

City Council
Regular Meeting
February 10, 2004

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, February 10, 2004 beginning at 6:30 p.m.

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

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Mayor Swank called the meeting to order 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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The first matter of business was approval of minutes of special meetings January 6 and 20, 2004. Member Rainey moved to approve the minutes as submitted. Member Broome seconded the motion and it carried unanimously.

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Special Recognitions Mayor swank read an official proclamation recognizing the Titusville Police Explorers and presented it to Chief David Bieck.

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Senior Maintenance Mechanic Richard Crum and Chief Treatment Plant Operator Greg Etling reviewed the operations of the Water Production Division in the Water Resources Department.

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Presentations Board Member Billie Fitzgerald and Parrish Medical Center President George Mikatarian presented the semi-annual report for the North Brevard Hospital District Board. The report highlighted major accomplishments including leadership development, patient satisfaction, and "*The Pebble Project.*" In response to Mayor Swank's inquiry, Mr. Mikatarian explained that the site of the old hospital was to be excavated and compacted; other than that, there were no current plans.

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J.B. Kenna of Brevard County Housing and Human Services discussed the importance of the five-year Community Development Block Grant (CDBG) and HOME consolidated plan which would provide guidelines on how to spend CDBG and HOME funds over the next five years. It was anticipated that Titusville would receive just over \$500,000 annually from these sources.

Consent Agenda Vice-Mayor Ward moved to approve the two consent items in accordance with the following recommendations:

A. Authorize execution of agreement with Brevard County for development of CDBG and HOME five-year consolidated plan. Recommendation: Authorize execution of agreement between City of Titusville and Brevard County Board of County Commissioners at a cost of \$4,056 for development of a five-year consolidated plan. Source of Funds: Funds were available in the CDBG budget.

B. Agreement for façade improvements at 317 and 319 South Washington Avenue funded through the Community Development Block Grant (CDBG) downtown façade improvement program in the amount of 40,000. Recommendation: Authorize execution of agreement with owners of buildings at 317 and 319 South Washington Avenue for façade improvements. Source of Funds: Funds were available in the CDBG Downtown Façade Improvement Program account.

Member Broome seconded the motion and roll call was:

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

The motion carried.

Petitions and Requests from the Public Present Joan Wheeler pointed out that council adjourned its last regular meeting without concluding the business on the agenda, including appointments to the Planning and Zoning Commission. Attorney Severs advised that incumbents would continue to serve until these appointments were made.

Polly Phillips felt that the visioning workshop on January 29, 2004 was successful but was disappointed that this same positive effort was not continued at the February 3rd special meeting, particularly that the submerged lands ordinance was denied and that the Rio del Sol condominium project was approved. She spoke in favor of updating the comprehensive plan and admonished council to be in the “driver’s seat” as it related to future development.

Peter Petyk felt that under drains, as opposed to stormwater retention ponds, were a maintenance nightmare. He did not support their use in development projects. Additionally, he did not want to see Titusville develop as a retirement community; retirees did not spend money.

Kathleen Burson displayed an ecological overlay map for the proposed Willow Creek Residential Subdivision and presented a number of questions for the developer relating to its biological assessment report. She suggested that density be calculated differently given the wetlands and preservation areas on the site.

Gary Clifford commented on notice requirements for land use applications, specifically legal ads placed in the *Orlando Sentinel* as opposed to *Florida Today*, informational notices sent to surrounding property owners, and signs placed on properties. The city clerk responded as to the city's procedures.

Veronica Clifford felt that the city should spend more money on notices to achieve greater circulation and awareness.

Nathan Price questioned whether the property of Willow Creek Residential Subdivision was buildable.

Laura Ward asked council to reconsider its February 3rd action on submerged lands, specifically to direct staff to redraft this ordinance to address only those submerged lands on the riverfront (not lakefront properties).

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Ordinances – First Reading Attorney Severs read ORDINANCE NO. 13-2004 GRANTING AN ECONOMIC DEVELOPMENT AD VALOREM EXEMPTION TO BOMBARDIER MOTOR CORPORATION OF AMERICAN, AIRCRAFT ENGINES DIVISION, SPECIFYING THE ITEMS EXEMPTED; PROVIDING THE EXPIRATION DATE OF THE EXEMPTION; FINDING THAT THE BUSINESS MEETS THE REQUIREMENTS OF F.S. 196.012; PROVIDING FOR PROOF OF ELIGIBILITY FOR EXEMPTION; PROVIDING FOR AN ANNUAL REPORT BY BOMBARDIER MOTOR CORPORATION OF AMERICA, AIRCRAFT ENGINES DIVISION; AND PROVIDING FOR AN EFFECTIVE DATE and

ORDINANCE NO. 14-2004 OF THE CITY OF TITUSVILLE, FLORIDA AMENDING LAND DEVELOPMENT SECTIONS 47-311 THROUGH 47-319 BY CHANGING HOW IMPACT FEES ARE COMPUTED; AMENDING THE SCHEDULE OF IMPACT FEES TO ADD SANITATION IMPACT FEES AND CITY HALL IMPACT FEES; AMENDING THE SCHEDULE OF IMPACT FEES TO SUSPEND THE COLLECTION OF COMMERCIAL AND INDUSTRIAL IMPACT FEES; AND PROVIDING FOR AN EFFECTIVE DATE and

ORDINANCE NO. 15-2004 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 801 MARINA ROAD FROM ITS PRESENT CENTRAL BUSINESS DISTRICT (CBD) CLASSIFICATION TO COMMERCIAL MARINE (CM) CLASSIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE the first time by title only.

Second reading and public hearing were scheduled for February 24, 2004.

Council heard from several individuals on the various ordinances: Ordinance No. 13-2004 – Veronica Clifford spoke in support of new business development; Ordinance No. 14-2004 – Gloria Heiden hoped that the proposed impact fees were sufficient as current taxpayers should not pay for new development. Michael Myjack suggested that proposed ordinances be available on the City's WEB site; Ordinance No. 15-2004 – Joan Wheeler wondered what the advantage was to commercial marine (CM) zoning. City Manager Harmer explained the applicant's intent to expand his existing marina manufacturing operation. Thelma Roper spoke in support of the rezoning.

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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. 9-2004 OF THE CITY OF TITUSVILLE, FLORIDA AMENDING SECTIONS 59-6, 59-21, 59-31, 59-32, 59-33, 59-34, AND 59-38 OF THE *LAND DEVELOPMENT REGULATIONS* AND ADDING SECTIONS 59-131 THROUGH 59-138 TO THE *LAND DEVELOPMENT REGULATIONS* TO CREATE THE SINGLE FAMILY PATIO HOME (R-1D) ZONING DISTRICT; AND PROVIDING FOR AN EFFECTIVE DATE the first time by title only.

This was the first of two required public hearings. The Planning and Zoning Commission recommended approval. City Manager Harmer reviewed the history of the ordinance's development. Currently patio homes were only permitted in multi-family zoning districts and this presented some citizen concern. The proposed ordinance clarified the patio home zoning district and disallowed multi-family developments in R-1d zoning.

Mayor Swank opened the public hearing. Veronica Clifford questioned the need for this ordinance as the council had approved patio home developments under the current ordinance for the past year.

Laura Ward spoke in favor of the ordinance and suggested it be used as a model to fix other ordinances. She offered additional suggestions as to perimeter buffers and tree canopy.

Gloria Heiden did not feel that patio home developments would cover the cost of the government services that they created. She spoke in favor of a fiscal analysis to assure that the size of the homes would create sufficient value to cover their service costs.

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

Council discussion ensued. Mayor Swank indicated that he preferred a minimum living area not less than 1,200 square feet and a 25 percent conservation set aside imposed upon the entire development. Additionally, he did not feel that group homes should be a permitted use. Member Eigenmann felt that Section 59-137 addressing off street parking requirements should be clarified as "two off-street spaces *per unit*." Vice-Mayor Ward encouraged staggered front yard setbacks.

Member Eigenmann moved to direct the following changes to Ordinance No. 9-2004 prior to the final public hearing: (1) encouraging staggered front yard setbacks; (2) group homes to be a conditional use unless state law required this as a permitted use; (3) amending zoning regulations for R-2 and R-3 multi-family residential zoning districts such that development of patio homes in these districts would be pursuant to R-1d standards; (4) suggested design parameters as to perimeter walls and fencing; (5) off street parking clarified as two spaces per unit; (6) minimum living area of 1,300 square feet; and (6) 25 percent conservation set aside which included the ten-foot landscaped easement along the perimeter boundary as well as stormwater retention. Member Broome seconded the motion and it carried unanimously.

Second and final public hearing was scheduled for February 24, 2004.

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Next was Resolution No. 5-2004 to proceed with removal of a dilapidated and unsightly building at 609 West Court. The former residence at this site was abandoned and a continuing code violation. It was severely damaged by fire and the roof was collapsed. The building was non-habitable and costs of renovating exceeded its value. The structure was a menace to public health, harboring vagrants and creating other public health issues. The estimated cost of demolition was \$4,000 which would be assessed against the benefited property.

No one wished to speak on this item.

Member Rainey moved to adopt Resolution No. 5-2004. Member Broome seconded the motion and roll call was:

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

The motion carried.

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The meeting recessed at 9 p.m. due to a power surge and reconvened at 9:07 p.m.

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Ordinance No. 10-2004 rezoned 704 North Dixie Avenue from rural residential (RR) to general use (GU) as requested by Francis Pearce on behalf of the owner (Application No. 2-2004). City Manager Harmer explained that the general use zoning district was requested in order to permit the keeping of water fowl at the site. The Airport Authority raised concerns about water fowl. The Planning and Zoning Commission recommended approval with conditions, specifically that there be no expansion of the present operation and limited to water fowl currently on the property. The city manager suggested this condition also include a prohibition of free flying fowl.

Attorney Severs read ORDINANCE NO. 10-2004 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 704 NORTH DIXIE AVENUE FROM ITS PRESENT RURAL RESIDENTIAL (RR) CLASSIFICATION TO GENERAL USE (GU) CLASSIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE the second time by title only.

The rezoning was subject to quasi-judicial rules of procedure. Members Broome and Rainey disclosed conversations with the applicant during the recess.

Mayor Swank opened the public hearing. Frances Pearce was available to answer questions. He was already operating a licensed home business marketing incubators by mail order and the Internet. Veronica Clifford indicated that her concerns were addressed if there was a prohibition against free flying fowl. No one else wished to speak and the public hearing was closed.

Member Rainey moved to adopt Ordinance No. 10-2004 as recommended. Member Eigenmann seconded the motion for discussion and indicated that he would like to see the public apply for proper zoning before opening a business. He wanted to see the general use zoning limited to ducks and geese in the request as it related to the incubator business. The motion was amended to include the prohibition against free flying fowl. Roll call was:

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

The motion carried.

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Ordinance No. 11-2004 amended the Future Land Use Map by changing the land use on property at the southwest corner of North Singleton Avenue and Dairy Road from commercial low intensity to residential as requested by John Evans on behalf of J. W. Childre, Trustee (Small Scale Amendment No. 4-2004). Ordinance No. 12-2004 was related as it rezoned property at the southwest corner of North Singleton Avenue and Dairy Road from community commercial (CC) to multi-family medium density residential (R-2) as requested by John Evans on behalf of J. W. Childre, Trustee. The Planning and Zoning Commission, acting as the Local Planning Agency, recommended approval with the condition that access be provided from both Dairy Road and Singleton Avenue.

Attorney Severs read ORDINANCE NO. 11-2004 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 SOUTHWEST OF THE INTERSECTION OF SINGLETON AVENUE AND DAIRY ROAD FROM COMMERCIAL LOW INTENSITY TO RESIDENTIAL LAND USE DESIGNATION; AND PROVIDING FOR AN EFFECTIVE DATE and

ORDINANCE NO. 12-2004 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 SOUTHWEST OF THE INTERSECTION OF SINGLETON AVENUE AND DAIRY ROAD FROM ITS PRESENT COMMUNITY COMMERCIAL (CC) CLASSIFICATION TO MULTI-FAMILY MEDIUM DENSITY RESIDENTIAL (R-2) CLASSIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE the second time by title only.

City Manager Harmer reviewed the request. The multi-family zoning was requested in order to develop an apartment complex that was eligible for tax credits, not unlike the Park Villas Apartment Complex that was recently completed.

Mayor Swank opened the public hearing. Attorney John Evans represented Regency Development Associates. The proposed site was surrounded by business zonings and buffering

would be provided along any residential uses. He also pointed out that the proposed use was identical to the Park Villas project on Park Avenue.

Veronica Clifford expressed concern about area schools which were over capacity, specifically Madison Middle School and Astronaut High School. She asked whether the Brevard County School Board objected to the request.

John Cipoletti, representing the school board, was present in the audience. He advised that the school board's position was to recommend denial of rezonings in all cases where an area school was over capacity. Attorney Severs noted that there was not a concurrency requirement as it related to schools.

Polly Phillips, Linda Wenglikowski, Gloria Heiden and Monica Key all commented on school overcrowding. Would this apartment complex compromise the quality of education? Ms. Heiden also felt this was a low-income housing project and once again urged a fiscal analysis as to value versus cost.

Joe Merckson wondered whether there was adequate water for the proposed development.

Attorney Evans responded to some of the citizen concerns. The apartment complex would provide a computer lab for young people. He suggested that an impact fee for schools was a practical solution to overcrowding issues.

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

Member Rainey moved to table this land use/rezoning request to the February 24, 2004 meeting. His motion died for lack of a second.

Council discussed the matter further. There was concern about some of the comments from the podium and the lack of respect shown toward the governing body.

Vice-Mayor Ward moved to adopt Ordinance Nos. 11-2004 and 12-2004 with conditions recommended by the Planning and Zoning Commission. Member Broome seconded the motion for discussion. Member Eigenmann indicated his preference to table this request and questioned why Long's Tire did not receive notification of the rezoning. He asked staff to look into the notification issue.

Roll call was:

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

The motion carried. Member Rainey continued to support a tabling of this request because he felt that the developer could respond to the concerns expressed by citizens. He moved to invoke Rule 13 to reconsider the motion to approve. Member Broome seconded the motion and it carried unanimously.

The motion to adopt both ordinances was on the table. Member Rainey moved to table same to the February 24, 2004 meeting. Member Eigenmann seconded the motion and it likewise carried unanimously.

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The final items for public hearing were: (1) Ordinance No. 64-2003 rezoning property lying west of Grissom Parkway, east of State Road 407, and south of Shepherd Drive from single-family medium density residential (R-1b) and open space and recreation (OR) to multi-family medium density residential (R-2) and open space and recreation (OR) as requested by John Evans on behalf of Willow Creek Development, LLC, owner (Application No. 14-2003) and (2) proposed development agreement for Willow Creek Residential Subdivision located on the west side of Grissom Parkway east of State Road 407 and south of Shepherd Drive. The Planning and Zoning Commission unanimously recommended approval with conditions.

Attorney Severs read ORDINANCE NO. 64-2003 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 LYING WEST OF GRISSOM PARKWAY, EAST OF STATE ROAD NO. 407, AND SOUTH OF SHEPHERD DRIVE FROM ITS PRESENT SINGLE FAMILY MEDIUM DENSITY RESIDENTIAL (R-1B) AND OPEN SPACE AND RECREATION (OR) CLASSIFICATIONS TO MULTI-FAMILY MEDIUM DENSITY RESIDENTIAL (R-2) AND OPEN SPACE AND RECREATION (OR) CLASSIFICATIONS; AND PROVIDING FOR AN EFFECTIVE DATE by title only.

City Manager Harmer explained that the developer was seeking the rezoning in order to allow lot width flexibility so as to provide additional open space for the entire proposed Willow Creek development. Maximum density was limited to two units per acre overall. The proposed development agreement identified a variety of housing types ranging from single-family cottage homes, duplexes and townhomes to executive and estate homes. He also highlighted changes to the proposed development agreement.

It was 10:30 p.m. Council voted to extend the meeting until the end of this item.

Mayor Swank opened the public hearing. Attorney John Evans represented the developer. The subject property was zoned single-family residential (R-1b). It was requested to rezone a portion to multi-family residential (R-2) to allow a mix of homes within the project. The LaCita community in Titusville was a prime example of mixed residential uses. He stated that a minimum of 40 percent of the project would remain as open space/undeveloped. A minimum square footage was developed for each type of housing. The development agreement provided for buffering of natural vegetation along Interstate 95 and State Road 407 where practical. Deed restrictions for each of the communities also disclosed the project's proximity to the Space Coast Executive Airport. Mr. Evans also mentioned that Brevard County reviewed the plans for Willow Creek and found them in compliance with the annexation. Attempts were made to meet with as many of the neighbors as possible to discuss the proposed development.

Owner Hugh Evans was excited about the project and had worked hard to make it happen. Also available to answer questions on behalf of the Willow Creek Residential Subdivision were Sans Lassiter, Timothy Jelus, and Carl Kelly.

Speaking in opposition were Maureen Rupe, Chris Fessner, Veronica Clifford, Maria Fisher, and Nathan Price. The following concerns were expressed: negative impacts on adjoining unincorporated areas, compatibility with the airport, population upon build out, curb cuts onto Grissom Parkway, impacts on area schools, noise, height limitation, impact upon wetlands, buffering against Interstate 95, flood control, etc. It was asked why the city placed its legal notices in the Orlando Sentinel.

Thelma Roper heard this project discussed at the Planning and Zoning Commission meeting; she liked the proposed subdivision. Gloria Heiden agreed this was a beautifully planned subdivision.

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The meeting recessed at 11:28 and reconvened at 11:34 p.m.

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Continuing with the public hearing, council heard from Kathleen Burson, David Weiflowkowski, Gary Clifford and Michael Myjack. The comment was made that the proposed development should not be compared to LaCita because there was no golf course. Concern about the proximity of the airport was repeated.

Attorney Severs advised that Willow Creek was in compliance with the city's recently adopted airport zoning regulations. Flight patterns were considered and there would be no structure in excess of 35 feet. There was no objection from the Airport Authority.

John Evans took the opportunity to respond to some of the citizen comments. The developer was in the process of acquiring right-of-way for a second access road; there was a 200-foot buffer to the north along the industrial park; the average home value was expected to be about \$210,000; and all owners would be on notice as to the proximity of the airport.

John Cipoletti spoke in favor.

The public hearing was closed.

Council spoke positively about the developers agreement. It was clarified that reuse water lines were required throughout. Council heard from Sans Lassiter who felt that a traffic signal would be needed at the entrance to the development. The cost for this would be shared between the commercial and residential developers and installed at such time that traffic warrants were met.

Member Broome moved to adopt Ordinance No. 64-2003 rezoning the property with conditions and to approve the development agreement, including recent modifications introduced this evening, and added the condition relating to cost sharing for a new traffic signal on Grissom Parkway. Member Eigenmann seconded the motion and roll call was:

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

The motion carried.

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It was 12:05 a.m. Member Eigenmann moved to extend the meeting for 30 minutes. Vice-Mayor Ward seconded the motion and it carried with Mayor Swank voting no.

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Old Business Vice-Mayor Ward requested further discussion on the Rio Del Sol condominium project that was approved at a special meeting on February 3, 2004. The riverfront condominium project was located on the east side of U.S. Highway One across from Coquina Avenue. He disclosed that his firm prepared the survey for the subject project some time ago but he was no longer involved. Vice-Mayor Ward moved to invoke Rule 13 in order to reconsider the project. Member Broome seconded the motion and it carried with Mayor Swank and Member Rainey voting no. Procedurally, the motion from the February 3rd special meeting to approve the Rio Del Sol project was on the floor.

Several citizens signed up to speak on this project. Council heard from Laura Ward who urged council to readdress the submerged lands ordinance such that it only dealt with riverfront properties. She felt that a structure the size of Rio Del Sol did not belong on a two-acre parcel.

Bob Snider felt that the building just did not fit the property. Setbacks were an issue and it was his suggestion that the 50-foot height limitation should not be exceeded.

Polly Phillips stated that the building did not fit with Titusville's small town character.

Member Broome moved to allow Rio Del Sol's attorney to speak. Vice-Mayor Ward seconded the motion and it carried unanimously.

Attorney Phillip Nohr spoke on behalf of the developer. He thought that everything with this project was settled at the February 3rd special meeting; there was a public hearing with a lot of input and an affirmative vote. Rio Del Sol was a 66-unit condominium with an average price per unit of \$400,000. The development would pay its own way. There was 258 feet of frontage with a view of the Indian River. He asked that council reaffirm its previous vote unless there was something new that needed to be addressed.

Attorney Severs reminded council that this was a quasi-judicial matter and that council members would need to disclose their contacts. As Member Broome was not present at the February 3rd meeting, the city attorney advised him that the only way he could vote on the merits of this project was to review the video tape and the documents. He reminded council to only consider the record of the case and not any ex parte communications. The project was to be considered based on criteria set forth in the City's Code.

Mayor Swank advised he received a telephone call from Charlie Davis, an adjacent property owner. Member Broome stated he met with the developer before the project was first brought before the council's attention; however, this meeting did not prejudice him in any way. Charlie Davis also contacted him. Member Broome advised he reviewed the February 3rd video tape and record. He was qualified to vote on this matter this evening. The applicant did not object to Member Broome's participation. Vice-Mayor Ward and Member Eigenmann both spoke with Charlie Davis.

Vice-Mayor Ward indicated he gave this project a great deal of thought particularly with regard to council's visioning meeting. He knew that Titusville would eventually have development on the Indian River. What did council want to accomplish?

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It was 12 midnight. Member Rainey moved to extend the meeting through the end of this discussion. Vice-Mayor Ward seconded the motion and it carried with Mayor Swank voting no.

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Having reviewed the record, Member Broome questioned whether Rio Del Sol, as a 120-foot tall structure, was compatible with other development in the area. He did not see evidence to this effect. Member Eigenmann also felt that compatibility was key; thus his no vote at the February 3rd meeting.

At this time Vice-Mayor Ward stated that he supported the Rio Del Sol project as a single building but not at the 120-foot height. Accordingly, he withdrew his original motion to approve which was on the floor. Based on the front yard setback, he was not able to approve anything over 100 feet in height (this was based on two buildings at 50 feet high). Vice-Mayor Ward moved to approve Rio Del Sol as a single building not more than 100 feet tall with open fencing (e.g. wrought iron) as opposed to a block wall in front of open space in order that the view of the river would be unobstructed. Member Broome seconded the motion for discussion.

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The meeting recessed at 12:41 a.m. and reconvened at 12:46 a.m.

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Attorney Phillip Nohrr advised that the 100-foot height was acceptable to the applicant, however, it would be a slightly different project than that approved on February 3rd. For example, the minimum square footage per living unit would decrease. The breezeway and wrought iron fencing would not change. Council could expect some changes.

Attorney Severs advised council that if it did not know what it was approving, it would have to table this item. Mr. Nohrr then advised that all conditions of the Rio Del Sol project would remain as originally approved. His client did not want to go back through the submittal/review process.

Roll call on the motion to approve Rio Del Sol (at 100 feet) was:

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

The motion carried. All original conditions of approval remained unchanged. (Note: The applicant concurred with the amended approval.)

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New Business Council considered a request to waive formal bid requirements in order to purchase three Lodal sideloading refuse trucks for the Solid Waste Division in the amount of \$466,080 and authorize execution of lease agreement for six-month rental of two sideloaders in the amount of \$48,000 from Container Systems and Equipment of Daytona Beach. Financing for the lease and purchase of the sideloaders was to be secured through Sun Trust as a seven-year lease purchase.

Joan Wheeler wondered whether it was appropriate to waive bids for a \$400,000 plus purchase. Gloria Heiden suggested that council compare its solid waste services to that provided in the unincorporated area by Western Waste. Was council exercising fiscal responsibility as it related to buying more trucks?

Vice-Mayor Ward moved to proceed with the purchase/lease as recommended. Member Broome seconded the motion and it carried unanimously. City Manager Harmer advised that a copy of the solid waste business plan was available for council's review.

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Due to the late hour, the strategic plan update by Fire and Emergency Services on advanced life support capabilities was deferred to the February 24, 2004 meeting.

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Boards and Commissions The terms of Planning and Zoning Commission regular members Fred Banks, Keith Cox, James Crowell, and Thomas Taylor expired on January 31, 2004. The term of Paul Secor, alternate member, also expired on January 31, 2004. These appointments were deferred at the January 27, 2004 regular meeting.

Member Eigenmann moved to reappoint Fred Banks and Thomas Taylor as well as reappoint alternate member Paul Secor, and to appoint James Tully and Bonnie Fuller as a regular members. Member Broome seconded for discussion. There were suggestions for term limits and staggered terms. The motion failed with Vice-Mayor Ward and Members Rainey and Broome voting no.

Member Eigenmann then moved to reappoint Fred Banks and Thomas Taylor as regular members; to appoint alternate member Paul Secor as a regular member; to appoint James Tully as a regular member; and to appoint Bonnie Fuller as an alternate member. All for two-year terms. Member Broome seconded the motion and it carried with Mayor Swank and Vice-Mayor Ward voting no.

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The mayor's appointments to the Titusville Community Service Award Committee was tabled to the February 24, 2004 regular meeting.

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Vice-Mayor Ward moved to explore the feasibility of placing a referendum on the November 2004 ballot for the public purchase of riverfront properties. Member Rainey seconded the motion and it carried unanimously.

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Petitions and Requests from the Public Present Joan Wheeler stated that the city manager's evaluation was overdue. His employment contract required performance evaluations by city council members.

Laura Ward reflected on the Planning and Zoning Commission appointments, the reconsideration of Rio Del Sol, her support for a riverfront acquisition referendum, and submerged lands.

Gloria Heiden asked for clarification on minimum square footages that were mentioned during previous discussions. It was explained that these minimums were "under air" as opposed to "under roof." She also reiterated earlier comments about the "break even" point relating to the taxable value of a property versus the cost of services.

Michael Myjack agreed that staggered setbacks were appropriate for patio home developments. It was his understanding that city ordinances required development generally in accordance with the "lay of the land." He also commented on the cost of development to a city and sewer plant capacity.

Thelma Roper asked when impact fees would be reinstated and hoped that these new projects would be assessed accordingly. She also advised of an upcoming meeting at Brevard County on the Patriot's Act.

Walter Pine suggested using the open space on council chamber walls to post board and commission vacancies. He also commented on an attorney general's opinion relating to the charge for videotapes. In his opinion, the total that the city could charge was \$1.86.

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Member Eigenmann moved to adjourn the meeting. Vice-Mayor Ward seconded the motion and it carried unanimously.

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The meeting adjourned at 1:48 a.m.

Ronald G. Swank, Mayor

ATTEST:

Karan J. Rounsavall, City Clerk