

City Council  
Regular Meeting  
June 24, 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, June 24, 2003 beginning 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, City Attorney Dwight Severs, and Recording Secretary Judy Renaud.

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

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Presentations At Council's request, a representative of Government Services Group, Inc. of Tallahassee, made a presentation regarding the creation of a fire service fee for Fire and Emergency Services. The presentation included information regarding recent legislation and case law requirements. A fire service fee was a revenue option to relieve pressure on the General Fund. Methods of collection included the Uniform Method (tax bill collection), Lien and Foreclosure Method (a separate bill), the city's utility bill, and/or a combination of methods. To use the tax bill method, a formal Council Resolution stating intent to include this fee on the tax bill was required to be filed with the Brevard County Tax Collector by January. It was noted that the establishment of a fire service fee could not be implemented for the upcoming budget year. This was a long-term method for changing the way to fund fire services. The typical procedures were to define benefit or service area, develop apportionment methodology, to calculate rates, adopt a procedural ordinance, adopt initial resolution, provide for public notice, adopt final rates and collect the assessment. The presentation included an explanation of fire rescue assessment pertaining to data components (service delivery, call/incident data, ad valorem tax roll, and Fire/Emergency Services' budget); the cost apportionment based on historical demand for such services (residential, commercial, industrial/warehouse, institutional, and nursing homes); the methodology issues regarding parcel apportionment (residential-per dwelling unit, non-residential-per square footage of improvements, and agricultural/vacant parcels or acreage); policy issues (exemptions, governmental property, maximum rates, hardship programs); and the implementation process (first class notices, conflicts with tax roll designations, policy direction on the level of funding and policy direction on other funding sources).

Council heard from the following citizens:

William Horner stated that the city had a number of these special assessment programs (stormwater, etc.). It was his opinion that the proposed service fee was actually a special assessment and would be used instead of increasing the ad valorem taxes.

Joan Wheeler commented that this was the third presentation by Government Services Group, Inc. and Nabors, Giblin & Nickerson, P.A. She felt the apportionment was unfavorable to the residents. She was not supportive of an additional fee.

Walter Pine doubted there was much public support for the fee. He commented on problems with charging buildings which contained hazardous materials and the residential charge versus square footage charge for commercial buildings. Special consideration should be given to fire/emergency personnel who endure special hazards. He encouraged Council to review and decrease administrative costs in the Fire Department before instituting this fee.

Members Broome and Ward inquired into the initial cost to implement the service fee. It was stated that the cost was dependent on various factors including the budget status, the level of service, demographics and call data, and the city's goals.

Due to timeline restrictions for implementation, City Manager Harmer asked for Council's direction. He mentioned that the next step would be for Government Services to provide a proposal.

Member Ward suggested that Government Services provide the proposal and that the proposed service fee be advertised to the public.

City Manager Harmer advised that the next step would be for Government Services to provide a proposal identifying the cost for Phase One. Then Council would consider whether or not to move forward with Phase One which would outline proposed rates, costs, timeline, etc.

Mayor Swank stated if there was not a consensus, it would not make sense to go forward with a proposal.

Member Eigenmann reminded Council that the timeline prevented the proposed fee from implementation in the upcoming budget year. He felt there was not an urgency to move forward and suggested that this item be discussed during the budget process. He noted that this program was a resource for future consideration.

As this program was not available for the upcoming fiscal year, by consensus, Council took no action. However, Council did not rule out the feasibility of reconsidering the fire service fee in the future.

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Consent Agenda Mayor Swank requested that item A., Approve incentive bonus for Fiscal Year 2002 to marina manager in the amount of \$10,000 with funds available in the Marina Fund Working Capital and adopt Resolution No. 16-2003 modifying the incentive bonus program, be moved to New Business.

Member Broome moved to address item A. under New Business. Member Eigenmann seconded the motion. The motion carried unanimously.

Prior to receiving a motion on Consent Agenda items, Council heard from the following citizens:

Joan Wheeler requested clarification for item B. regarding the expenditure of \$6,000 from Public Safety Referendum funds to modify the police communications section. She did not support the expenditure.

William Horner verified the actual revenue raised through the Public Safety Referendum for item B. City Manager Harmer advised that the monies received from the referendum were identified for police and fire projects. There was a balance in the police account for improvements. There was also additional funding set aside in the fire account for projects such as the future cost of a fifth fire station. He stated that the referendum brought in more funds than originally identified.

William Horner clarified that there was a request for proposal and the value of the award for the refurbishment of the Mourning Dove water treatment plant (item C.). City Manager Harmer advised that the award was for \$17,900 to provide inspection, structural evaluation, and bid review services. Also, the company would assist the city in selecting a contractor for the refurbishment.

William Horner announced he would forego speaking on the other items on his speaker cards. He felt the city did not provide the public with adequate information on these items.

Joan Wheeler did not support waiving the bid requirements for item E., the purchase of a high pressure cleaning and vacuum truck.

Member Eigenmann noted the bid for item E. was fully competed on a State of Florida level and all vendors had to opportunity to bid.

Member Eigenman moved to remove item B., Approve use of Public Safety Referendum funds to modify communications section at the police facility for estimated cost of \$6,000 from the Consent Agenda and to consider funding it through the budget process rather than use referendum funding. Member Broome seconded the motion and verified the purpose of providing funding through the budget.

Member Eigenmann stated this expenditure was typically considered on a priority basis through the budget process. He did verify with the City Attorney that it was an appropriate use of the referendum funding but expressed concern for the balance of the funds.

Member Eigenmann amended his motion, if the second held, to authorize the expenditure from the General Fund's Undesignated/Unreserved Fund balance and retain this item on the Consent Agenda. Member Broome agreed to the modification.

City Manager Harmer clarified that the Police Department presented several projects for funding consideration. The list was reviewed and this was the only project eligible for referendum funding. There was no funding available in other accounts and he cautioned the use of General Fund contingency due to economic issues. It was recommended that the project be funded by either using the referendum funding or to review the project during the budget process.

Member Ward called for the question. The motion to authorize the expenditure from fund balance failed.

Vice-Mayor Rainey had several questions of the Police Department and suggested this item be discussed under New Business. Member Eigenmann so moved. Member Broome seconded the motion. The motion carried unanimously.

Member Broome moved to approve Consent Agenda items C., D., E., and F. in accordance with the following recommendations:

C. Award construction management contract to Corpro Companies, Inc. to provide inspection, structural evaluation, and bid review services for refurbishment of Mourning Dove water treatment plant and further authorize staff to award bid for refurbishment project. Recommendation: Award construction management contract as presented in the amount of \$17,900 and authorize the City Manager to award bid for refurbishment project to the lowest, most responsive bidder at a not-to-exceed cost of \$83,600. Funds were identified in Water Resources-Capital Improvement Projects.

D. Authorize agreement with Homeowners of La Cita, Inc. for reimbursement of one-third of construction costs for reclaimed water main on Country Club Drive. Recommendation: Authorize execution of agreement for reimbursement of construction costs not to exceed \$13,283.33 with funds available in the Water Resources Reuse Irrigation Project.

E. Waive bid requirements and approve purchase of high pressure cleaning and vacuum truck from Southern Sewer Equipment Sales via Florida Department of Transportation contract in the amount of \$174,760 with funds budgeted in Stormwater Utility Capital Outlay. Recommendation: Waive bid requirements and award purchase to Southern Sewer Equipment Sales of Ft. Pierce as recommended.

F. Award contract for replacement of South Lake Plant and Titusville High lift stations to Driveways, Inc. of Titusville for \$255,508. Recommendation: Award contract as recommended. Funds were identified in the Water Resources Capital Projects account.

Member Ward seconded the motion. The motion carried unanimously.

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The meeting recessed at 7:34 p.m. and reconvened at 7:44 p.m.

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Ordinances-Second Reading, Public Hearings & Related Action The first item was Ordinance No. 24-3003 amending the Comprehensive Plan by changing the Future Land Use Map to include the following Small Scale Amendments (SSA):

- SSA 5-2003 by changing the land use designation on property at 1915 Buffalo Road from Residential to Industrial as requested by John Evans on behalf of Larkin Coyle and Eugene Carter.
- SSA 6-2003 annexing 1570 North Singleton Avenue with a Residential land use designation as requested by Keith Nidy.

As Ordinances 24-2003, 25-2003, and 26-2003 were related to this land use amendment, Attorney Severs read the following ordinances the second time by title only.

ORDINANCE NO. 24-2003 OF THE CITY OF TITUSVILLE, FLORIDA, AMENDING THE CODE OF ORDINANCES BY AMENDING ORDINANCE NO. 60-1988 WHICH ADOPTED THE COMPREHENSIVE PLAN OF THE CITY, BY AMENDING THE VARIOUS ELEMENTS OF SAID PLAN AND MAPS BY CHANGING THE FUTURE LAND USE DESIGNATION FOR CERTAIN PROPERTY LOCATED AT 1915 BUFFALO ROAD FROM RESIDENTIAL LAND USE TO INDUSTRIAL LAND USE DESIGNATION; CHANGING THE FUTURE LAND USE MAP TO INCLUDE CERTAIN PROPERTY LOCATED AT 1570 NORTH SINGLETON AVENUE TO BE ANNEXED INTO THE CITY WITH A RESIDENTIAL LAND USE DESIGNATION; AND PROVIDING FOR AN EFFECTIVE DATE and

ORDINANCE NO. 25-2003 OF THE CITY OF TITUSVILLE, FLORIDA, AMENDING THE CODE OF ORDINANCES BY AMENDING SECTION 7, OF CHAPTER 63-2001, LAWS OF FLORIDA, SPECIAL ACTS OF 1963, BY ANNEXING PROPERTY AT 1570 NORTH SINGLETON AVENUE TO BE INCLUDED WITHIN THE CITY LIMITS; DESIGNATING LAND USE CLASSIFICATION; PROVIDING ZONING CATEGORY; AND PROVIDING FOR AN EFFECTIVE DATE and

ORDINANCE NO. 26-2003 OF THE CITY OF TITUSVILLE, FLORIDA, AMENDING THE ZONING MAP MADE A PART OF SAID ORDINANCE BY REFERENCE BY CHANGING PROPERTY AT 1915 BUFFALO ROAD FROM ITS PRESENT RURAL RESIDENTIAL (RR) CLASSIFICATION TO LIGHT INDUSTRIAL SERVICES AND WAREHOUSING (M-1) CLASSIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

The Planning and Zoning Commission, acting as the Local Planning Agency, recommended approval for Ordinance Nos. 24-2003 and No. 26-2003 with the condition that a buffer be maintained on the southernmost 50 feet of parcel 319. City Manager Harmer reviewed the amendments and distributed an updated map for SSA 5-2003. It was noted that the new map did not include parcels 313 and 320 as those parcels were zoned M-1.

City Manager Harmer reviewed Ordinance No. 25-2003, the voluntary annexation for 0.53 acres located at 1570 North Singleton Avenue with residential land use and Rural Residential (RR) zoning. The Planning and Zoning Commission recommended approval.

Mayor Swank opened the public hearings for Ordinances No. 24-2003, No. 25-2003 and No. 26-2003.

John Evans, representing the applicants for Ordinances No. 24-2003 and No. 26-2003, provided historical information regarding said property. The applicants would provide a buffer of 50 feet to the south and a 25 foot buffer to the west except for an access road. Property in that area was historically used for light industrial and currently housed storage facilities.

George Myers voiced opposition to changes of the land use at 1915 Buffalo Road and encouraged Council not to make the area worse by approving light industrial.

Joseph DeLancey opposed the amendment to change the zoning of the property at 1915 Buffalo Road and recommended the property be zoned R-1B. He provided Council with pictures of current businesses in this area. He stated that there was a lack of code enforcement in this area.

John Evans, in rebuttal, agreed with Mr. DeLancey's comment on the lack of code enforcement. He indicated that the applicant's land was rezoned in the 1990's. He felt this was a reasonable compromise for the property and that buffers provided protection for the neighbors.

Mayor Swank verified the access off Buffalo Road.

As no one else wished to speak, the public hearing was closed.

Member Broome moved to adopt Ordinance No. 24-2003 with the deletion of SSA 5-2003 and to deny Ordinance No. 26-2003. 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.

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The next item was Ordinance No. 25-2003, annexing 1570 North Singleton Avenue with a residential land use and Rural Residential (RR) zoning.

Mayor Swank opened the public hearing. As no one wished to speak, the public hearing was closed.

Vice-Mayor Rainey moved to adopt Ordinance No. 25-2003 as recommended. Member Eigenmann 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.

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City Manager Harmer reviewed a request for Conditional Use Permit (CUP) No. 8-2003 to allow a church at 3910 South Washington Avenue. The applicant requested the conditional use to allow the Shepherd's Heart Fellowship Church in a Community Commercial (CC) zoning district. A building and fire inspection would be required before issuance of a Certificate of Occupancy to the church. The Planning and Zoning Commission recommended approval at its June 4, 2003 meeting.

Mayor Swank opened the public hearing.

Pastor Robert Bernier and Bud Wyatt were present to answer questions and provide information.

Mayor Swank verified the location for the church.

As no one else wished to speak, the public hearing was closed.

Vice-Mayor Rainey moved to approve Conditional Use Permit No. 8-2003 as recommended. Member Eigenmann seconded the motion and the roll call was:

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

The motion carried.

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New Business Controller John McKinney presented an action plan for compliance with the Governmental Accounting Standards Board (GASB) Statement 34 establishing new reporting requirements for financial reports. Mr. McKinney provided detailed policy and procedural guidance to implement GASB 34 effective for Fiscal Year ending September 30, 2003. The financial report preparation would be accomplished in-house with the use of report writer software at a cost of \$12,000. In the past, the city's independent auditor provided that information. It was requested that the city's contract with Bray, Beck & Koetter be amended by deleting \$8,600 for the preparation of the financial statements and GASB 34 support. The balance of \$3,400 would be funded from identified savings in the Finance Department's Fiscal Year 2002/2003 budget. It was noted that the auditors concurred with the recommended action plan.

Vice-Mayor Rainey moved to approve the purchase of report writer software and further to amend the internal auditors contract by deleting \$8,600 for financial statement reports and GASB

34 support. The balance of \$3,400 would be funded from identified savings in the Finance Department. Member Broome seconded the motion. The motion carried unanimously.

Joan Wheeler was not familiar with GASB. It was clarified that it regulated municipalities in the United States and provided the guidelines for financial reporting.

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The next item for discussion was Consent Agenda item A., approval of a \$10,000 incentive bonus for the Marina Manager. Council heard from the following citizens:

Joan Wheeler supported the inclusion of the bonus in the budgetary process. She commented on the pay study completed several years ago and the need to evaluate employee performance in other departments.

Susan Canada opposed such a large bonus but did support incentives.

Mayor Swank remarked that this year's incentive bonus was dictated by the current resolution. He felt it should be addressed under the budget process and suggested that the resolution be amended to transfer the responsibility to the City Manager as an administrative function. He commended Marina Manager Stone and his staff for work well done.

Vice-Mayor Rainey supported payment of the incentive to the Marina Manager per the current resolution. He agreed that it should be an administrative function under the City Manager.

City Manager Harmer reported that this incentive bonus was based on the Marina Manager's performance for the year 2002 and not paid until the year after meeting the criteria. He recommended this program be handled administratively. Staff would also look at developing a fair and reasonable incentive for all managers to be handled through the compensation process. A revised resolution was presented. Section One permitted payment to the Marina Manager and Section Two supported the incentive plan as an administrative function.

Member Eigenmann commented that Council would be renegotiating the Marina Manager contract by revising the resolution. He asked if Mr. Stone was apprised of this proposed change. Public Works Director Jim Herron noted that Mr. Stone was comfortable with the proposed change to an administrative function.

Member Eigenmann moved to approve the incentive bonus of \$10,000 to the Marina Manager for 2002 and to adopt Resolution No. 16-2003 as modified. *The Resolution that was adopted was the amended resolution. (Mayor Swank made correction at the July 22, 2003 meeting).* Vice-Mayor Rainey seconded the motion and the roll call was:

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

Member Broome

yes

Council next considered Consent Agenda item B., approval of Public Safety Referendum funds to modify communications section at the police facility for an estimated cost of \$6,000. Vice-Mayor Rainey stated his questions had been answered and moved to approve the use of referendum funds to modify the communications section at the police facility as recommended. Member Broome seconded the motion. The motion carried unanimously.

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Mayor and Council Reports Mayor Swank provided a written report on his activities since the last meeting.

Mayor Swank explained the request for approval for a letter of support for preservation of Indian Mound Station in North Brevard suggesting the property as a potential site for purchase pursuant to the Environmentally Endangered Lands Program (EELS). Mayor Swank reported that the Titusville Environmental Commission initiated and supported the draft letter. Council discussed setting precedent by specifying specific endangered species. Member Ward suggested the letter be revised to *limit* support to the Indian Mound Station and the American Bald Eagle's nest on the property. It was noted that the property was not within city limits. (*Mayor Swank made correction at the July 22, 2003 meeting*).

Member Broome called for the question. Council unanimously authorized the letter of support as suggested by Member Ward.

The Mayor attended several events including a ribbon cutting for Astronaut Hall of Fame, a Florida Inland Navigation District (F.I.N.D.) meeting in Cocoa Beach, and an open house for Call Henry, Inc. He also attended the Flag Day ceremony on June 14<sup>th</sup> and advised that the Community Service awards were presented to Laurilee Thompson and Ron Thorstad.

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

City Manager Harmer confirmed meeting dates for the budget workshops: Saturday, August 2<sup>nd</sup>, from 9 a.m. until 5 p.m. and Tuesday, August 19<sup>th</sup>. August 21<sup>st</sup> was established as a contingency date.

City Manager Harmer read the names of employees receiving letters of appreciation. Community Development Dominic Lombardi, Fire Department Chuck Bogle, Police Department Kevin Hickey (recognized more than once) and Lauren Tirone.

The city manager advised that the Notice of Estimate for the 2003 Tax Roll reflected an increase of \$94,439,830 or an 8.2 percent increase over the previous year. This percentage exceeded city projections.

City Manager Harmer announced the Independence Day Celebration on July 5, 2003 including the fireworks display which would be sponsored by the Titusville Area Chamber of Commerce. He recognized Canaveral Port Authority for its financial contribution toward the fireworks.

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City Attorney's Report Attorney Severs advised that he forwarded responses from property appraiser and tax collector as to status of the outstanding taxes for property at 801 Marina Road to City Council.

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Petitions and Requests from the Public Present Walter Pine commented on Council's recently adopted changes to the procedure for receiving public comment at Council meetings. He felt that the Mayor acted inappropriately and in violation of his right to free speech in turning off the microphone while he was speaking at the June 10<sup>th</sup> Council meeting. In his opinion, this was an illegal destruction of public record. Mr. Pine scolded other Council Members for not speaking up during this incident. He urged Council to restore the opportunity for early presentations by the public and grant more than five minutes for more involved presentations.

Laura Ward requested, on behalf of the homeowners of Riveredge Drive, that Council address special regulations for development along her street at the next Council meeting. The subject was on previous agendas; however, Council had not taken any action. Council advised that the issue of development in a Shoreline Mixed Use zoning district would be discussed at the July 1<sup>st</sup> special meeting on the Comprehensive Plan.

Mayor Swank verified the timeline for this item for discussion purposes. City Manager Harmer stated that the item was scheduled for Council discussion at the July 1<sup>st</sup> special meeting and was scheduled to be included on the July 8<sup>th</sup> regular meeting.

Member Ward moved to schedule discussion at the July 1<sup>st</sup> special meeting. Member Eigenmann seconded the motion. The motion carried unanimously.

Susan Canada commented on a recent North Brevard Parks and Recreation referendum meeting on Marina Park. She attended the meeting and addressed outstanding ad valorem taxes still owed by Vectorworks. She asked that the Council Member who stated Vectorworks was resolving its tax issues with Brevard County correct this statement as her investigation showed that no formal request for adjustment was made.

J. C. Branham wondered why a survey crew was recently at Marina Park. He was advised that this activity was probably related to the parks referendum. Council directed the City Manager to verify and report back.

Joan Wheeler asked that the public be advised when the issue of a fire safety fee would be considered again. As to increased tax rolls and the portion attributable to new construction, she wondered how much would have been generated from impact fees if they were collected. She

asked if the property taxes would be increased again this year. She also asked that Council consider a public referendum on the Marina Park/Vectorworks proposal.

Member Eigenmann responded that the current Council only supported tax increases as a result of losing other resources (e.g., health insurance increases, employee raises, etc.). He commended staff and all employees as the city continued to review, innovate, and initiate changes and still maintain the same level of service to its citizens.

Marcia Gadecke, Titusville Area Chamber of Commerce President, announced the July 5<sup>th</sup> fireworks at Space View Park (on the Indian River at the end of Broad Street). A living history exhibit and patriotic concert were also scheduled. She publicly thanked the Canaveral Port Authority as a part of its 50<sup>th</sup> Anniversary for its sponsoring the fireworks.

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The meeting ended at 9:36 p.m.

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Ronald G. Swank, Mayor

ATTEST:

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Karan J. Rounsavall, City Clerk