

City Council  
Regular Meeting  
May 27, 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, beginning at 7:07 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, City Attorney Dwight Severs, and City Clerk Karan Rounsavall.

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Mayor Swank called the meeting to order. Reverend Dale Aubrey, pastor of First Church of the Nazarene, gave the invocation. The entire assembly stood to recite the Pledge of Allegiance to the Flag.

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The first matter of business was approval of minutes of regular meetings April 22 and May 13, 2003 and special meeting May 6, 2003. Mayor Swank offered a correction to the April 22<sup>nd</sup> minutes dealing with discussion on Ordinance No. 17-2003 which created a conditional use process for allowing additional residential densities in the Central Business District and Shoreline Mixed Use zoning districts. The mayor did not feel that it was council's intent to "*automatically*" award additional density for enhanced landscaping and asked that discussion on this item prior to the motion to adopt the ordinance, as well as the motion itself, reflect language along the following line: "...if there was an increased level of landscaping above code requirements, it would create eligibility for consideration of higher densities through the conditional use process." Vice-Mayor Rainey moved to approve the minutes as corrected. Member Broome seconded the motion and it carried unanimously.

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Special Recognitions Mayor Swank introduced Larry Weber of Keep Brevard Beautiful. Mr. Weber, along with Debbie Jenkins, announced that the City of Titusville won the annual countywide Trash Bash for the fourth year in a row and presented a check in the amount of \$500. In turn, this sum would be presented to outstanding participants in the Trash Bash as follows: North Brevard Keep Brevard Beautiful - \$200; Titusville High School JROTC - \$150; and Legendary Jeep - \$150. Mr. Weber also mentioned upcoming events – Keep Brevard Beautiful annual awards banquet on June 7<sup>th</sup> and "Join Hands Day" on June 21<sup>st</sup>.

City Manager Harmer suggested that formal presentation of the checks be made at the June 10<sup>th</sup> council meeting. Vice-Mayor Rainey moved accordingly. Member Broome seconded the motion and it carried on an all yes vote.

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Member Ward moved that the only item of New Business, being ratification of the collective bargaining agreement with the firefighters, be considered immediately following presentations. Vice-Mayor Rainey seconded the motion and it carried unanimously.

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Presentations Don Prather, Chairman of the Board of Adjustments and Appeals, presented the semi-annual report. Membership was at full constituency and Mr. Prather did not see the need for any specific action at this time.

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Council was asked to ratify the collective bargaining agreement between the City of Titusville and the International Association of Fire Fighters (IAFF), Local 2445. Negotiations previously reached impasse in September 2002. Management and labor mutually agreed in April 2003 to postpone an impasse hearing and return to the table with a commitment to resolve outstanding issues and reach agreement. The agreement presented for approval was already ratified by a vote of union membership and covered the period from October 1, 2002 through September 30, 2005. Wage increases of three percent for the current fiscal year were retroactive to October 1, 2002. Wage increases for the ensuing two years (i.e. 2003/2004 and 2004/2005) were four percent each year.

Fire Chief Rick Talbert and IAFF union representatives Don Pierce and Randy Moore were present to indicate their joint support for the collective bargaining agreement as presented.

Vice-Mayor Rainey moved to authorize execution of the agreement. Member Broome seconded the motion and roll call was:

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

The motion carried.

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Consent Agenda Prior to receiving a motion, council heard from Thelma Roper who spoke in favor of the use of State Housing Initiatives Partnership (SHIP) Program funds to pay water and sewer tap-on fees for the Park Villas multi-family apartment complex. It was explained that there were no conditions on the payment relative to the percentage of low-income residents. City Manager Harmer responded to Member Eigenmann's question about concrete prices for the sidewalk infill bid award.

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

A. Agreement between the City of Titusville and Park Villas Associates, Ltd. to fund \$250,000 from State Housing Initiatives Partnership (SHIP) Program funds over a three-year

period toward payment of City water and sewer connection fees for the Park Villas multi-family apartment complex. Recommendation: Authorize execution of agreement as presented.

B. Request to proceed with proposal to swap variable interest rate for fixed rate on Multi-Purpose Revenue Bond Series 1995. Recommendation: Authorize city staff to proceed with structuring an interest rate swap transaction with SunTrust to lock in a portion of the Multi-Purpose Revenue Bond debt at a fixed rate to hedge against the interest rate risk that was inevitable as the economy improved. The transaction would come back to council for approval.

C. Accept water line easement from Professional Aircraft Accessories at 7035 Center Lane, Space Coast Regional Airport. Recommendation: Accept easement and authorize recordation upon the Public Records of Brevard County, Florida.

D. Blanket purchase order to Met-Con, Inc. of Cocoa in the amount of \$70,000 for the sidewalk in-fill capital improvement project to correct missing sections of sidewalk within a two-mile radius of schools. Recommendation: Award purchase order as recommended with funds available in the sidewalk in-fill capital project account.

Member Eigenmann seconded the motion and roll call was:

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

The motion carried.

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Petitions and Requests from the Public Present Susan Canada advised that several tax certificates for delinquent taxes were just sold for Vectorworks, Inc. and its related companies (e.g. Jaymark). This did not make sense to her for a company that was now offering to build a parking lot and retention at Marina Park in a joint venture with the City. How could council promote that Vectorworks pay for infrastructure improvements when it could not pay its taxes in a timely fashion? She also asked about Marina Dock Master Mark Leslie's role on the Marina Park referendum committee. City Manager Harmer advised that each parks referendum project had a city staff liaison.

Molly Farace spoke of the urgency in replacing the causeway bridge due to its age and deteriorating condition. She was advised that this was a Florida Department of Transportation project and of funding sources for the \$27 million estimated replacement cost. Mayor Swank assured Ms. Farace that the bridge was routinely inspected for safety.

Bill Horner saw no harm in a video presentation under Petitions and Requests from the Public Present provided it was presented to city staff in advance and reviewed for content. Consultants regularly showed videos and power point presentations. Were citizens of a different class? He urged council to come up with a simple procedure to address this situation. Member Eigenmann moved to authorize the city attorney to look into the practices of other cities in this regard and report back on a possible video policy. Mayor Swank asked that the attorney also examine this

request from the aspect of public access and community standards. Member Ward seconded the motion and it carried unanimously.

Walter Pine also spoke in favor of a written policy for video presentations. He felt that video, as well as computer presentations, were expressions of free speech. Accordingly, he would discourage any limitation on content during Petitions and Requests from the Public Present.

Thelma Roper commended council on its student awards ceremony. She also read a recently published newspaper editorial on the Patriots Act.

Joan Wheeler mentioned that it was sometimes difficult to hear public speakers from the back of the council chamber. As to the City Clerk's May 23<sup>rd</sup> memorandum on public comment at council meetings, she preferred that the clerk simply present facts and not make recommendations. She did not like the recommendations that were made.

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The meeting recessed at 8:18 and reconvened at 8:30 p.m.

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Ordinances – First Reading Attorney Severs read ORDINANCE NO. 22-2003 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 EIGHT BROAD STREET COMMONLY KNOWN AS GEMINI PARK AND SPACE VIEW PARK FROM ITS PRESENT CENTRAL BUSINESS DISTRICT (CBD) TO OPEN SPACE AND RECREATION (OR) CLASSIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE the first time by title only.

Several citizens signed up to speak on the proposed rezoning of downtown parks. Susan Canada, Thelma Roper, Walter Pine, and Bill Horner supported council's decision to rezone these parks to the open space/recreation classification as opposed to the public use classification, feeling the former was more appropriate.

Attorney Severs then read ORDINANCE NO. 23-2003 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 WEST SIDE OF SISSON ROAD ACROSS FROM SAN MATEO BOULEVARD FROM ITS PRESENT MULTI-FAMILY MEDIUM DENSITY RESIDENTIAL (R-2) AND MULTI-FAMILY HIGH DENSITY RESIDENTIAL (R-3) CLASSIFICATION TO SINGLE FAMILY MEDIUM DENSITY RESIDENTIAL (R-1B) CLASSIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE the first time by title only.

Second reading and public hearing was scheduled for June 10, 2003.

Public Hearings and Related Action The first item was Ordinance No. 20-2003 changing the effective date for reimposing residential impact fees from September 30, 2003 to March 1, 2004. Attorney Severs read ORDINANCE NO. 20-2003 OF THE CITY OF TITUSVILLE, FLORIDA AMENDING ORDINANCE NO. 44-2001 BY CHANGING THE EFFECTIVE DATE FOR REIMPOSING RESIDENTIAL IMPACT FEES FROM SEPTEMBER 30, 2003 TO FEBRUARY 29, 2004; AND PROVIDING FOR AN EFFECTIVE DATE the second time by title only.

City Manager Harmer noted that the City of Titusville engaged a consultant to conduct a growth/fiscal impact study and to evaluate and update the impact fee structure. During the annual budget review process, council would revisit the current waiver of commercial and industrial impact fees.

Mayor Swank opened the public hearing. Geri Sigmores asked about the consultant’s role. The mayor advised that the consultant was looking into the structure of impact fees, not the fees themselves. Thelma Roper supported the reinstatement of impact fees on September 30<sup>th</sup> as opposed to March 1, 2004, however, felt that non-profit organizations such as Habitat for Humanity should be exempt from the payment of such fees.

No one else wished to speak and the public hearing was closed.

During discussion, council was reminded that it originally agreed to delay the reinstatement of impact fees to give building contractors a little more time to estimate jobs that were currently in bidding process. Member Ward did not support impact fees as they would ultimately come out of the consumer’s pocket.

Member Broome moved for adoption. Member Eigenmann seconded the motion and roll call was:

Vice-Mayor Rainey	yes
Mayor Swank	yes
Member Broome	yes
Member Ward	no
Member Eigenmann	yes

The motion carried.

Next was Ordinance No. 21-2003 rezoning property located on the east side of Sisson Road south of Little League Lane from multi-family residential (R-3) to single-family residential (R-1b) as requested by William H. Gauldin (Application No. 1-2003 originally tabled at Council’s February 1, 2003 special meeting). The Planning and Zoning Commission recommended approval.

Attorney Severs read ORDINANCE NO. 21-2003 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 the second time by title only.

City Manager Harmer reviewed the request to allow the development of a variety of housing types at a maximum density of 15 units per acre. He also noted that a portion of the site was designated for conservation land use, however, this was not being rezoned.

No one was present to speak on the request.

Member Broome moved to adopt Ordinance No. 21-2003. Vice-Mayor Rainey seconded the motion and roll call was:

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

The motion carried.

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The final item for public hearing was Conditional Use Permit No. 7-2003 to allow a residential/professional use, specifically a construction and inspection services office, in a single-family residential (R-1b) zoning district at 1540 Shelley Place as requested by Thomas O'Brien. The Planning and Zoning Commission recommended approval with conditions: (1) access only from Shelley Place; (2) parking no closer than ten feet to any side lot line; and (3) 2.5 inch caliper tree required between parking lot and east property line.

No one was present to speak on the request.

Vice-Mayor Rainey moved for approval as recommended. Member Eigenmann seconded the motion and roll call was:

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

The motion carried.

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Petitions and Requests from the Public Present Laura Ward asked about the status of several land use concerns, specifically the definition of lot as it related to inclusion of submerged lands and her proposed Comprehensive Plan amendment to limit Shoreline Mixed Use land use only to

properties that abut Washington Avenue. She was advised that an opportunity to speak concerning these issues would be appropriate at the June 3<sup>rd</sup> special meeting on the Comprehensive Plan. Ms. Ward also disagreed with the staff recommendation to eliminate one of the present opportunities for Petitions and Requests from the Public Present on the council agenda.

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Mayor Swank asked that the city manager look into the feasibility of an omni-directional microphone for the public podium.

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Molly Farace advised that a memorial wreath was placed on the Vietnam Veterans Memorial at City Hall. She asked that the city manager meet with her at this memorial so that she could discuss ongoing concerns with lighting, etc.

Walter Pine felt that the language on council agendas relating to persons with disabilities conflicted with *Florida Statutes* as to notice requirements. As to limitations on public comment, he objected to limiting Petitions and Requests from the Public Present to a single instance per meeting and recommended that council retain both opportunities. Five minutes was limitation enough. As to a video policy, he suggested that the video be submitted in advance of the meeting in order that it could be reviewed for content. If there was a question about content, the video should be forwarded to the Attorney General for a ruling.

Jill Halliday announced the summer downtown street party on June 6<sup>th</sup> which was sponsored by the Titusville Area Chamber of Commerce.

Thelma Roper continued reading the newspaper editorial on the Patriots Act. She was particularly disturbed about the proposal to allow one's library records to be examined and asked that council contact its congressional representation to voice opposition. Given the voluminous nature of the Patriots Act, Mayor Swank asked that Ms. Roper provide a specific cite as to the sections that concerned her.

Susan Canada reiterated her concern about Vectorworks' delinquent taxes, both ad valorem and personal property. She did not feel that council should be backing this business enterprise. Vice-Mayor Rainey advised that it was his understanding that Vectorworks was in the midst of a dispute with Brevard County as to taxes, thus the non payment. He supported Vectorworks because they would bring much-needed jobs to the community.

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Boards and Commissions Vice-Mayor Rainey moved to acknowledge receipt of the semi-annual report provided by the Titusville Housing Authority. Member Broome seconded the motion and it carried unanimously.

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Titusville Housing Authority – The terms of Billie Fitzgerald, Joan Gray, and Laura Ward expired on May 31<sup>st</sup>. The incumbents notified the City Clerk's Office of their desire for

reappointment. Mayor Swank advised that he wished to reappoint the incumbents for four-term terms expiring May 31, 2007. Member Broome moved to confirm the mayor's appointments. Member Eigenmann seconded the motion and it carried unanimously.

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Mayor and Council Reports Mayor Swank provided a written report on his activities since the last regular meeting. He went on to ask that the city manager develop an operating procedure that could be provided to Parks and Recreation addressing flag etiquette (i.e. order of flags, lowering to half staff, etc.) at Veterans Memorial Park. City Manager Harmer advised that he would work with the Flag & Memorial Committee on this request.

Member Eigenmann appreciated efforts of the security guards at Parrish Medical Center in thwarting the theft of his personal motorcycles from the hospital's parking lot.

Vice-Mayor Rainey reported on his attendance at the police memorial service and ribbon cutting for Police Hall of Fame.

Member Broome expressed appreciation to Brevard's teachers for the excellent report on FCAT scores.

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City Manager's Report Council acknowledged receipt of the city manager's written report.

During the past several months, City Manager Harmer spoke with several council members individually who asked that he research the practices of other municipalities at it related to public input at council meetings and balancing the need to accomplish public business and ensuring public comment. He tasked the city clerk with this request and further requested that the clerk provide recommendations for consideration. Council was in receipt of the city clerk's memorandum dated May 23<sup>rd</sup> which outlined the practices of Melbourne, Port St. Lucie, Palm Bay, and Rockledge and made four specific recommendations for modifying Titusville's current practice for receiving public input toward the goal of guaranteeing ample opportunity for public comment and providing guidelines for conducting a professional and effective meeting. One of the recommendations was that any changes be conducted on a trial basis for a 60 to 90 day period to evaluate their effectiveness prior to amending any ordinances.

Council discussed the recommendations at length. Member Ward favored changing the agenda such that citizen input on non agenda items would be received toward the end of the meeting. Vice-Mayor Rainey did not support requiring citizens to sign up to speak on non public hearing items prior to the start of the meeting. Mayor Swank suggested setting aside 15 minutes at the beginning of each meeting to allow up to three people to speak for five minutes each.

Member Ward moved to direct the following changes to public comment at regular council meetings for a 60-day trial period beginning with the June 10<sup>th</sup> council agenda:

- Eliminate the first opportunity for Petitions and Requests from the Public Present in favor of a single such opportunity to speak on non agenda items at the end of the meeting following City Attorney's Report. These speakers could speak a single time on any subject with a time limit of five minutes. No sign up card was necessary

- Individuals wishing to speak on non public hearing items (i.e. consent agenda, new and old business, first readings, and boards and commissions) must complete a sign-up card and present it to the clerk prior to the item being introduced. An individual would be given three minutes to speak on non public hearing agenda items.
- No change as to the conduct of public hearings. An individual wishing to speak on a quasi-judicial matter must complete an oath card and submit it to the clerk prior to the start of the public hearing. An individual wishing to speak on a non quasi-judicial public hearing does not need to complete a sign-up card.

Member Broome seconded the motion and it carried unanimously.

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City Manager Harmer read the names of employees receiving letters of appreciation: City Manager's Office – Thomas A. Harmer; Economic Development – Walter Johnson; Fire and Emergency Services – Cecil Cornish, Reggie Belle, Jerry Ford, Bill Feagan, Tiffany Callahan, Chuck Bogle, Frank Neeld, Richard Talbert, Chris Threlkeld, Wally Kohler, Kevin Woodward, Diane Parker, Ross Griffith, Kathy Mosley, Mike Mako, Alan Colquhoun, Rodney Perry; Human Resources – Ashley Bauer; Police Department – Bill Amos, Arthur Esposito, James McInnis, Sandra Arnold, Bob Kelly; Public Works – Hillary Arena, Johnny Hester, Jorge Rivera, Linda Donna, Bill Poston.

The city manager concluded his report by announcing upcoming council meetings and special events.

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The meeting adjourned at 10 p.m.

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Ronald G. Swank, Mayor

ATTEST:

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Karan J. Rounsavall, City Clerk