

City Council  
Regular Meeting  
May 13, 2003

The City Council of the City of Titusville, Florida met in regular session in the Council Chamber of City Hall, 555 South Washington Avenue, on Tuesday, May 13, 2003 beginning at 6:30 p.m.

xxx

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

xxx

Mayor Swank called the meeting to order. Mayor Swank asked for a moment of silence and the entire assembly recited the Pledge of Allegiance to the Flag.

xxx

The first matter of business was approval of minutes of special meeting April 29, 2003. Member Broome moved to approve the minutes as submitted. Member Eigenmann seconded the motion and it carried unanimously.

xxx

Mayor Swank recognized the Titusville Police Explorers in the audience that were present to support the use of forfeiture funds to purchase equipment and leather gear for the Titusville Police Explorers. He advised that the Police Explorers had a prior commitment for the evening and needed to leave prior to item being heard. Member Eigenmann moved to approve consent item F on the agenda for the use of forfeiture funds to purchase leather gear and associated equipment for Police Explorers from Quartermaster, Inc. of Cerritos, California, at the cost of \$1,221.22. Member Broome seconded the motion. The motion carried unanimously.

xxx

Special Recognitions Dockworker Matt Bandilla gave the department spotlight on the municipal marina and highlighted the marina's reputation for being friendly and helpful. He also commented on tourist spending their money in Titusville, docks being repaired, the need for mooring fields, and the volume of fuel being sold. Member Eigenmann moved to direct city manager to explore the need for mooring fields. Vice-Mayor Rainey seconded the motion and it carried unanimously.

xxx

Council recognized Odyssey of the Mind 2002-2003 teams from Apollo Elementary School and Madison Middle School who were bound for national competition in Iowa. Odyssey of the Mind was an international competition that emphasized creative thinking and problem solving. The teams from Apollo Elementary School and Madison Middle School would represent the State of Florida, Brevard County, their schools, and the City of Titusville at the Odyssey of the Mind World Finals scheduled for May 28-31, 2003 in which they would be competing against over 750 teams comprised of approximately 4,500 students from all 50 states and 30 countries.

xxx

Marguerita Engel with the St. Johns River Water Management District recognized the City of Titusville for participation in alternative water supply construction cost-share program for use of stormwater for surface aquifer recharge. Ms. Engel presented the City of Titusville a ceremonial check for \$30,480 for its successful cost-share application for surface water discharge.

xxx

Presentations The only item under presentations was the proclamation declaring the week of May 11 – 17, 2003 as National Police Week and May 15, 2003 as National Police Memorial Day. Mayor Swank presented the proclamations to Interim Police Chief Tony Bollinger. Interim Police Chief Bollinger commented on proclamations brought before council, civilian employees, and the citizens of Titusville. He also invited council and the public to attend a memorial service on May 15, 2003 at Oaklawn Memorial Gardens at 7 p.m.

xxx

Consent Agenda Member Broome moved to approve consent items A, B, C, D, E, G, and H in accordance with the following recommendations:

- A. Authorize continued use of Asphalt Recycling, Inc. of Melbourne Beach for reclamation of Zoltan Drive, Elm Terrace, Thomas Street, Thoreau Street, Cleveland Street and the Garden Street bike path in the amount of \$95,376. Recommendation: Authorize continued use of Asphalt Recycling, Inc. for the stated projects pursuant to bid pricing obtained through the City of Sebastian. Funds were available in the Garden Street bike path (\$10,102.10) and Street Resurfacing (\$85,273.78) project accounts.
- B. Authorize disposition of fixed assets at consignment auction on June 1, 2003. Recommendation: Approve list of assets to be auctioned.
- C. Award contract for bucket truck bed and boom for Streets Maintenance Division to Stamm Manufacturing of Ft. Pierce for \$22,380. Recommendation: Award contract as recommended. Funds were available in Public Works – Streets Maintenance Division – Capital Outlay for aerial bucket truck.
- D. Award bid for towing, disposing and storage of vehicles for Code Enforcement Division to Herb Daniel's Truck and Auto of Titusville at no cost to the city. Recommendation: Award bid as recommended. The vendor to collect towing and storage fees from the vehicle owner, and if necessary, file a lien against the owner.

- E. Accept utility easement from National Association of Chiefs of Police for Police Hall of Fame at 6285 Vector Space Boulevard. Recommendation: Accept utility easement and authorize recordation upon the Public Records of Brevard County, Florida.
- G. Approve donation to support the 1<sup>st</sup> Annual Weed and Seed “2003 Drug Free Youth Summit” on May 17, 2003 in Cocoa using forfeiture funds. Recommendation: Authorize \$250 donation as recommended.
- H. Authorize execution of task order with Baskerville-Donovan, Inc. for engineering and design services for Wuesthoff Park – James Park Trail Project and associated budget amendment. Recommendation: Authorize execution of task order agreement with Baskerville-Donovan, Inc. not to exceed \$60,000 under Public Work’s current contract for design and engineering of Wuesthoff Park – James Park Trail project. Approve associated budget amendment in the amount of \$400,000 to provide funding for design, engineering and subsequent construction of a trail from Wuesthoff Park to James Park in accordance with Florida Recreation Development Assistance Program.

Member Eigenmann seconded the motion and it carried unanimously.

xxx

Petitions and Requests from the Public Present James Nelson, an investor in real estate, commented on water and sewer service availability charges. He felt that this charge was inappropriate for vacant dwellings and asked council to review Ordinance No. 33-2001 and Ordinance 37-2001 and remove any language that would cause an unoccupied property to have a charge placed against it. He also complimented the repaving of streets and plans being made for public parks in Titusville. Mayor Swank provided an explanation of the availability charge and offered to meet with citizen to discuss issue.

Richard Zubowicz asked the city to clean up vegetation that inhibits one’s view of the Indian River. He also commented on serious code violations at a residence in his neighborhood including power panels broken off, water locks removed, illegal drug use, and over grown grass. Attorney Severs explained the code enforcement process and asked Mr. Zubowicz to contact his office to discuss in further detail. Mayor Swank asked what action was taken when locks were cut off of water meters? City Manager Harmer responded that when a customer cuts a lock off of a water meter, that the meter was removed.

Laura Ward asked for clarification as to whether or not a text change to the Comprehensive Plan would be transmitted as part of the second amendment to the City’s Comprehensive Plan. Planning Administrator Keith Cunningham advised that a text amendment was not a part of the second amendment for the current year. He expected a transmittal in the fall; however, final action would not be taken until 2004 making it the first amendment for that calendar year. Ms. Ward also felt that time limits were unreasonable for the public when discussing the Comprehensive Plan. Member Eigenmann moved to allow additional time for public input at future special meetings on the Comprehensive Plan. Vice-Mayor Rainey seconded the motion. Discussion ensued with council concerning time issues. The motion carried four to one with Mayor Swank opposed.

Stacey Hopper discussed the water and sewer service availability fee and felt it was an unreasonable charge. She expressed concern as a landlord because this charge was passed onto her tenants.

Al Gutierrez also felt the water and sewer service availability fee was inappropriate. He shared his opinions on other issues including privatization, which would enable the city to keep taxes low and cut costs for benefits that were paid to employees. Mayor Swank responded and explained the process of privatization.

Marcia Gaedcke, President of the Titusville Area Chamber of Commerce, commented on National Police Week and advised that the Police Hall of Fame was holding their official ribbon cutting ceremony on May 22, 2003 at 4:30 p.m. and that the facility would open the following week. She also thanked council and staff for their assistance with the Indian River Festival and presented a positive statement that had been signed by area businessmen and women.

Gil Carlson, General Manager of the North Brevard Funeral Home, invited council and citizens to attend a recognition event on May 17<sup>th</sup> sponsored by *United We Care* to officially observe United States Armed Forces Day, which began at the Veterans Park at 10 a.m.

Thelma Roper discussed several issues including update of the historical site listings, Patriot's Act, and the design features of the Chain of Lakes. She commented on the possibility of constructing a walkover versus using the Marina Park as shown in a conceptual plan dated April 22, 2002.

Joan Wheeler asked for clarification of action taken at the Community Redevelopment Agency (CRA) meeting held earlier. She also asked about funding for improvements at the Veterans Memorial Pier, park referendum, and bonds relating to CRA. She briefly mentioned the Patriot's Act and suggested council change the day and time of the CRA meetings in order that these meetings would not be rushed.

Walter Pine felt that private conversations behind the podium involving a council member and the city attorney were subject to the Sunshine Law and he offered to supply case law supporting this position. As to the student awards ceremony held at Brevard Community College, he felt there should have been designated seating for the wheelchair handicapped. He also felt that he was denied the right to speak at the May 6<sup>th</sup> special meeting on non-agenda items.

Susan Canada commented on the safety of school crossing guards at Knox McRae Drive and Park Avenue and suggested speed bumps.

Bea Polk asked whether city hall was safe, having heard about a hazardous materials incident earlier in the day. Council assured her that it was safe.

xxx

The meeting recessed at 8:15 p.m. and reconvened at 8:25 p.m.

xxx

Ordinances – First Reading Attorney Severs read ORDINANCE NO. 20-2003, AN ORDINANCE OF THE CITY OF TITUSVILLE, FLORIDA, AMENDING ORDINANCE NO. 40-2001 BY CHANGING THE EFFECTIVE DATE FOR REIMPOSING RESIDENTIAL IMPACT FEES FROM SEPTEMBER 30, 2003 TO FEBRUARY 29, 2004 AND PROVIDING FOR AN EFFECTIVE DATE by title only. The public hearing was scheduled for May 27, 2003.

Geri Sigmores was opposed to changing the effective date for re-imposing residential impact fees. She asked what the difference was between impact fees on residential property versus commercial property. She also commented on taxes paid by senior citizens in the community and did not understand why the ordinance reinstating the additional homestead exemption for eligible seniors was not brought back for approval prior to expiring.

Joan Wheeler commented on the recommendation made by the Impact Fee Study Committee, the cost of the public works building, the possibility of the referendum pertaining to half-cent sales tax, and the cost of the fire department. She supported collecting impact fees and felt that it was necessary to reinstate the impact fees as soon as possible.

Al Guterrez commented on the growth within the community and suggested reinstating the impact fees for residential properties through 2005.

Thelma Roper supported the impact fees, but suggested a permanent exemption of the impact fees for the Habitat Humanity Group and similar organizations that assisted low-income citizens with housing.

Walter Pine did not feel like impact fees were being applied appropriately, as the fee should be based on the cost of infrastructure. He supported the impact fees but felt that an exemption was necessary for the Habitat Humanity Group and other similar organizations. He did not support the impact fee being charged to citizens that have been long-time residents.

xxx

Member Broome moved to hear New Business item “C” pertaining to authorizing execution of infrastructure sales surtax interlocal agreement with Brevard County relative to distribution of surtax revenues immediately after first readings. Member Eigenmann seconded the motion and it carried unanimously.

xxx

Attorney Severs read ORDINANCE NO. 21-2003, 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 THE EAST SIDE OF SISSON ROAD SOUTH OF LITTLE LEAGUE LANE FROM ITS PRESENT MULTI-FAMILY, HIGH DENSITY RESIDENTIAL (R-3) CLASSIFICATION TO SINGLE FAMILY MEDIUM DENSITY RESIDENTIAL (R-1B) CLASSIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE by title only. The public hearing was scheduled for May 27, 2003.

Thelma Roper supported the rezoning of property located on the east side of Sisson Road, south of Little League Lane for the development of a single-family subdivision.

xxx.

Attorney Severs read ORDINANCE NO. 22-2003, 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 PROPERTIES LOCATED NORTH OF A. MAX BREWER CAUSEWAY AND EAST OF MARINA ROAD COMMONLY KNOWN AS MARINA PARK AND SAND POINT PARK; PROPERTY LOCATED ON A. MAX BREWER BRIDGE CAUSEWAY, EAST OF THE WESTERN SHORE OF THE INDIAN RIVER AND WEST OF THE CENTERLINE OF THE INTRA-COASTAL WATERWAY COMMONLY KNOWN AS THE VETERAN'S MEMORIAL PIER; AND PROPERTIES LOCATED AT 101 SOUTH WASHINGTON AVENUE AND AT 8 BROAD STREET COMMONLY KNOWN AS GENINI PARK AND SPACE VIEW PARK FROM ITS PRESENT CENTRAL BUSINESS DISTRICT (CBD) TO PUBLIC (P) CLASSIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE by title only. The public hearing was scheduled for May 27, 2003.

Joan Wheeler, Walter Pine, Bea Polk, Susan Canada, and Thelma Roper were opposed to the rezoning of city owned parks and recreational facilities from Central Business (CBD) District to Public (P) classification and requested council rezone parks to Open Space and Recreation (OR) zoning classification. Ms. Canada offered to pay the cost to re-advertise the legal ad, if necessary.

Member Eigenmann moved to direct staff to change the desired zoning of the downtown parks from Public (P) to Open Space and Recreation (OR) zoning classification. Member Broome seconded the motion and it carried four to one with Member Ward opposed. It was understood this would require re-advertising and defer the public hearing date.

xxx

New Business Earlier in meeting, Member Broome requested this item authorizing execution of infrastructure sales surtax interlocal agreement with Brevard County relative to distribution of surtax revenues be heard after first reading. The agreement supported the infrastructure sales surtax proposal to be placed on the November 2003 ballot.

On April 22, 2003, the Brevard County Commission conducted a public hearing regarding the imposition of a one-cent infrastructure sales surtax that would be distributed between the school boards, the municipalities, and the county. It could generate an estimated \$2.1 million annually

for Titusville infrastructure needs over the proposed 20-year life of the surtax. The public works department reviewed the agreement with the City Attorney and recommended that the city proceed with execution.

Joan Wheeler commented on the sales tax and asked for clarification of the definition of infrastructure and how the money would be used.

Mayor Swank advised he received a letter from the County Commissioner requesting council to table this item until the commission could discuss projects in further detail at its May 15<sup>th</sup> meeting. Vice-Mayor Rainey moved to table item to the May 27<sup>th</sup> city council meeting pending further direction from Brevard County. Member Broome seconded the motion and it carried unanimously.

Member Eigenmann moved to direct staff to send a letter to the County Commissioner encouraging him to make sure that North Brevard received its fair distribution of the surtax revenues. Vice-Mayor Rainey seconded the motion and it carried unanimously.

City Manager suggested postponing item for more than two weeks in order to give the county time to work on the issue. It was the consensus of council to postpone hearing item and not bring back at the next meeting.

xxx

Ordinances- Second Reading, Public Hearings & Related Action The first item under public hearings was Ordinance No. 19-2003 amending the license requirement for solicitors and prohibiting solicitation in the public right-of-way.

Attorney Severs read ORDINANCE NO. 19-2003 AN ORDINANCE OF THE CITY OF TITUSVILLE, FLORIDA AMENDING CHAPTER 11 OF THE CODE AND ENTITLED "PEDDLERS, SOLICITORS AND CANVASSERS, BY AMENDING SECTIONS 11-373, 11-374, 11-375 AND 11-377 BY CHANGING AND CLARIFYING THE APPLICATION PROCESS; TIME TO REVIEW APPLICATION; THE FEE FOR REVIEWING THE APPLICATION FOR EACH SOLICITOR; AND THE NUMBER OF SOLICITORS; ESTABLISHING A NEW SECTION 11-379 PROHIBITING SOLICITATION ON PUBLIC RIGHTS OF WAY; ESTABLISHING PENALTY AND PROVIDING FOR AN EFFECTIVE DATE by title only.

Thelma Roper commented on the organizations, including the Jaycees, that solicited in the public rights-of-way in order to raise money for fundraisers including the fireworks.

At the April 22, 2003 meeting, council tabled this ordinance and asked staff and Council Member Ward to meet and bring back a revised ordinance allowing solicitors on rights-of-ways with certain restrictions. Two ordinances were presented including the original ordinance which prohibited solicitation altogether and the revised ordinance which allowed solicitation with certain restrictions. Member Ward's recommendation was to prohibit solicitation due to the

safety of solicitors as well as motorists. Council discussed the safety issues and determined that there were too many risks involved.

Member Broome moved to approve Ordinance No. 19-2003 to not allow solicitation in the public rights-of-way. Member Eigenmann seconded the motion and the roll call was:

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

The motion carried.

xxx

The next item under public hearing was to authorize transmittal of the following amendments to the City's Comprehensive Plan to the Department of Community Affairs:

- Comprehensive Plan Amendment (CPA) 2003-02A – Amendment to Future Land Use Map by annexing approximately 33.65 acres on the east side of Sisson Road approximately 1,500 feet south of Little League Lane and assigning Residential land use and Conservation land use.
- CPA 2003-02B – Amendment to Future Land Use Map by annexing approximately 65.5 acres on the east side of Sisson Road west of the Florida East Coast Railroad, south of Pinetree Gardens Apartments and across from Denise Drive and assigning Residential land use and Conservation land use.
- CPA 2003-02C – Amendment to Future Lane Use Map by changing land use on 951 North Washington Avenue from Education land use to Public/Semi-Public land use.
- CPA 2003-02D – Amendment to Future Lane Use Map by changing land use on property located at the eastern terminus of Jess Parrish Court north of Buffalo road from Industrial land use to Commercial-High Intensity land use.

The Planning and Zoning Commission, acting as the Local Planning Agency, unanimously recommended transmittal of the above components to the Florida Department of Community Affairs for review.

Planning Administrator Keith Cunningham reviewed the transmittal process and adoption process of the Comprehensive Plan Amendments as well each individual property.

Developer Bob Kirk requested transmittal of CPA 2003-02A Amendment to Future Land Use Map by annexing approximately 33.65 acres on the east side of Sisson Road approximately 1,500 feet south of Little League Lane and assigning Residential land use and Conservation land use and advised council he was present for questions.

Developer Roger Molitor requested transmittal of CPA 2003-02B Amendment to Future Land Use Map by annexing approximately 65.5 acres on the east side of Sisson Road west of the Florida East Coast Railroad, south of Pinetree Gardens Apartments and across from Denise Drive and assigning Residential land use and Conservation land use.

Fritz Von Hirsch, president of Homeowners Association of San Mateo Village, Inc. expressed concern with CPA 2003-02B for the annexation of approximately 65.5 acres on the east side of Sisson Road west of the Florida East Coast Railroad, south of Pinetree Gardens Apartments and across from Denise Drive and assigning Residential land use and Conservation land use. He asked whether a fence or wall would separate the property of the homeowners in San Mateo Village with the new development. Mayor Swank suggested the homeowners meet with the developer to discuss concerns. Mr. Von Hirsch invited Mr. Roger Molitor to attend a meeting with the homeowners the following week.

Thelma Roper asked for clarification of the location of the property for CPA 2003-02D.

Member Broome moved to approve the transmittal of the above comprehensive plan amendments to the Department of Community Affairs. Member Ward seconded the motion and the roll call was:

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

The motion carried.

xxx

The meeting recessed at 9:30 p.m. and reconvened at 9:38 p.m.

xxx

New Business Management Information Systems Manager Rick Roberts and Corporate Services Director Joellen Moore gave update on systems conversion project status particularly as it related to utility billing conversion. They highlighted status summary, progress, opportunities, actions to date, action plan summary, future technology, future systems conversions, and goals for next review. The goals for next review included present action plan accomplishments to date, billing outsourced, conversion complete, and backlog caught up.

Member Broome left at 10:00 p.m.

Mayor Swank asked why no parallel billing was being used. MIS Manager Roberts stated the decision was made to postpone parallel billing due to programmer leaving prior to completion.

Council discussed violence directed to staff in utility billing and made suggestions on how to eliminate the threat. Council directed city manager to not allow violence toward any city employees.

xxx

The next item under new business was to approve the mid-year budget amendments. With respect to amendment I city hall A/C refinancing, authorize the execution of the updated municipal lease and option agreement and authorize and adoption of Resolution No. 15-2003 as recommended by the City Attorney in correspondence to the City Council.

Finance Director Bob Erickson highlighted the city ordinance code; city policy; fiscal year 2003 revenue highlights; general fund revenues; general fund; special revenue funds; capital projects funds; debt service fund; enterprise funds revenue; enterprise funds; internal service funds; fiscal year 2003 expenditure highlights; budget to actual expenditure summary; expenditure appropriations; fiscal year 2003 mid-year amendments including water and sewer series 1998 bond arbitrage, group health insurance loss fund reserve, rate stabilization fund, city pension plan contributions, public works facility center, utility billing printing/ mailing costs, police department – overtime outside employment, city gas company refund/audit, city hall A/C unit refinancing, Florida Power & Light rate increases, franchise fees-electricity, H.T.E. CX conversion audit, revenue highlights for 2003, General Fund Revenues, toilet retrofit rebate program, impact fee traffic capacity, water resources capital outlay revisions, water and sewer utility CIP revisions, and fire department personnel services; and fiscal year 2004 budget developments.

Joan Wheeler commented on the water and sewer series 1998 bond arbitrage and asked why the city hired a company in Pennsylvania. She also asked whether it was a variable or fixed interest rate for the refinancing of the city hall A/C unit. Finance Director Erickson responded that the company had a local office based out of Orlando.

Member Eigenmann asked for clarification on revenue projections and revenue shortfalls. Discussion ensued.

At 10:30 p.m., Member Eigenmann moved to extend meeting 15 minutes. Member Ward seconded the motion and it carried unanimously.

City Manager Harmer advised that the budget would be balanced using the current millage rate of 5.8504 and maintaining the entire \$2.5 million reserve in the General Fund. Council voiced no objection.

Vice-Mayor Rainey moved to approve the mid-year budget amendments as presented and adopt Resolution No. 15-2003 authorizing execution of municipal lease and option agreement with Saulsbury Hill Financial relating to refinancing of the city hall air conditioning debt. Member Ward seconded the motion and the roll call was:

Member Eigenmann	yes
------------------	-----

Member Ward	yes
Mayor Swank	yes
Vice-Mayor Rainey	yes

The motion carried.

xxx

Vice-Mayor Rianey moved to move to City Manager's Report due to late hour. Member Ward seconded the motion and it carried unanimously.

xxx

City Manager's Report Vice-Mayor Rainey moved to approve the proposed distribution of the Edward C. Byrne grant funds as recommended by the Brevard County Sheriff's Office and directed a letter of confirmation to Sheriff Williams. Member Ward seconded the motion and it carried unanimously.

xxx

Vice-Mayor Rainey moved to defer remaining items on agenda including the policy on video presentations, petitions and requests from the public present, boards and commissions, mayor and council reports, city attorney's report, and remaining items on city manager's report to the May 27, 2003 meeting due to late hour. Member Ward seconded the motion and it carried four to one with Member Eigenmann opposed.

xxx

The meeting adjourned at 10:45 p.m.

---

Ronald G. Swank, Mayor

ATTEST:

---

Karan J. Rounsavall, City Clerk