

City Council
Continuation of May 13, 2003 Regular Meeting
May 27, 2003

The City Council of the City of Titusville, Florida met on Tuesday, May 27, 2003 for the purpose of continuing its May 13, 2003 regular meeting. The meeting was held in the Council Chamber of City Hall, 555 South Washington Avenue, beginning at 6:30 p.m.

xxx

Reverend Dale Aubrey, pastor of First Church of the Nazarene, gave the invocation. The entire assembly recited the Pledge of Allegiance to the Flag.

xxx

New Business The first item on the agenda was discussion of a proposed policy for video presentations. This item was placed on the agenda at the request of Mayor Swank and was deferred from the May 13th meeting. Mayor Swank called the names of individuals who previously signed up to speak on this item (i.e. Susan Canada, Walter Pine, Thelma Roper, Bea Polk, and Joan Wheeler). None were present.

Mayor Swank explained that he wished to discuss this issue because a citizen recently showed a video segment during a regular meeting under Petitions and Requests from the Public Present. It was his concern that video could be used in one form or another to unnecessarily attack people and he did not want to encourage this. He did not have a policy per se to bring forward at this time; he simply did not believe that such videos should be allowed under Petitions and Requests in the future.

Discussion ensued. Member Broome wondered whether a citizen could bring in a video of a code violation in their neighborhood. Vice-Mayor Rainey was concerned that any video be pre-reviewed to assure that there was no profanity. Member Ward questioned the appropriateness of many of the issues that were brought before council; in his opinion they were not council issues. He preferred to discuss a video policy along with public comment at council meetings.

Council took no action at this time on the item.

xxx

Petitions and Requests from the Public Present Referring to the March 11th council meeting, Walter Pine felt that Mayor Swank violated the Sunshine Law when he had an inaudible conversation with the city attorney on the dais during the meeting. Mr. Pine asked the city attorney about the conversation, but the attorney did not disclose the nature of the discussion. He was of the opinion that the public had the right to know what this conversation was about. Believing that there was a violation of the Sunshine Law, he would now take the action that he felt was appropriate.

Mayor Swank pointed out that the conversation was not between two council members but between a council member and a staff member.

Attorney Severs recapped the events that took place during the May 13th council meeting as follows. Mr. Pine stated that the mayor violated the Sunshine Law during a prior council meeting when the mayor spoke to the city attorney and such discussion was not audible. Mr. Pine stated there was legal precedence that this was a violation of the Sunshine Law. After the meeting Mr. Pine approached the city attorney and wanted to know if they could solve this the easy way or the hard way. At that time, the city attorney asked Mr. Pine to provide the legal precedence to which he referred.

Attorney Severs indicated to Mr. Pine that he attended many government meetings and observed members speaking during the meetings to the attorney, manager and various other staff which discussions were inaudible. Mr. Pine indicated to the city attorney that County Attorney Scott Knox did not permit that to occur. In correspondence to Mr. Pine dated May 13th, Attorney Severs formally requested the legal precedence that he publicly stated existed when he accused the mayor of violating the Sunshine Law.

Additionally, Attorney Severs contacted County Attorney Scott Knox as to his practice at County Commission meetings. Mr. Knox responded that he had never taken the position that a commissioner could not speak with the county attorney out of the hearing of the public during a meeting and disagreed strongly with Mr. Pine's interpretation of the Sunshine Law on that point. Attorney Severs also contacted the Office of the Attorney General on this issue. Patricia Gleason, General Counsel, responded on May 20th that the Sunshine Law did not govern conversations between a single board member and the board attorney unless the attorney had been delegated the authority to act on behalf of the board or the attorney was acting as a liaison to communicate information from one board member to another. Courts had ruled that such conversations did not constitute a violation of the Sunshine Law.

By providing this information, Attorney Severs hoped that the issue could be resolved at this point without spending a lot of taxpayer time.

xxx

Susan Canada pointed out that some people were not necessarily articulate and the ability to make a video presentation would be helpful. She went on to point out the need for a new animal shelter in North Brevard and suggested a referendum on this matter.

Thelma Roper provided copies of the United States Constitution and reminded council members that it endowed citizens with certain unalienable rights. If she saw something that she found offensive or felt took away from the Constitution, she had the duty to tell council with the hopes that it would alter behavior.

Bea Polk wondered whether a policy on video presentations was forthcoming. Mayor Swank advised that council took no formal action on this item. As such, requests to show videos would be handled on a case-by-case basis.

Joan Wheeler responded to the mayor's earlier comments about video being used to attack people. She felt that everyone should have the ability to speak.

xxx

City Manager's Report City Manager Harmer read the names of employees receiving letters of appreciation: City Clerk's Office – Fanita Mitchell; Community Development – Larry Fuhrman, Richard Wheelus, Terrie Franklin, Carl Jones, Randy Woodruff; Economic Development – Walt Johnson; Fire and Emergency Services – Chuck Bogle, Chris Threlkeld, Reggie Belle, Richard Irvine, Justin Chase, Scott Einkopf; Police Department – Todd Murphy, Deadra Andis, Kevin Hickey, Tom House, Adrienne Shultz, Bill Gillespie, Paul Smith, Lynne Deardorff, Jeanne VanZandt, Patty Morgan, David Butler, Ralph Warren, Jessica Sultan, Stuart Otto, Glen Hamann, John Richardson, Chris DeLoach; Public Works – Linda Donna; Water Resources – Chris Enright, Ernest Braxton, Ricky Harrington, Jeff Wayner, D. J. Dublin, Jason Lewis, Tony Ferguson, Bobby Ellis.

xxx

City Attorney's Report Attorney Severs advised that he had followed up on a code enforcement issue that was brought to council's attention at a previous meeting.

xxx

The meeting adjourned at 7:07 p.m.

Ronald G. Swank, Mayor

ATTEST:

Karan J. Rounsavall, City Clerk