

City Council
Regular Meeting
November 25, 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, November 25, 2003 at 6:30 p.m.

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

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Mayor Swank called the meeting to order at 6:33 p.m. Mayor Swank then asked for a moment of silence. The entire assembly recited the Pledge of Allegiance to the Flag.

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Special Recognitions – Sergeant John Richardson of the Titusville Police Department was introduced by City Manager Harmer as City Employee of the Month for November 2003. City Manager Harmer read from Sergeant Richardson’s nomination that included many meritorious acts and service.

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Consent Agenda – The following items were considered.

- A. To accept maintenance responsibility for the Ronald Street right-of-way from Park Avenue to its eastern terminus with funding of road and utility improvements provided by Community Development Block Grant monies.
- B. The approval of Resolution No. 31–2003 to authorize interest rate swap transactions to lower variable rate risk with respect to the Multi-Purpose Revenue Bonds and to authorize the execution and delivery of documents in connection therewith. The current debt service payments on the amortization of the Series 1995A bonds were funded through pledged revenues accounted for in the Multi-Purpose Revenue Bond Fund that consisted of utility service taxes and franchise fees.
- C. The authorization to use forfeiture funds to purchase equipment for the Police Department at a cost of approximately \$25,000.
- D. The approval of an Area Impact Plan for three patio homes in a shoreline mixed use (SMU) zoning district at 5417, 5419, and 5421 Riveredge Drive. The Planning and Zoning Commission recommended approval with conditions.

Member Broome moved to approve each item as submitted. Member Eigenmann seconded the motion. The roll call was:

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

The motion passed unanimously.

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Petitions and Requests from the Public Present Michael Quinn said that the City's Stormwater Run Off project had resulted in "clamming" being closed on the Indian River. He was concerned about run off and the deterioration to the Titusville Shoreline that would result.

Bob Lambert, Executive Director of the Titusville Housing Authority, spoke highly of Sergeant John Richardson of the Titusville Police Department on his being named City Employee of the Month. Mr. Lambert spoke for the Housing Authority in appreciation for Titusville Police Department work in the Palmetto, Brown, and South Street areas. He spoke specifically of the support rendered by Commanders Skip Toney and Mel Williams. He reminded council of the professionalism displayed by Police Department Teams and thanked them for making Titusville a safer place to live. Mayor Swank said council echoed the sentiments of the Housing Authority.

Gloria Heiden spoke in reference to a conversation she had with City Manager Harmer and said council's desire and the City Manager's vision was to rush the growth of the City and that the growth had taken place without a Comprehensive Plan or cost analysis. She cautioned council not to move too quickly and outgrow the City's ability to support the growth. Mayor Swank asked Mrs. Heiden if she lived within the city limits of Titusville. She replied she was a county resident. City Manager Harmer denied the allegations made by Mrs. Heiden and said he was a little disappointed by what she had said.

Laura Ward said Mrs. Heiden's demeanor resulted from her being a frustrated homeowner. She announced the formation of an alliance of various home owner associations to keep homeowners informed and to represent them at future council meetings. She encouraged all homeowners present at the meeting and viewing on television to join the alliance. Member Broome thanked Mrs. Ward for her efforts in getting citizens interested and involved in the city. He then said that council could not stop growth but try to handle it for the best of all concerned. Member Broome did have concerns of future issues with water. Vice-Mayor Rainey concurred with Member Broome and said he had made a commitment to homeowners and wanted what was best for the citizens of Titusville.

Alphonso Guterrez spoke concerning citizens being involved with City boards and commissions and felt the deck was stacked against him personally as an alternate member of the Titusville

Environmental Commission. He was upset with the current distrust in government and felt more governmental accountability was necessary.

Julian Lindenhour said council had reopened issues concerning Comprehensive Plan Amendment Applications that were defeated at the November 11, 2003 meeting. He felt that council's actions reflected a step backward and had resulted in an erosion of citizen confidence in council and reflected negatively to council's integrity. He recommended that current reapplication procedures and policies not be changed. Mayor Swank clarified that the agenda did not address annexations. Vice-Mayor Rainey said he intended to revisit annexation issues later in the meeting and that he did not attempt to conceal anything from the public.

Michael Myjak gave council copies of the *Florida Statute* that required cities to consider school facilities in their growth. He then referenced Section 47-105 of the City's Comprehensive Plan that outlined reapplication requirements and encouraged council not to change the one-year requirement for application re-submittal. Mayor Swank said that the Brevard County School Board had recently appointed a person to serve on the Titusville Planning and Zoning Commission in an advisory role only. City Attorney Severs said that since the *Florida Statute* was implemented, the Brevard County School Board was invited to all Planning and Zoning Commission meetings but never attended. City Attorney Severs then asked City Manager Harmer if he had received a formal request from the Brevard County School Board for representation on the Planning and Zoning Commission. City Manager Harmer said no such request had been received.

Pete Petyk invited council to visit the Lake Emma Road and Lake Mary Boulevard area of Seminole County and referred to the area as the competition. He said that Titusville's location made the city a transportation hub and felt the city should be attracting more business and recreation. He then gave recent photographs of a development located off of Sisson Road that had removed all vegetation from the construction site and said citizens did not want developments like that. Member Broome said he understood why citizens would be upset and asked if the Developer would be fined for the actions illustrated in the photographs. Member Broome wanted the Developer to receive the maximum allowable fine for the actions reported. City Manager Harmer said the Code Enforcement Division had taken action against the Developer.

Member Broome moved that the City Attorney review and increase fines for code violations by Developers. Member Eigenmann seconded the motion. Member Ward recommended the review of what code violations had been committed. Member Eigenmann said current maximum fines for violations did not serve as a deterrent and supported Member Broome's motion to stiffen and impose fines of offenders. The motion passed unanimously.

Don Page said the City Building Department reported approximately 1,990 new homes were proposed for construction and he was concerned with the impact new construction would have on roads, schools, and city services. He asked if reports were prepared that addressed the impact of proposed construction. Mayor Swank said reports of construction impacts on water, sewer, fire, and police service were prepared but addressed only one application at a time and not collectively.

Penny Farrar read from a prepared statement opposing the process of City Council meetings and further criticizing statements allegedly made by City Council members.

Don Human commended council on its concern for stripping lands and hoped council remembered violations by Developers when those Developers wanted to build again.

Jim Hildebrand said council acted on artist renditions and not facts that had led to citizens paying for their mistakes. He asked for the name of the Developers and Engineer of the project off of Sisson Road. Mayor Swank said the Developer was Sterling Forest and he did not know the Engineer name.

Stan Foster recommended council uphold current annexation re-submittal requirements currently outlined in the City Comprehensive Plan. He was concerned about how the City Comprehensive Plan addressed urban sprawl.

Joan Wheeler felt there was a contagious philosophy within City Government to grow as rapidly as possible in order to reach a population of 60,000 and she was not happy about that. She criticized council for its conduct of visioning meetings. She opposed the Community Redevelopment Agency receiving grants and giving the Chamber of Commerce \$30,000 and she expected full accountability.

Susan Canada was concerned as to whether the potential flooding problem in the Fox Lake Road and Carpenter Road area had been taken into consideration. She said the city did not offer agricultural or rural zoning classifications. She then asked how much of the fines collected for violations at the project on Sisson Road would be refunded to the Developer.

Bea Polk said the Chamber of Commerce received approximately \$11,500 for the Fourth of July Fireworks display. She said that there were inconsistencies in the receipts and felt that tax payer money should not be given to profit organizations. She then said that citizens were upset over the Chamber of Commerce receiving \$30,000.

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Ordinances - First Reading – City Attorney Severs read, Ordinance No. 79–2003, AN ORDINANCE OF THE CITY OF TITUSVILLE, BREVARD COUNTY, FLORIDA, AMENDING CHAPTER 59, ARTICLE III OF THE LAND DEVELOPMENT REGULATIONS BY ADDING SECTION 59-40.6 “TEMPORARY STORAGE UNITS IN RESIDENTIAL AREAS”; PROVIDING APPLICABLE ZONING DISTRICTS; PROVIDING DEFINITIONS; ESTABLISHING CRITERIA FOR THE USE OF TEMPORARY STORAGE UNITS; PROVIDING TIME PERIODS; PROVIDING EXEMPTIONS; PROVIDING FOR THE REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR INCLUSION IN THE CITY OF TITUSVILLE CODE OF ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE. The first time by title only.

City Attorney Severs then read, Ordinance No. 88-2003, AN ORDINANCE OF THE CITY OF TITUSVILLE, FLORIDA AMENDING SECTION 15-215(3) BY DELETING THE PROHIBITION AGAINST CONTINUED EMPLOYMENT FROM RECEIVING RETIREMENT BENEFITS; AND PROVIDING FOR AN EFFECTIVE DATE. The first time by title only.

City Attorney Severs then read, Ordinance No. 80-2003, AN ORDINANCE 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 THE NORTHEAST CORNER OF PARK AVENUE AND HARRISON STREET FROM RESIDENTIAL TO COMMERCIAL HIGH INTENSITY LAND USE DESIGNATION; BY AMENDING THE VARIOUS ELEMENTS OF SAID PLAN AND MAPS BY CHANGING THE FUTURE LAND USE DESIGNATION FOR CERTAIN PROPERTY LOCATED EAST OF PARK AVENUE LYING NORTH OF HARRISON STREET FROM RESIDENTIAL TO COMMERCIAL HIGH INTENSITY LAND USE DESIGNATION; AMENDING THE FUTURE LAND USE MAP TO INCLUDE CERTAIN PROPERTY LOCATED IMMEDIATELY ACROSS FROM LITTLE LEAGUE LANE LYING ON THE WEST SIDE OF SISSON ROAD TO BE ANNEXED INTO THE CITY WITH RESIDENTIAL LAND USE; AMENDING THE FUTURE LAND USE MAP TO INCLUDE CERTAIN PROPERTY LOCATED AT 2980 CRYSTAL COURT TO BE ANNEXED INTO THE CITY WITH RESIDENTIAL LAND USE; AMENDING THE FUTURE LAND USE MAP TO INCLUDE CERTAIN PROPERTY LOCATED SOUTH OF STATE ROAD 405 (COLUMBIA BOULEVARD) LYING ON THE WEST SIDE OF U.S. HIGHWAY ONE TO BE ANNEXED INTO THE CITY WITH COMMERCIAL HIGH INTENSITY LAND USE; AMENDING THE FUTURE LAND USE MAP TO INCLUDE CERTAIN PROPERTY LOCATED AT 3415 PARKLAND STREET TO BE ANNEXED INTO THE CITY WITH RESIDENTIAL LAND USE; AND PROVIDING FOR AN EFFECTIVE DATE. The first time by title only.

City Attorney Severs then read, Ordinance No. 81-2003, AN ORDINANCE AMENDING ORDINANCE NO. 5-1993 OF THE CITY OF TITUSVILLE, FLORIDA, BY AMENDING THE ZONING MAP MADE A PART OF SAID ORDINANCE BY REFERENCE BY CHANGING PROPERTY LOCATED AT THE NORTHEAST CORNER OF PARK AVENUE AND HARRISON STREET FROM ITS PRESENT MULTI-FAMILY HIGH DENSITY RESIDENTIAL (R-3) CLASSIFICATION TO COMMUNITY COMMERCIAL (CC) CLASSIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE. The first time by title only.

City Attorney Severs then read, Ordinance No. 82-2003, AN ORDINANCE AMENDING ORDINANCE NO. 5-1993 OF THE CITY OF TITUSVILLE, FLORIDA, BY AMENDING THE ZONING MAP MADE A PART OF SAID ORDINANCE BY REFERENCE BY CHANGING PROPERTY LOCATED EAST OF PARK AVENUE LYING ON THE NORTH SIDE OF HARRISON STREET FROM ITS PRESENT MULTI-FAMILY HIGH DENSITY RESIDENTIAL (R-3) CLASSIFICATION TO COMMUNITY COMMERCIAL (CC)

CLASSIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE. The first time by title only.

City Attorney Severs then read, Ordinance No. 83-2003, AN ORDINANCE OF THE CITY OF TITUSVILLE, FLORIDA, AMENDING SECTION 7, OF CHAPTER 63-2001, LAWS OF FLORIDA, SPECIAL ACTS OF 1963, BY ANNEXING CERTAIN PROPERTY IMMEDIATELY ACROSS FROM LITTLE LEAGUE LANE LYING ON THE WEST SIDE OF SISSON ROAD TO BE INCLUDED WITHIN THE CITY LIMITS; DESIGNATING LAND USE CLASSIFICATION; PROVIDING ZONING CATEGORY; AND PROVIDING FOR AN EFFECTIVE DATE. The first time by title only.

City Attorney Severs then read, Ordinance No. 84-2003, AN ORDINANCE 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 AT 2980 CRYSTAL COURT TO BE INCLUDED WITHIN THE CITY LIMITS; DESIGNATING LAND USE CLASSIFICATION; PROVIDING ZONING CATEGORY; AND PROVIDING FOR AN EFFECTIVE DATE. The first time by title only.

City Attorney Severs then read, Ordinance No. 85-2003, AN ORDINANCE AMENDING ORDINANCE NO. 5-1993 OF THE CITY OF TITUSVILLE, FLORIDA, BY AMENDING THE ZONING MAP MADE A PART OF SAID ORDINANCE BY REFERENCE BY CHANGING PROPERTY AT 2980 CRYSTAL COURT FROM ITS PRESENT GENERAL USE (GU) CLASSIFICATION TO SINGLE FAMILY MEDIUM DENSITY RESIDENTIAL (R-1b) CLASSIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE. The first time by title only.

City Attorney Severs then read, Ordinance No. 86-2003, AN ORDINANCE OF THE CITY OF TITUSVILLE, FLORIDA, AMENDING SECTION 7, OF CHAPTER 63-2001, LAWS OF FLORIDA, SPECIAL ACTS OF 1963, BY ANNEXING CERTAIN PROPERTY SOUTH OF STATE ROAD 405 (COLUMBIA BOULEVARD) LYING ON THE WEST SIDE OF U.S. HIGHWAY ONE TO BE INCLUDED WITHIN THE CITY LIMITS; DESIGNATING LAND USE CLASSIFICATION; PROVIDING ZONING CATEGORY; AND PROVIDING FOR AN EFFECTIVE DATE. The first time by title only.

City Attorney Severs then read, Ordinance No. 87-2003, AN ORDINANCE OF THE CITY OF TITUSVILLE, FLORIDA, AMENDING SECTION 7, OF CHAPTER 63-2001, LAWS OF FLORIDA, SPECIAL ACTS OF 1963, BY ANNEXING CERTAIN PROPERTY AT 3415 PARKLAND STREET TO BE INCLUDED WITHIN THE CITY LIMITS; DESIGNATING LAND USE CLASSIFICATION; PROVIDING ZONING CATEGORY; AND PROVIDING FOR AN EFFECTIVE DATE. The first time by title only.

Second reading and public hearing were scheduled for December 9, 2003.

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Mayor Swank called for a break at 8:14 p.m. The meeting reconvened at 8:28 p.m.

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Vice-Mayor Rainey moved that Council address agenda item XIV, Boards and Commissions, at this point of the meeting. Member Eigenmann seconded the motion. The motion passed unanimously.

The terms of Titusville Environmental Commission regular members Robin Vieira, Anthony Koromilas, and Susan Gosselin, as well as the term of Christine Ryba, alternate member, expired November 30, 2003. Mr. Vieira did not desire reappointment.

Vice-Mayor Rainey moved to reappoint regular members Anthony Koromilas and Susan Gosselin, as well as alternate member Christine Ryba, and to appoint Karen Mills as a regular member to the Titusville Environmental Commission to three-year terms to expire November 30, 2006. Member Ward seconded the motion. The motion passed unanimously.

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Ordinances Second Reading, Public Hearings and Related Action – City Attorney Severs read, Ordinance No. 75-2003, AN ORDINANCE OF THE CITY OF TITUSVILLE AMENDING CHAPTER 15, PENSIONS AND RETIREMENT, ARTICLE III, POLICE OFFICERS’ AND FIREFIGHTERS’ PENSION PLAN, OF THE CODE OF ORDINANCES OF THE CITY OF TITUSVILLE; AMENDING DIVISION 5, BENEFITS AND ELIGIBILITY, SECTION 15-211, NORMAL RETIREMENT; AMENDING SECTION 15-214, DISABILITY; AMENDING SECTION 15-216, OPTIONAL FORMS OF BENEFITS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY OF PROVISIONS; AND PROVIDING AN EFFECTIVE DATE. The second time by title only. Attorney Scott Christianson, representing the Pension Board, briefed council on the multiplier increase, which was funded through increases in the State contribution, specifically Excess State Monies Reserve. Mayor Swank opened the public hearing. There being no citizens to speak on the issue, Mayor Swank then closed the public hearing.

Vice-Mayor Rainey moved to adopt Ordinance 75-2003 as submitted. Member Eigenmann seconded the motion. The roll call was:

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

The motion passed unanimously.

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City Manager Harmer highlighted staff’s recommendation that City Council hold a public hearing on the use of the 2003 Local Law Enforcement Block Grant funds and approve the use of Forfeiture Funds for the \$6,868.00 matching requirement. Mayor Swank opened the public

hearing. There being no citizens to speak on the issue, Mayor Swank then closed the public hearing.

Member Broome moved to approve the use of the 2003 Local Law Enforcement Block Grant funds and budget transfer from the Bureau of Justice in the amount of \$61,814.00 and to further approve the use of Forfeiture Funds in the amount of \$6,868.00 as a matching requirement. Vice-Mayor Rainey seconded the motion for discussion. Vice-Mayor Rainey asked if the matching amount of funds was enough. Interim Police Chief Tony Bollinger replied that plenty funds were in the account. The roll call was:

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

The motion passed unanimously.

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Prior to beginning the quasi-judicial portion of the public hearings, Mayor Swank asked if any council member had made contact with or had been contacted by any applicant whose application was to be considered. Member Ward replied that he had spoken with Mr. Robert Robinson prior to the meeting in regard to Mr. Robinson's application to vacate an easement on Riveredge Drive that was considered as Resolution 30-2003.

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Member Broome moved that Ordinance No. 76-2003 changing the land use on property located south of State Road 50 and west of the Florida East Coast Railroad from Commercial-High Intensity to Residential as requested by Roger Molitor (Small Scale Amendment No. 20-2003), be tabled to the December 9, 2003 City Council Meeting. Member Ward seconded the motion. The motion passed unanimously.

Member Broome moved that Ordinance No. 77-2003 rezoning property located south of State Road 50 and west of the Florida East Coast Railroad from residential manufactured housing park (RMH-2), regional commercial (RC), and open space and recreation (OR) to multi-family high density residential (R-3) and open space and recreation (OR) as requested by Roger Molitor (Small Scale Amendment 20-2003), be tabled to the December 9, 2003 City Council Meeting. Member Ward seconded the motion. The motion passed unanimously.

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City Attorney Severs read, Ordinance No. 78-2003, AN ORDINANCE AMENDING ORDINANCE NO. 5-1993 OF THE CITY OF TITUSVILLE, FLORIDA, BY AMENDING THE ZONING MAP MADE A PART OF SAID ORDINANCE BY REFERENCE BY CHANGING PROPERTY AT THE NORTHEAST CORNER OF U.S. HIGHWAY NO. 1 AND

STATE ROAD NO. 405 (COLUMBIA BOULEVARD) FROM ITS PRESENT REGIONAL MIXED USE (RMU) 600 HOLDING AND OPEN SPACE AND RECREATION (OR) CLASSIFICATIONS TO REGIONAL MIXED USE (RMU) 100 – ENVIRONMENTAL PRESERVATION AND ENHANCEMENT, 200 – SINGLE FAMILY RESIDENTIAL, 300 – MULTIFAMILY RESIDENTIAL, 400 – COMMERCIAL, AND OPEN SPACE AND RECREATION (OR) CLASSIFICATIONS; AND PROVIDING FOR AN EFFECTIVE DATE. The second time by title only.

Planning Administrator Keith Cunningham outlined the ordinance that requested the rezoning of approximately 420 acres located at the northeast corner of U.S. Highway One and State Road 405 and reported that the Planning and Zoning Commission recommended approval of both the rezoning request and the conceptual master plan with conditions. City Manager Harmer highlighted that as part of the conceptual master plan, property for a fifth fire station for the city would be donated. Mayor Swank asked if the plan allowed public use. Mayor Swank opened the public hearing.

John Evans represented the applicant and outlined the specific application and clarified that a fire station for the city was offered on a one-acre parcel. He then submitted a letter to council from the developer that further outlined the project. Mayor Swank asked questions concerning usage and possible effects on traffic to and from the Kennedy Space Center. Mr. Evans said that no objections to the project were received from the Kennedy Space Center.

Jake Wise, Project Engineer, made himself available for questions concerning the project.

Patrick Carr, owner of Gateway Aviation, spoke in opposition to the project. He said he would support the project if it was for commercial use but was concerned of its proposed residential use due to the planned construction of homes directly underneath the flight path at the Space Coast Regional Airport.

Member Ward asked the City Attorney if the recently adopted Airport Ordinance had any impact on the application. City Attorney Severs referred to the ordinance and said the ordinance required notice be given proposed home owners in the airport's flight path and that the notice would be applicable in part to the property outlined in the application.

Fred Watts, President of the TI-CO Airport Authority, spoke in opposition to the project. He said he wanted to protect the legal boundaries of the airport and recommended the provisions of the airport ordinance be used in due diligence.

Jay Shank of the Airport Authority was unclear as to the definition of Regional Mixed Use zoning. He said that no member of the Airport Authority or Board had addressed the application. He then said that the regulations concerning residential housing within the airport flight path were written to protect citizens and he was confused as to why the City would desire homeowners directly in the flight path of the airport. He recommended action on the application be tabled.

Vice-Mayor Rainey felt prospective home buyers would do their own research and determine whether they would want to live in the development knowing its relationship to the flight path of

the airport. Member Eigenmann felt the Airport Ordinance as written and adopted by City Council would be provided each land owner living in the area so they would be clear as to its provisions.

Laura Ward felt that if the area would have been treated as a joint planning area and all parties concerned were involved in the proposed development, the problem between the developer and the Airport Authority would have been avoided. She recommended that, in the future, joint planning on proposed projects such as that should be conducted. She also felt that the property being discussed was considered by many as the most popular property in Titusville and what went there better be wonderful.

Joan Wheeler asked if the proposed zoning would be temporary and who developed the specific zoning criteria for the area and that the Regional Mixed Use zoning confused her. Mayor Swank replied that the City developed the zoning classification several years earlier specifically for the property in the application due to its uniqueness. She supported the location of a fire station within the property and felt it would make for an excellent selling point for property in the area.

Don Page asked what the equivalent zoning classification was for RMU-200. Mayor Swank replied R-1a, R-1b, and R-1c. Mr. Page then asked how many family units would be constructed and if an impact study was conducted. Mayor Swank replied that the development was not at that stage and that each phase of the development would go before City Council for consideration.

William Kolodney encouraged council to approve the application and felt it would be great for the city.

John Evans said the property was annexed into the city in 1999 and that the Airport Authority was made clear of the annexation. Dave McWilliams of Riverfront Developers LLC described the development to council. He said designs would be developed and presented to council for consideration and asked council for approval of the project. Member Broome thanked Mr. McWilliams for developing in Titusville. Mayor Swank closed the public hearing.

Member Broome moved to approve Ordinance No. 78-2003 rezoning property located at the northeast corner of State Road 405 and U.S. Highway 1 from Regional Mixed Use (600) and Open Space and Recreation (OR) to Regional Mixed Use (100, 200, 300, and 400) and Open Space and Recreation (OR) with conditions as recommended by the Planning and Zoning Commission. Vice-Mayor Rainey seconded the motion. The roll call was:

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

The motion passed unanimously.

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City Manager Harmer outlined an Area Impact Plan for mid-rise condominium development in a Shoreline Mixed Use (SMU) zoning district at 2103 South Washington Avenue. He then reported that the Planning and Zoning Commission unanimously recommended approval with conditions and that staff recommended tabling the item until the December 9, 2003 regular meeting of City Council.

Attorney Jack Kirschenbaum represented the applicant and objected to the tabling of the application.

Vice-Mayor Rainey moved to table consideration of an Area Impact Plan until the regular meeting scheduled for December 9, 2003. Member Broome seconded the motion. The motion passed unanimously.

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City Manager Harmer outlined Conditional Use Permit No. 23-2003 to allow building height to exceed the maximum 50-foot height limitation in a Shoreline Mixed Use zoning district for property located at 2103 South Washington Avenue. He then reported that the Planning and Zoning Commission recommended approval with conditions and that staff recommended tabling the item until the December 9, 2003 regular meeting of City Council.

Attorney Jack Kirschenbaum represented the applicant and objected to the tabling of the application.

Member Eigenmann moved to table Conditional Use Permit No. 23-2003 until the regular meeting scheduled for December 9, 2003. Vice-Mayor Rainey seconded the motion. The motion passed unanimously.

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City Manager Harmer outlined the Area Impact Plan for mid-rise condominium development (Rio Del Sol) in a Shoreline Mixed Use (SMU) zoning district located on the east side of U.S. Highway One at the eastern terminus of Coquina Avenue. He then reported that the Planning and Zoning Commission recommended tabling this item at the request of the applicant to the January 13, 2004 City Council meeting.

Vice-Mayor Rainey moved to table the Area Impact Plan until the regular meeting of January 13, 2004. Member Eigenmann seconded the motion. The motion passed unanimously.

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City Manager Harmer outlined Conditional Use Permit No. 24-2003 to allow building height to exceed the maximum 50-foot height limitation in a Shoreline Mixed Use zoning district for property located at the eastern terminus of Coquina Avenue and east of U.S. Highway One. He then reported that the Planning and Zoning Commission recommended tabling this item at the request of the applicant.

Member Broome moved to table Conditional Use Permit No. 24-2003 until the regular meeting of January 13, 2004. Member Eigenmann seconded the motion. The motion passed unanimously.

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Mayor Swank called for a break at 9:48 p.m. Vice-Mayor Rainey called the meeting back to order at 9:58 p.m.

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City Manager Harmer outlined Conditional Use Permit No. 25-2003 to allow a childcare facility in a Community Commercial (CC) zoning district for property located on the east side of Sisson Road approximately 140 feet north of State Road 405. He then reported that the Planning and Zoning Commission recommended approval with conditions.

Mayor Swank returned to the meeting at 10:01 p.m. Mayor Swank opened the public hearing. With no citizens to speak, Mayor Swank closed the public hearing.

Member Broome moved to approve Conditional Use Permit No. 25-2003 with conditions as recommended by staff. Vice-Mayor Rainey seconded the motion. The roll call was:

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

The motion passed unanimously.

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Senior Planner Randy Woodruff outlined Resolution No. 29-2003 vacating a five-foot public utility and drainage easement on the west side of Lot 11, Block 1, and a five-foot public utility and drainage easement on the east side of Lot 12, Block 1, Gibson Heights Subdivision for property located at 927 Kenilworth Court as requested by Herbert Wolfe (Application 4-2003). He then reported that the Planning and Zoning Commission unanimously recommended approval.

Mayor Swank opened the public hearing. With citizens to speak, Mayor Swank closed the public hearing.

Member Ward moved to approve Resolution No. 29-2003 as submitted. Vice-Mayor Rainey seconded the motion. The roll call was:

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

Member Ward

Yes

The motion passed unanimously.

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Senior Planner Randy Woodruff outlined Resolution No. 30–2003 vacating a 30-foot wide strip of land being a portion of lots 23 and 24, and a part of that portion of Riveredge Drive as shown on the plat of Third Addition to Indian River City, Florida as requested by Robert Robinson (Application 5-2003). He then reported that the Planning and Zoning Commission unanimously recommended approval. Mayor Swank opened the public hearing.

Robert Robinson provided council a drawing of how his application would affect his property. Mayor Swank asked the City Attorney if having an easement into a driveway was legal. City Attorney Severs replied that it was legal. Member Ward had no objections to the application. Member Broome ensured that the applicant understood his responsibilities as related to the application. Member Eigenmann asked the applicant if the existing driveway would be removed. The applicant replied that it would be removed. Mayor Swank asked if staff had any concerns with the application. City Manager Harmer said the proposed action was a good temporary fix to the applicant’s situation and that the City Fire Marshal had no concerns. Mayor Swank closed the public hearing.

Member Broome moved to approve Resolution No. 30–2003 as submitted. Vice-Mayor Rainey seconded the motion. The roll call was:

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

The motion passed unanimously.

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Old Business – Vice-Mayor Rainey felt the time limit for resubmission of annexation requests previously denied by council at its regular meeting on November 11, 2003 be re-addressed. He felt that council should direct staff to prepare a draft ordinance for consideration that would amend current requirements to allow applications for Large Scale Amendments only to be resubmitted after six months after denial by council as opposed to the current twelve-month waiting period.

Brad Downs asked if notification of Vice-Mayor Rainey’s proposal was ever given. Vice-Mayor Rainey replied that his proposal was for the preparation of a draft ordinance for future consideration only.

Stanley Foster said he looked forward to future vision meetings and that his concern was for the control of future growth of the city.

Gloria Heiden did not support a shortened time period for resubmission of annexation requests. She felt a growth plan needed to be developed and cost study analysis conducted prior to the consideration of any amendments.

Robert Robinson encouraged council to listen to the concerns of the citizens. Member Broome thanked Mr. Robinson for attending the meeting and said that council was not perfect and encouraged citizens not to stop attending meetings.

Jim Hildebrand asked Vice-Mayor Rainey to clarify statements he had made at a previous meeting of the Community Redevelopment Agency. Mr. Hildebrand felt that Vice-Mayor Rainey's proposal implied corruption and requested that council abide by their oath of office.

City Attorney Severs clarified for Mr. Hildebrand the provisions of Rule 13 of Section 2-26 of the City of Titusville Code of Ordinances. Vice-Mayor Rainey clarified and re-stated his proposal.

It was 10:30 p.m. and Vice-Mayor Rainey moved to extend the meeting to 11:30 p.m. Member Broome seconded the motion. The motion passed unanimously.

Julian Lindenhour spoke in opposition to proposed annexation in the Singleton Avenue and Parrish Road area. He also opposed the amendment of the minimum resubmission waiting time.

David Hill spoke in opposition to amending current land use application resubmission time periods.

Laura Ward strongly felt that lowering resubmission time to six months was not the thing to do. She also felt that Member Ward should declare a conflict of interest in the matter and not participate in any voting action.

Thelma Roper reminded council that its main concern should be for the citizens of Titusville and not developers. She referenced the Poe property and the many hands the property passed through.

Ken Watts spoke in opposition to amending current land use application resubmission time periods.

Mike McDonough said he expected council to stand behind its decision.

Michael Myjack compared the clearing of property off of Sisson Road to the clearing of property off of Carpenter Road. He felt the Planning and Zoning Commission rubber stamped applications to move them forward. Mayor Swank asked Mr. Myjack his definition of "Urban Sprawl". Mr. Myjack replied density in excess of one home per acre. Member Ward took exception to Mr. Myjack's criticism of the Planning and Zoning Commission and thought it was unfair.

Walter Pine felt most members of City Council represented the electors. Mr. Pine was opposed to amending current land use application resubmission time periods. He felt the voice of the people said to leave resubmission time at one year.

Rose Easley read a letter from Gary Clifford, President of the Windover Farms Homeowners Association, in opposition to amending current land use application resubmission time periods.

City Attorney Severs read the current ordinance relating to the time requirements for resubmitting land use applications. He then explained the policies and procedures outlined in Rule 13 of Section 2-26 of the Code of Ordinances.

Vice-Mayor Rainey moved to direct staff to prepare a draft ordinance, amending the current ordinance, to allow Large Scale Amendment applications to be resubmitted for consideration after waiting six months from the date of denial. Member Ward seconded the motion. City Attorney Severs clarified that Vice-Mayor Rainey's motion in no way was similar to any motion or action taken during the regular meeting of City Council on November 11, 2003. The roll call was:

Member Eigenmann	No
Member Broome	No
Vice-Mayor Rainey	Yes
Mayor Swank	Yes
Member Ward	Yes

The motion passed by majority vote 3 to 2.

Vice-Mayor Rainey distributed to council, making a copy available to the public, a packet pertaining to annexations.

Michael Myjack called a point of order. City Attorney Severs said that an item could be discussed at a regular meeting without being placed on the agenda. He referenced a past situation where the City of Riviera Beach hired a City Manager without the action being placed on the agenda.

Walter Pine said the public was not given due notice of the action being taken by Vice-Mayor Rainey. Vice-Mayor Rainey said that many changes and concessions were made by the developer of a project that was denied during the regular meeting of November 11, 2003, and as a result, felt reconsideration under the provisions of Rule 13, Section 2-26 of the Code of Ordinances should be taken.

Vice-Mayor Rainey moved to reconsider, under the provisions of Rule 13, Section 2-26 of the Code of Ordinances, each application for annexation considered under Comprehensive Plan Amendment 2004-01A, Comprehensive Plan Amendment 2004-01B, Comprehensive Plan Amendment 2004-01C, Comprehensive Plan Amendment 2004-01D, Comprehensive Plan Amendment 2004-01E, Comprehensive Plan Amendment 2004-01F, and Comprehensive Plan Amendment 2004-01G identified as agenda item X-D of and during the regular meeting of City

Council on November 11, 2003; and to request the State Department of Community Affairs return without action all Comprehensive Plan Amendment applications submitted as a result of the regular meeting of City Council on November 11, 2003. City Attorney Severs clarified the rules associated with a motion to invoke Rule 13, Section 2-26 of the Code of Ordinances to reconsider an item and recommended that any action taken as a result be readvertised. Member Ward seconded the motion.

Vice-Mayor Rainey moved to extend the meeting to 12:00 a.m. Member Ward seconded the motion. The motion passed unanimously.

The roll call for the motion to invoke Rule 13 was:

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

The motion passed by majority vote 3 to 2.

Vice-Mayor Rainey moved to table reconsideration of Comprehensive Plan Amendment 2004-01A, Comprehensive Plan Amendment 2004-01B, Comprehensive Plan Amendment 2004-01C, Comprehensive Plan Amendment 2004-01D, Comprehensive Plan Amendment 2004-01E, Comprehensive Plan Amendment 2004-01F, and Comprehensive Plan Amendment 2004-01G to a future special meeting of City Council. Member Ward seconded the motion. The motion failed by a 3 to 2 vote. Vice-Mayor Rainey and Member Ward voted Yes and Mayor Swank, Member Broome, and Member Eigenmann voted No.

Walter Pine said the Rule 13 vote was done intentionally and secretly. He also supported Laura Ward and her opinion toward a conflict of interest.

Member Broome asked Mr. Pine what his legal basis was concerning a conflict of interest. Mr. Pine gave his reasoning. City Attorney Sever reviewed conflict of interest guidelines from the Florida Statutes.

Member Ward clarified that he voted to reconsider items only.

Thelma Roper felt the Rule 13 should have been placed on the agenda and further felt the way it was done was deplorable.

Michael Myjack noted discrepancies in the packet Vice-Mayor Rainey had distributed. Vice-Mayor Rainey clarified that the developer identified a limitation of houses would be transmitted.

Brad Downs said he was proud of council on November 11, 2003 but was then disappointed with his faith diminishing.

Laura Ward said everything was a circus and referenced Member Ward's alleged conflicts of interest. She felt actions taken by council were shameful and centered around self-interest.

Julian Lindenour commended Members Broome and Eigenmann on their votes but felt the developers controlled council.

Member Broome moved to table reconsideration of Comprehensive Plan Amendment 2004-01A, Comprehensive Plan Amendment 2004-01B, Comprehensive Plan Amendment 2004-01C, Comprehensive Plan Amendment 2004-01D, Comprehensive Plan Amendment 2004-01E, Comprehensive Plan Amendment 2004-01F, and Comprehensive Plan Amendment 2004-01G to a future special meeting of City Council January 6, 2004. Member Ward seconded the motion. The motion passed by a 4 to 1 vote with Member Eigenmann voting No and all other members voting Yes.

Member Ward moved to extend the meeting fifteen minutes. Member Broome seconded the motion. The motion passed unanimously.

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New Business Vice-Mayor Rainey moved that Member Ward be nominated to fill the position of Vice-Mayor for the ensuing year. Member Eigenmann seconded the motion. The motion passed by a 4 to 1 majority vote with Member Broome voting No and all other members voting Yes.

Public Works Director Jim Herron gave a presentation on the recommended award of a contract for consultant services for solid waste tax roll assessment to Government Services Group, Inc. of Tallahassee for \$39,445 with funds available in the Solid Waste working capital fund.

Joan Wheeler spoke in opposition to the award of the contract and felt consultants should not be hired to prepare recommendations for staff.

Member Rainey moved to approve the award of a contract for consultant services for solid waste tax roll assessment to Government Services Group, Inc. of Tallahassee for \$39,445 with funds available in the Solid Waste working capital fund. Vice-Mayor Ward seconded the motion. The motion passed by a 3 to 2 majority vote with Mayor Swank and Member Broome voting No and all other members voting Yes.

City Manager Harmer highlighted staff's recommendation that council approve the award of a contract for a Community Development System to H.T.E., Inc.

Member Rainey moved to approve the award of contract for a Community Development System to H.T.E., Inc. as submitted with funds through a combination of existing MIS operating, project capital and MPRB. Member Broome seconded the motion. The motion passed unanimously.

Member Eigenmann moved to extend the meeting to 12:30 a.m. Vice-Mayor Ward seconded the motion. The motion passed by a 4 to 1 majority vote with Member Broome voting No and all other members voting Yes.

City Manager Harmer highlighted staff's recommendation to approve advisability to modify the definition of "Lot" to clarify the computation of lot size, density and setbacks on waterfront properties in the Land Development Regulations. He noted that the recommended modification was consistent with Brevard County's definition.

Jim Hildebrand and Laura Ward both opposed the use of submerged lands in the computation of lot size, density and setbacks.

Kim Lucks felt that all waterways were federal property. Mayor Swank explained how submerged lands were included in some of the older deeds of property within the city.

Member Rainey moved to approve advisability to proceed with an ordinance amending the definition of "Lot" to clarify the computation of lot size, density, and setbacks for waterfront properties. Vice-Mayor Ward seconded the motion. Mayor Swank asked City Attorney Severs if the action would result in property rights being taken away from affected property owners. City Attorney Severs felt that someone could argue the point but felt comfortable with the proposed ordinance. The motion passed unanimously.

Community Development Executive Director Roy Crawford highlighted staff's recommendation to approve a License Agreement for the use of Marina Road and Advisability to vacate a portion of Marina Road adjacent to Vectorworks, Inc.

Joan Wheeler referred to the proposed License Agreement as Corporate Welfare and felt the license looked weak.

Susan Canada asked why the City Attorney did not write the License Agreement and noted what she felt to be discrepancies in the document.

Member Broome moved to extend the meeting fifteen minutes. Member Eigenmann seconded the motion. The motion passed by a 3 to 2 majority vote with Mayor Swank and Vice-Mayor Ward voting No and all other members voting Yes.

Walter Pine recommended selling the portion of Marina Road and not vacating the property. He was concerned that only a draft of the proposed License Agreement was available and not the original.

Thelma Roper was opposed to the city entering into another License Agreement with Vectorworks because she felt Vectorworks violated the previous License Agreement. She agreed with Mr. Pine that the portion of Marina Road identified should be sold and not vacated.

Vice-Mayor Ward moved to approve the License Agreement with Vectorworks, Inc. for use of Marina Road only and not the vacation. Member Eigenmann seconded the motion for discussion and recommended adding an annual review of compliance be placed in the License Agreement. Member Eigenmann supported Vectorworks, Inc. as he did all businesses in Titusville and did not have a problem vacating the road. Member Broome recommended an amendment to items

#2 of the agreement by adding “By Licensee”, and #4 by changing to 60 days. Vice-Mayor Ward felt the amendments were acceptable. Mayor Swank was concerned with possible chemical spills on the right-of-way. City Attorney Severs recommended expanding paragraph #6 of the agreement to add the concern. Mayor Swank felt the road would be closed to the public and both Vice-Mayor Ward and he had no problem with limited access. With the two amendments recommended by Member Broome, the motion passed unanimously.

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Petitions and Requests from the Public Present - William Kolodney spoke of being upset upon hearing the accusation that City Council members were corrupt. He also felt that citizens who did not live or own property within the city limits of Titusville should not be allowed to participate in discussions pertaining to actual citizens of the city.

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Member Broome moved to adjourn the meeting. Vice-Mayor Ward seconded the motion. The motion passed unanimously.

The meeting adjourned at 12:49 a.m.

Ronald G. Swank, Mayor

ATTEST:

Karan J. Rounsavall, City Clerk