

City Council
Regular Meeting
September 9, 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, September 9, 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 and Conrad Eigenmann. Also in attendance were City Manager Tom Harmer, City Attorney Dwight Severs, and City Clerk Karan Rounsavall. Member Ken Ward was absent.

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Mayor Swank called the meeting to order and invited Chris Finlayson, Worship Pastor at New Life Christian Fellowship, to give the invocation. The entire assembly recited the Pledge of Allegiance to the Flag.

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Special Recognitions The Planning Division was the focus of the monthly department spotlight. Mike Bauer elaborated on his qualifications and overviewed the duties and responsibilities of the position of Landscape Inspector.

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Presentations State Representative Bob Allen was expected to provide a legislative update; he was not present at this time.

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Member Al Taylor of the Planning and Zoning Commission presented the semi-annual update. The commission review 45 applications during the past six months, the majority of them being conditional use permits and amendments to the comprehensive plan. Concern was expressed with the continuity of sidewalks throughout the city; commission members wanted assurance they were being required pursuant to *Code*. Vice-Mayor Rainey moved to accept the report. Member Broome seconded the motion and it carried unanimously.

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Consent Agenda Prior to receiving a motion, council heard from Thelma Roper on the annual waiver of bidding requirements for certain vendors of record. If the bidding process was waived each year, how did the city know that it was getting the best prices? City Manager Harmer responded that the waivers were based on commodity contracts initiated by the State of Florida, cooperative purchasing agreements with surrounding counties, and original equipment manufacturers.

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

A. Resolution No. 19-2003 to consider the advisability of vacating a portion of Sixth Street in Sun Valley Subdivision as requested by Aspasia Stevens and setting date for public hearing. Recommendation: Adopt resolution and advertise vacation request for public hearing on September 23, 2003.

B. Resolution No. 20-2003 to consider the advisability of vacating a portion of a 20-foot wide right-of-way in the Titusville Fruit and Farm Lands Company Subdivision lying south of State Road 405 as requested by Honeycutt & Associates, Inc. on behalf of Marbella Investments, Inc. and setting date for public hearing. Recommendation: Adopt resolution and advertise vacation request for public hearing on September 23, 2003.

C. Resolution No. 21-2003 to consider the advisability of vacating the westerly 4.1 feet of Mariner's Way as requested by John H. Evans on behalf of Louis V. Cianfrogna, owner, and setting date for public hearing. Recommendation: Adopt resolution and advertise vacation request for public hearing on September 23, 2003.

D. Authorize use of forfeiture funds to purchase a roof-mounted air conditioning unit and generator for the Emergency Response Team's 2000 GMC Truck at an estimated cost of \$6,000. Recommendation: Authorize use of forfeiture funds as stated.

E. Authorize transfer of \$12,000 from undesignated, unreserved Advanced Life Support (ALS) Fund to the respective ALS operating accounts for medical/first aid supplies. Recommendation: Authorize transfer of funds as stated.

F. Award proposal for development of an Intranet Web site to Dogbone Design, Inc. of Apopka at an estimated cost of \$12,500 with funds currently available in the Management Information Systems (MIS) operating capital account. Recommendation: Award to Dogbone Design, Inc. as stated.

G. Waiver of bidding requirements and approval to purchase commodities from established vendors of record as outlined in report to council. Recommendation: Authorize bidding waivers as recommended as well as the issuance of blanket purchase orders and execution of contracts exceeding \$10,000 to said vendors. Also authorize competitive action in the event of unforeseen changes to the list of approved vendors.

H. Approve fixed asset items to be auctioned on September 28, 2003 by the city auctioneer. Recommendation: Authorize disposal of fixed asset items at auction.

I. Deed restrictions for Plantation Oaks, a patio home development located in the northeast corner of DeLeon Avenue and Harrison Street. Recommendation: Approve deed restrictions as submitted.

J. Deed restrictions for Sterling Forest, a single-family development located at the northeast corner of Sisson Road and Little League Lane. Recommendation: Approve deed restrictions with change to Section 22 – Wells. New language to read as follows: *All lots in the Subdivision are on a reuse system for lawn irrigation with the City of Titusville. No irrigation wells shall be installed on any lot within the Subdivision unless prior application is made to the Association*

and written approval is obtained from the City of Titusville and the Association. No water wells shall be dug on any lot or on the properties except for purposes of irrigation of landscaping.

K. Resolution No. 22-2003 supporting an application for Florida Recreation Development Assistance Program (FRDAP) for recreational facilities for the downtown stormwater park. Recommendation: Adopt resolution.

Member Eigenmann seconded the motion and roll call was:

Member Broome	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 Woody Rice attended a recent meeting of the Titusville Environmental Commission (TEC). He was surprised when its members asked to review items on the Planning and Zoning Commission agenda, particularly given the fact that applicants were not notified of the TEC review. The mayor asked the city manager to look into this from the staff's perspective.

Al Gutierrez urged citizens to vote "no" in response to the Brevard County sales surtax referendum on November 4, 2003. Tax revenues had grown more than the rate of inflation; greater revenues promoted fiscal irresponsibility. He wanted to see the County held responsible for its use of tax dollars.

Geri Sigmore provided a list of those municipalities in Brevard County that extended the additional homestead exemption to senior citizens. She did not feel that Florida seniors should have to continually beg for this exemption, which was allowed by the State Constitution.

Connie Pontius was disappointed with the condition and behavior of one council member at the August 26, 2003 meeting. If it happened again, she would make it known to the proper authorities.

Susan Canada commented on the design of Marina Park. She did not understand the City's insistence for parking at the north end, particularly since Vector Works withdrew its proposal for joint use.

Roger Molitor asked that council consider some relief in the cost of developing properties on Riveredge Drive particularly as it related to water and sewer connection fees and the requirement for individual lift stations.

Walter Pine felt that citizen input should have been solicited as to the infrastructure projects for the sales surtax referendum. In his opinion, for the city to have entered into an interlocal agreement with Brevard County before determining the will of the taxpayers was tantamount to selling the vote.

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At this time, council voted to hear from State Representative Bob Allen who recently arrived at the meeting. Representative Allen discussed new legislation, which dealt with workers compensation and medical malpractice insurance as well as local issues dealing with code enforcement filing fees, constitutional amendments, and state funding for repair/replacement of Max Brewer Causeway Bridge.

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Ordinances – First Reading Attorney Severs read ORDINANCE NO. 48-2003 OF THE CITY OF TITUSVILLE, FLORIDA, AMENDING THE CODE OF ORDINANCES BY AMENDING 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 2500 MERRY LANE FROM RESIDENTIAL TO INDUSTRIAL LAND USE DESIGNATION; AND PROVIDING FOR AN EFFECTIVE DATE and

ORDINANCE NO. 49-2003 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 AT 2500 MERRY LANE FROM ITS PRESENT MULTI-FAMILY MEDIUM DENSITY RESIDENTIAL (R-2) CLASSIFICATION TO LIGHT INDUSTRIAL SERVICES AND WAREHOUSING (M-1) CLASSIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE and

ORDINANCE NO. 50-2003 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 OF TITUSVILLE, BY AMENDING THE FUTURE LAND USE MAP TO INCLUDE CERTAIN PROPERTIES LOCATED ON THE EAST SIDE OF SISSON ROAD APPROXIMATELY 1,500 FEET SOUTH OF LITTLE LEAGUE LANE TO BE ANNEXED INTO THE CITY WITH RESIDENTIAL AND CONSERVATION LAND USES; AMENDING THE FUTURE LAND USE MAP TO INCLUDE CERTAIN PROPERTIES LOCATED ON THE EAST SIDE OF SISSON ROAD WEST OF THE FEC RAILROAD, SOUTH OF PINETREE GARDENS APARTMENTS AND ACROSS FROM DENISE DRIVE TO BE ANNEXED INTO THE CITY WITH RESIDENTIAL AND CONSERVATION LAND USES; AMENDING THE FUTURE LAND USE MAP TO CORRECT ERROR BY CHANGING LAND USE FROM EDUCATION TO PUBLIC/SEMI-PUBLIC AT 951 NORTH WASHINGTON AVENUE; AMENDING THE FUTURE LAND USE MAP TO CORRECT ERROR BY CHANGING LAND USE FROM INDUSTRIAL TO COMMERCIAL – HIGH INTENSITY AT THE EASTERN TERMINUS OF JESS PARRISH COURT NORTH OF BUFFALO ROAD; AND PROVIDING FOR AN EFFECTIVE DATE and

ORDINANCE NO. 51-2003 OF THE CITY OF TITUSVILLE, FLORIDA, AMENDING SECTION 7 OF CHAPTER 63-2001, LAWS OF FLORIDA, SPECIAL ACTS OF 1963, BY ANNEXING CERTAIN PROPERTY LOCATED ON THE EAST SIDE OF SISSON ROAD APPROXIMATELY 1,500 FEET SOUTH OF LITTLE LEAGUE LANE TO BE INCLUDED WITHIN THE CITY LIMITS; DESIGNATING LAND USE CLASSIFICATION; PROVIDING ZONING CATEGORY; AND PROVIDING FOR AN EFFECTIVE DATE and

ORDINANCE NO. 52-2003 OF THE CITY OF TITUSVILLE, FLORIDA, AMENDING SECTION 7 OF CHAPTER 63-2001, LAWS OF FLORIDA, SPECIAL ACTS OF 1963, BY

ANNEXING CERTAIN PROPERTY LOCATED ON THE EAST SIDE OF SISSON ROAD WEST OF THE FEC RAILROAD, SOUTH OF PINETREE GARDENS APARTMENTS AND ACROSS FROM DENISE DRIVE TO BE INCLUDED WITHIN THE CITY LIMITS; DESIGNATING LAND USE CLASSIFICATION; PROVIDING ZONING CATEGORY; AND PROVIDING FOR AN EFFECTIVE DATE and

ORDINANCE NO. 53-2003 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 AT 341 JEPSON STREET FROM ITS PRESENT SINGLE FAMILY HIGH DENSITY RESIDENTIAL (R-1C) CLASSIFICATION TO MULTI-FAMILY HIGH DENSITY RESIDENTIAL (R-3) CLASSIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE and

ORDINANCE NO. 54-2003 OF THE CITY OF TITUSVILLE, FLORIDA AMENDING SECTION 21-1 OF THE CODE OF ORDINANCES BY TEMPORARILY SUSPENDING PROVISIONS RELATING TO EXTENSION OF CITY WATER/SEWER/RECLAIMED WATER SERVICES TO NON CONTIGUOUS PROPERTIES; AND PROVIDING FOR AN EFFECTIVE DATE and

ORDINANCE NO. 55-2003 OF THE CITY OF TITUSVILLE, FLORIDA, AMENDING SECTION 47-298 OF THE *LAND DEVELOPMENT REGULATIONS* BY WAIVING THE ANNEXATION FEES AND ASSOCIATED ADVERTISING FEES UNTIL SEPTEMBER 30, 2004; AND PROVIDING FOR AN EFFECTIVE DATE the first time by title only.

Second reading and public hearing were scheduled for September 23, 2003.

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The meeting recessed at 7:46 and reconvened at 7:56 p.m.

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Public Hearings and Related Action Attorney Severs read ORDINANCE NO. 45-203 OF THE CITY OF TITUSVILLE, FLORIDA AMENDING SECTIONS 39-64, 59-302, 59-322, 59-324, 59-342, 59-344, 59-362, 59-364, 59-382, 39-384, 59-544, 59-662, 69-664, 59-702, AND 59-704 OF THE *LAND DEVELOPMENT REGULATIONS* BY REMOVING CONDITIONAL USES FOR DRIVE-IN/DRIVE-THROUGH FACILITIES; PROVIDING GENERAL PERFORMANCE REQUIREMENTS FOR SAME; AND PROVIDING FOR AN EFFECTIVE DATE the first time by title only.

City Manager Harmer explained this was the first of two required public hearings on the ordinance. At its August 12, 2003 meeting council directed staff to remove restaurants with drive-ins and banks, etc. with drive-through facilities as conditional uses thus allowing them as permitted uses.

No one was present to speak on this item. The second and final public hearing was scheduled for September 23, 2003.

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Next was Ordinance No. 36-2003 defining the reclaimed water service districts and establishing procedures for sharing infrastructure costs with properties benefiting from improvements. Attorney Severs read ORDINANCE NO. 36-2003 OF THE CITY OF TITUSVILLE, FLORIDA AMENDING THE *CODE OF ORDINANCES* BY AMENDING SECTION 21-280 BY CHANGING THE DEFINITION OF REUSE SERVICE AREA AND REUSE SERVICE DISTRICT; AMENDING SECTION 21-284 BY CLARIFYING CERTAIN TERMINOLOGY; AMENDING SECTION 21-290 BY AMENDING SUBSECTION (c) REGARDING CONNECTION OF EXISTING SINGLE FAMILY HOMES AND SUBSECTION (e) REGARDING AVAILABILITY OF REUSE LINES; AMENDING SECTION 21-290 BY ESTABLISHING A NEW SUBSECTION (h) BY PROVIDING FOR THE INSTALLATION OF REUSE TRANSMISSION MAINS AND IMPOSITION OF A CONNECTION FEE AND ESTABLISHING THE PROCESS AND D IMPOSING SAID FEE; AND PROVIDING FOR AN EFFECTIVE DATE by title only.

It was requested this ordinance be tabled to the September 23, 2003 regular meeting. Member Broome moved accordingly. Member Eigenmann seconded the motion and it carried on an all yes vote.

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Next was several related items dealing with the annexation and proposed development of property lying between Riveredge Drive and U.S. Highway One south of the northern terminus of Riveredge Drive, to-wit:

- Ordinance No. 32-2003 annexing property located on the west side of Riveredge Drive south of the northern terminus of Riveredge Drive with a Shoreline Mixed Use zoning classification (Small Scale Amendment No. 9-2003)
- Ordinance No. 30-2003 amending the Future Land Use Element of the Comprehensive Plan of the City of Titusville as follows: (1) Small Scale Amendment (SSA) 8-2003 by changing the land use designation on property located on the east side of U.S. Highway One from Commercial High Intensity to Shoreline Mixed Use land use designation as requested by Towne Realty, Inc. with permission of Sonia Pearson, Trustee; and (2) SSA 9-2003 to recognize the annexation of property located on the west side of Riveredge Drive with a Shoreline Mixed Use land use designation as requested by Towne Realty, Inc., with permission of Sonia Pearson, Trustee.
- Ordinance No. 31-2003 rezoning property located on the east side of U.S. Highway One south of the northern terminus of Riveredge Drive from Light Industrial Services and Warehousing (M-1) zoning classification to Shoreline Mixed Use (SMU) zoning classification (SSA 8-2003).
- Area Impact Plan for Solana Point Condominiums, a 90-unit development, located between Riveredge Drive and U.S. Highway One.
- Conditional Use Permit No. 13-2003 to allow the construction of three six-story condominium buildings exceeding 50 feet in height in a Shoreline Mixed Use zoning district between Riveredge Drive and U.S. Highway One as requested by Towne Realty, Inc. with permission of Sonia Pearson, Trustee.

Attorney Severs read ORDINANCE NO. 32-2003 OF THE CITY OF TITUSVILLE, FLORIDA AMENDING SECTION 7 OF CHAPTER 63-2001, LAWS OF FLORIDA, SPECIAL ACTS OF 1963, BY ANNEXING CERTAIN PROPERTY LOCATED ON THE WEST SIDE OF RIVEREDGE DRIVE APPROXIMATELY 1,178 FEET SOUTH OF THE NORTHERN TERMINUS OF RIVEREDGE DRIVE TO BE INCLUDED WITHIN THE CITY LIMITS;

DESIGNATING LAND USE CLASSIFICATION; PROVIDING ZONING CATEGORY; AND PROVIDING FOR AN EFFECTIVE DATE and

ORDINANCE NO. 30-2003 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 ON THE EAST SIDE OF U.S. HIGHWAY ONE APPROXIMATELY 1,178 FEET SOUTH OF THE NORTHERN TERMINUS OF RIVEREDGE DRIVE FROM COMMERCIAL HIGH INTENSITY TO SHORELINE MIXED USE LAND USE DESIGNATION; BY AMENDING THE VARIOUS ELEMENTS OF SAID PLAN AND MAPS BY CHANGING THE FUTURE LAND USE MAP TO INCLUDE CERTAIN PROPERTY LOCATED ON THE WEST SIDE OF RIVEREDGE DRIVE APPROXIMATELY 1,178 FEET SOUTH OF THE NORTHERN TERMINUS OF RIVEREDGE DRIVE TO BE ANNEXED INTO THE CITY WITH A SHORELINE MIXED USE LAND USE DESIGNATION; AND PROVIDING FOR AN EFFECTIVE DATE and

ORDINANCE NO. 31-2003 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 U.S. HIGHWAY ONE APPROXIMATELY 1,178 FEET SOUTH OF THE NORTHERN TERMINUS OF RIVEREDGE DRIVE FROM ITS PRESENT LIGHT INDUSTRIAL SERVICES AND WAREHOUSING (M-1) CLASSIFICATION TO SHORELINE MIXED USE (SMU) CLASSIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE the second time by title only.

The above issues were subject to quasi-judicial rules of procedure. Individual council members generally disclosed conversations with individuals; however, these discussions would not influence their votes.

Planning Administrator Keith Cunningham overviewed the individual requests. He pointed out that only lands along the west side of Riveredge Drive were under consideration this evening. Although the applicant owned adjacent lands on the east side of Riveredge Drive, along with submerged lands, these were not under consideration. The total area under consideration was just over nine acres; in that the total area was less than ten acres, it could be processed as a small-scale amendment to the Comprehensive Plan. Mr. Cunningham went on to advise that vehicular access to Riveredge Drive was eliminated but pedestrian access was available. Although the site plan submitted by the developer was not drawn to scale, the buildings would need to be set back from Riveredge Drive a minimum of 62.5 feet. In addition, a conditional use was required for building height over 50 feet; the proposed structures were 60 feet in height.

Mayor Swank opened the public hearing. Attorney John Evans represented the applicant. He stated that legal descriptions covering both the east and west sides of Riveredge Drive were submitted to the planning staff; however, only the west side was advertised. His clients were willing to move forward with the west side only. Mr. Evans called his first witness, Kohn Bennett, agent for Towne Realty. Mr. Bennett displayed a rendering of the proposed project superimposed over an aerial photograph of the subject property. Covered parking allowed more open space for the project. The condominium units would start for sale at approximately \$200,000. He anticipated starting on this project shortly after closing on the sale.

Mr. Evans then called Planning Administrator Keith Cunningham as an expert witness and reviewed his qualifications. Upon questioning, Mr. Cunningham responded that both small-scale amendment applications (i.e. SSA 8-2003 and 9-2003) were complete and contained all required exhibits. Staff recommended approval of the applications, as did the Planning and Zoning Commission. No concurrency issues were identified.

Mr. Evans tendered Loys Ward as an expert witness in land development. At the request of City Attorney Severs, Mr. Ward disclosed that Council Member Ken Ward was his son. He also stated that there was no ownership interest in Canaveral Engineering, which was his son's business. Mr. Ward did not prepare the Area Impact Plan but did make a few changes at the request of Towne Realty. Mr. Evans went on to point out that of the 18 residences on Riveredge Drive, 14 of them were less than 1,200 square feet according to the Property Appraiser's records.

Karl Pearson, attorney representing the Indian River Trust (owner), also spoke in favor. He clarified, for the record, that the requested actions (e.g. annexation, land use change, rezoning, etc.) being considered this evening, were contingent upon consummation of the land sale. If the sale did not go through, the trust did not want to annex the property.

Council heard from the following individuals who generally opposed the subject project because they felt that the height and intensity of use was incompatible with the surrounding neighborhood on Riveredge Drive: Rose Easley, Patty Mooney, Jim Hildebrandt, Connie Pontius, Kent Pontius, Tom LaForge, Vikki Weinberg, Claudette Beggs, and Bob Robinson. It was suggested that the project be situated closer to U.S. Highway One as opposed to Riveredge Drive. If the project was approved, residents asked that construction vehicles be directed to only use U.S. Highway One for access to the site and not Riveredge Drive.

Laura Ward stated the proposed development involved six-story buildings across the street from her single-family home. Alternatives acceptable to the residents were offered yet there were no modifications to the project. Once the high-rise condominiums were built, the neighborhood could expect nothing but more of the same. Mrs. Ward questioned the fact that a survey of the property was not provided by the applicant; this made her question the acreage. As to the east side of Riveredge Drive not being considered, in her opinion, this made the Shoreline Mixed Use zoning moot. The residents were looking for compatibility of development; at this point their recommendation was single-family residential (R-1b) zoning. The proposed project might be appropriate for downtown Titusville, however, was not right for Riveredge Drive.

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The meeting recessed at 9:30 and reconvened at 9:41 p.m.

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Attorney Kim Rezanka represented the residents of Riveredge Drive. She advised council of several options: to deny the project, to rezone it for single-family residential purposes, or to condition the project. The area impact plan for Solana Point Condominiums was insufficient for review purposes. No side yard setbacks were noted and other set backs were not to scale. It was her professional position that the city must have a proper area impact plan in order to proceed. Additionally, there was no survey. It was also her opinion that Shoreline Mixed Use (SMU) zoning no longer fit the site, given the deletion of property on the east side of Riveredge Drive. The proposed development was out of scale with the surrounding neighborhood. Ms. Rezanka also pointed out that the Planning and Zoning Commission had not reviewed the revised area

impact plan; procedurally, she felt this was also necessary. In calculating the appropriate density for the project, she wondered whether the submerged lands were included? Was there a showing of need for this type of development within the city? She also felt that a proper site plan was necessary to take action on the conditional use request to allow building height in excess of 50 feet. Ms. Rezanka stated that other residential zoning classifications limited height to 35 feet. The requested 60-foot height was not compatible. The proposed development was detrimental to adjacent properties. In her legal opinion, competent substantial evidence to support the requests was not provided. This burden was on the applicant. She asked council to protect the residents and do something other than give the developers everything asked for.

Planning Administrator Cunningham clarified that submerged lands were not considered in density calculations.

Attorney Severs advised council that issues dealing with comprehensive plan amendments were not quasi-judicial. The fairly debatable rule applied and council had a fair amount of discretion in deciding whether or not to grant the land use requests. As to the conditional use permit, this was clearly quasi-judicial.

Al Gutierrez spoke in favor of property rights. He had driven down Riveredge Drive and noticed a variety of uses, including residences that were in a poor state of repair. It did not feel that the proposed condominiums would have a detrimental effect upon surrounding property values.

Attorney Evans took this opportunity for rebuttal. He provided a survey of the subject property. He also stated that an advertising error caused that acreage on the east side of Riveredge Drive to be excluded from consideration this evening. The subject property stood alone. The proposed development would not obscure any resident's view of the Indian River.

The public hearing was closed.

Mayor Swank called for a motion. Vice-Mayor Rainey moved to adopt Ordinance No. 32-2003 annexing property located on the west side of Riveredge Drive approximately 1,178 feet south of the northern terminus of Riveredge Drive conditioned upon the successful sale of the property to the applicant. Mayor Swank seconded the motion and roll call was:

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

The motion failed on a tie vote. The action invalidated the remaining requests, as the city did not have jurisdiction.

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It was 10:30 p.m. Vice-Mayor Rainey moved to extend the meeting for 30 minutes. Member Broome seconded the motion and it carried with Member Eigenmann voting no.

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Next was Ordinance No. 46-1003 amending the Future Land Use Map by changing land use on property at 1670 Shelley Place from Residential to Commercial – Low Intensity and Ordinance

No. 47-2003 rezoning 1670 Shelley Place from single-family medium density residential (R-1b) to neighborhood commercial (NC) as requested by John Curtin, owner (Small Scale Amendment No. 14-2003). The Planning and Zoning Commission, acting as the Local Planning Agency, recommended approval with conditions noted in staff report.

Attorney Severs read ORDINANCE NO. 46-2003 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 1670 SHELLEY PLACE FROM RESIDENTIAL TO COMMERCIAL LOW INTENSITY LAND USE DESIGNATION; AND PROVIDING FOR AN EFFECTIVE DATE and

ORDINANCE NO. 47-2003 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 AT 1670 SHELLEY PLACE FROM ITS PRESENT SINGLE-FAMILY MEDIUM DENSITY RESIDENTIAL (R-1B) CLASSIFICATION TO NEIGHBORHOOD COMMERCIAL (NC) CLASSIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE the second time by title only.

City Manager Harmer summarized the requests. The applicant, John Curtin, was available to answer questions. There was no one else who wished to speak on this request.

Member Eigenmann moved to adopt Ordinance No. 46-2003 amending the Future Land Use Map for this property as previously stated. Member Broome seconded the motion and roll call was:

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

The motion carried. Member Broome moved to adopt Ordinance No. 47-2003 rezoning 1670 Shelley Place as requested. Member Eigenmann seconded the motion and roll call was:

Mayor Swank	yes
Member Broome	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. 20-2003 to allow an adult game room in a community commercial (CC) zoning district at 2400 South Hopkins Avenue as requested by Charlie's Grand Palace with the owner's permission. The Planning and Zoning commission recommended approval with the following conditions: (1) compliance with conditional use criteria pursuant to Section 47-119 of the *Land Development Regulations*; (2) hours of operation between 10 a.m. and 11 p.m.; (3) compliance with *Florida Statutes* Section

849-161 prohibiting the exchange of alcohol and cash; and (4) production of an agreement with Miracle City Mall for overflow parking.

City Manager Harmer summarized the request and advised that a parking agreement with the owners of Miracle City Mall was provided.

Mayor Swank opened the public hearing. Thomas Norwood, representing the owner, spoke in favor. He clarified the requested use was not adult entertainment per se but a grown-up game room. Charles Ragan also spoke in favor of his application. He felt that the use would be an asset to the community. No one else wished to speak and the public hearing was closed.

Member Eigenmann moved to approve Conditional Use Permit No. 20-2003 with the conditions recommended by the Planning and Zoning Commission as stated above along with two additional conditions: (1) that the applicant provide and maintain annually an agreement with the owners of Miracle City Mall for overflow parking; and (2) that activities falling under the City's definition of "adult entertainment" be specifically disallowed. Vice-Mayor Rainey seconded the motion and roll call was:

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

The motion carried.

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New Business The only item was review of the City of Titusville's infrastructure project list for submission to Brevard County in support of education efforts related to the one-cent infrastructure sales tax referendum on the November 4, 2003 ballot. Public Works Director Jim Herron reviewed the infrastructure project priorities, which totaled \$25 million and tentative scheduling over a five- and ten-year period. His presentation also presented financing options and staffing requirements to oversee these projects if the referendum was approved.

Council heard from Walter Pine who said that there was no way one could say the selection of projects was done in the public view; that the projects were selected based upon how many votes it was felt they would get. In his opinion, the city's selection process inherently violated the idea of an independent vote. It was illegal to stand at the poll and promise to give anything of value to gain one's vote.

City Manager Harmer indicated that the city's project list was primarily based upon pre-existing capital needs.

Vice-Mayor Rainey moved to approve the infrastructure project list as submitted. Member Broome seconded the motion and it carried unanimously.

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Petitions and Requests from the Public Present Thelma Roper discussed several items: her concurrence with council's denial of the Riveredge Drive project; her support for additional homestead exemption for seniors; her disapproval of water service agreements containing

annexation clauses; and Loys Ward's involvement in what she felt were controversial issues in the community.

Vice-Mayor Rainey mentioned that the homestead exemption for seniors would be coming back to council for review.

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It was 11 p.m. Member Eigenmann moved to extend the meeting for 15 minutes. Member Broome seconded the motion and it carried.

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Susan Canada asked again why the city was still pushing for parking on the north side of Marina Park given the fact that Vector Works had withdrawn its request for joint use.

Joan Wheeler discussed the proposed budget for Fiscal Year 2003/2004 and expressed her disappointment with the lack of public involvement. She found it interesting that the first public hearing was scheduled for September 11, 2003, the same night as the Parks and Recreation Commission meeting. As to the budget format, she felt that it contained less information than in past years. She did not believe that all employees needed a four percent pay increase.

Walter Pine reiterated his concern that the infrastructure projects to be funded through the sales surtax were developed without the benefit of public input. He also commented on the small number of applications for appointment to the parks and recreation commission; perhaps the process should be re-evaluated.

City Manager Harmer responded to Member Eigenmann's inquiry as to the advertising process for board members. Notices were placed on the official bulletin board and the city's WEB page as well as broadcast on the government access channel.

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It was 11:15 p.m. Member Broome moved to extend the meeting for ten minutes. Member Eigenmann seconded the motion and it carried.

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Boards and Commissions The first item was the appointment of members to the Student Advisory Council for the 2003/2004 school year. Vice-Mayor Rainey moved to concur in the appointment of members submitted by Titusville and Astronaut High Schools. Member Broome seconded the motion and it carried on an all yes vote.

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Next was the appointment of members to the North Brevard Parks and Recreation Commission. The terms of Ted Beck and Barry Gainer, regular members, expired on August 31, 2003. Both members expressed their willingness to continue to serve on this commission. Member Broome moved to reappoint the incumbents. Mayor Swank passed the gavel in order to second the motion. The motion carried unanimously. The mayor resumed the chair.

Council heard from Ted Beck who thanked council for the reappointment and asked to provide an update on parks referendum projects during the month of November. Council agreed.

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Mayor and Council Reports Mayor Swank provided a written report on his activities since the last meeting. He went on to announce the first public hearing on the budget scheduled for Thursday, September 11, 2003. This was a critical meeting that was advertised to all property owners.

The mayor mentioned that the Space Coast League of Cities meeting would be held in Titusville on November 10th at the American Police Hall of Fame.

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It was 11:25 p.m. Council agreed to extend the meeting in order to hear from Thelma Roper on the infrastructure project list discussed during New Business. She understood the need for roads and went on to share her opinion on several of the proposed projects.

xxx

The meeting adjourned at 11:27 p.m.

Ronald G. Swank, Mayor

ATTEST:

Karan J. Rounsavall, City Clerk