and Dairy Road was maintained by Brevard County; (2) flag pole at city hall was illuminated by spotlight on the ground. Advised that four building inspector positions would be maintained throughout this fiscal year based on higher than average permit activity. Position would be evaluated annually.

He reported on the emergency management public leadership conference on March 26, 2003 sponsored by the State of Florida. Council was encouraged to attend. Reminded council of the March 18, 2003 special meeting on service levels. Announced grand opening of State Representative Tom Feeney's Office on March 14, 2003.

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City Attorney Report Requested council's authorization to expend up to \$100,000 to provide continuing legal services related to the Area IV Wellfield Consumptive Use Permit process. Attorney Severs provided a brief overview. He indicated that council was asked to authorize the expenditure of up to \$100,000 for the firm of de la Parte & Gilbert P.A. to assist with the Area IV Wellfield Consumptive Use Permit approval process and land negotiations with the Miami Corporation.

Vice-Mayor Rainey moved to authorize expenditure with funds available in the Capital Improvement Fund. Member Ward seconded the motion and it passed unanimously. He also reported that the Water Supply Board was conducting another meeting on April 9, 2003.

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The meeting adjourned at 10:35 p.m.

Ronald G. Swank, Mayor

ATTEST:

Karan J. Rounsavall, City Clerk