

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, March 23, 2004.

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Mayor Ronald Swank called the meeting to order at 6:34 p.m. Present were Vice-Mayor Ken Ward and Members Chris Broome, Jeff Rainey and Conrad Eigenmann. Also in attendance were City Manager Tom Harmer and City Attorney Dwight Severs.

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The first item of business was the continuation of the regular meeting of March 9, 2004.

Petitions and Requests from the Public Present –

Laura Ward thanked council for having neighborhood meetings and urged citizens to attend any meetings they could. She felt citizens had concerns of traffic, schools, etc. in the Fox Lake Road, Carpenter Road, Parrish Road, and Singleton Avenue areas. She then read from a Department of Community Affairs report that reflected concern with certain items from proposed Comprehensive Plan Amendments submitted by the City for review. She felt taxpayers had the right to speak at council meetings whether they lived within the limits of the City or not. Mayor Swank felt he had misspoken at the previous council meeting concerning non-city residents speaking before council and apologized to county residents.

Thelma Gentry (Roper) was absent and did not speak.

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Mayor and Council Reports – Council acknowledged receipt of the Mayor's report.

Member Rainey reported that he visited two new restaurants in the city, Pascals and the Crab Shuttle, and said he had enjoyed them. He then requested council's support on his representing the City at the upcoming Presidential Space Program Committee meetings in Atlanta, Georgia. Council had no objections.

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

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City Attorney's Report – City Attorney Severs reported the city had not yet received documents pertaining to legal action as a result of the Rio Del Sol development.

The agenda items from the regular meeting of March 9, 2004 were completed at 6:40 p.m.

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Mayor Swank asked for a moment of silence. He then led the entire assembly in the Pledge of Allegiance to the Flag. He then read public speaking procedures.

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Approval of Minutes – Member Rainey moved to approve the minutes of the regular meeting of March 9, 2004 and special meeting of March 11, 2004 as submitted. Member Broome seconded the motion and it passed unanimously.

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Special Recognitions – City Manager Harmer introduced Alex Kracun, City Fire and Emergency Services Department EMS Training Administrator as Employee of the Month for March 2004. He read from Mr. Kracun's nomination and then read the names of all nominees who were submitted for consideration which included: Tammy Holton, Community Development Department; Tommy Cobb, D.J. Dublin, and Rufus Edmonson of the Streets Department.

Mr. Kracun thanked council for his selection and wished to share the recognition with his co-workers and thanked each member of the Fire Department.

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Presentations – Marguerita Engel gave a presentation that outlined topics related to the St. Johns River Water Management District's Alternative Water Supply Cost-Share Program. She presented council a ceremonial check in the amount of \$75,000 from the program for 2004 in recognition of the city's Area III Wellfield Aquifer Project. Water Resources Director Raynetta Grant accepted the check on behalf of the City. Ms. Engel reviewed the upcoming year's schedule for additional grant considerations and reviewed additional programs supported by the St. Johns River Water Management District. She spoke of current water supply status and conservation rules for the district and commended the city for its water programs. She encouraged citizens to use the district's web site.

Vice-Mayor Ward asked for clarification of future water restriction days. Ms. Engel restated the district's proposed days but was unclear if the district meant "user" to define the home owner or the City.

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Attorney Severs read Resolution 7-2004 that named April 2004 as Water Conservation Month.

Member Rainey moved to approve Resolution 7-2004 as written. Member Broome seconded the motion and the roll call was:

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

The motion passed unanimously and the resolution was adopted.

Water Resources Community Program Coordinator Maureen Phillips announced activities associated with Water Conservation Month. She then highlighted the city's toilet retrofit rebate and showerhead exchange programs.

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#### Consent Agenda –

Vice-Mayor Ward moved to move Consent Agenda items A, B, K, and L to Old Business. Member Rainey seconded the motion. The motion failed 3-2 with Vice-Mayor Ward and Member Rainey voting in favor of the motion, and Mayor Swank and Members Broome and Eigenmann voting against the motion.

Kelly Townsend requested outdoor storage be made a conditional use within the Industrial (M-2) zoning district and volunteered to pay all advertising costs associated with a public hearing to adopt such an ordinance.

Pete Petyke felt responsibility for sidewalk repair should lay with contractors performing work and not the residents at Laurel Run at Meadowridge.

Thelma Roper felt that consent item K should have been put on a future agenda due to citizens attending a neighborhood meeting not having the opportunity to speak on the item.

Veronica Clifford asked why the large trees at the Waterside at LaCita site were removed. City Manager Harmer confirmed that storm drainage easement work had been performed in the area.

Member Broome moved to approve, subject to clarification, the following items of consent.

- A. Approve advisability to proceed with ordinance to allow outdoor storage as a conditional use permit within the Industrial (M-2) zoning district with Mr. Kelly Townsend to pay all associated advertising costs. The public hearing would be held April 27, 2004.
- B. Approve amendments to declaration of covenants, conditions and restrictions for Laurel Run at Meadowridge as submitted.

- C. Approve final plat and deed restrictions for Plantation Oaks of Brevard, Phase II Subdivision as submitted.
- D. Authorize the execution of a four-year lease agreement with Florida Municipal Equipment Company of Eaton Park, Florida for a Johnson J4000 street sweeper at the annual lease rate of \$38,088 with budgeted funds from the Public Works – Streets Maintenance Division Leases, Equipment and Vehicles account.
- E. Approve application submission of grant in the amount of \$85,026 to the 2004 Assistance to Firefighters Grant (FIRE ACT) Program utilizing \$8,503 from re-designated department operating budget for matching grant funding.
- F. Adopt Resolution 8-2004 requesting grant funding in the amount of \$126,000 from the Florida Inland Navigation District (FIND) Waterways Assistance Program for the Downtown Stormwater Park.
- G. Adopt Resolution 9-2004 authorizing execution of a master lease agreement between the City and SunTrust Leasing Corporation and authorize the Mayor and city officials to execute any and all documents in connection with said lease for the lease-purchase acquisition of four rear loaders in the amount of \$503,712 and approving the companion budget amendment. The lease-purchase agreement with the City's banking services provider SunTrust for a period of seven years payable in semi-annual installments of \$40,358.89 at a stated annual rate of 3.14%.
- H. Authorize award of Bid #04-B-023 for Water Main Replacement to Maxwell Contracting of Cocoa, Florida for amount not to exceed \$500,000. Further authorize staff to administratively issue separate Notices to Proceed for additional phases of water main construction or for change orders as warranted within the total allocated budget of \$500,000 within the Waterline Improvement Project account.
- I. Approve interlocal agreement between the City of Titusville and the City of Cocoa to provide for the collection of Titusville's wastewater deposits, connection fees, and service charges in the Cypress Woods subdivision and authorize execution of agreement by the Mayor with any minimal future costs to be absorbed as an operating expenditure by the Utility Billing Division.
- J. Approve a change order in the amount of \$26,216.80 for dewatering costs and downtime caused by a phone line conflict for the Titusville High Lift Station Upgrade with funds from the Water Resources project account.
- K. Approve Agreement between the City of Titusville and the Florida East Coast Railway, LLC, for grant of a permanent easement for wellfield and water transmission line in the amount of \$177,238 with funds from the Area IV Wellfield Development Project Account.

- L. Approve as recommended the Waterside at LaCita preliminary plat subject to the applicant addressing all the items noted in the February 26, 2004 Subdivision Review letter.

Member Rainey seconded the motion and the roll call was:

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

The motion passed unanimously.

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Petitions and Requests from the Public Present –

Thelma Roper displayed an advertisement she received for painting house numbers on road curbs that had the appearance of an official notice. She reported the activity to the Code Enforcement Division and urged citizens to be on the alert for future activity in neighborhoods. She concurred with Vice-Mayor Ward’s motion to move consent agenda items that citizens desired to speak on but was disappointed that no council member attended a Brevard County Commission meeting during which the “Patriot Act” was discussed. Mayor Swank was concerned with the reported advertising practices reported and requested the City Manager ensure appropriate licenses and/or permits were obtained. City Manager Harmer felt the reported action was inappropriate and would follow up with the Code Enforcement Division.

Molly Farace concurred with Thelma Roper’s comments and that she supported non-city residents speaking before city council.

Ruby Rhodes was concerned with code enforcement issues in her neighborhood, specifically city carport regulations. She questioned the validity of city code books and felt citizens did not understand their contents properly. She desired to publicly acknowledge her gratitude to city employees, Darsi Davis, Cindy Wilson, Terrie Franklin, Linda Little, Dominic Lombardi, and Richard Wheelus for their assistance to her. City Manager Harmer clarified that code enforcement action on carport violations had been suspended temporarily in order to appropriately address the issue and that many options on addressing the issue were being considered but no final action had been taken. Mayor Swank felt the timeframe should remain temporary and was concerned for the effects certain carports had on setback requirements.

Arlynn Baker was concerned with the proposed construction of a new Walmart in the immediate vicinity of South Lake Elementary School on Garden Street and the danger increased traffic activity would have on the safety of school children.

Debra Tomkinson had similar concerns and presented council a document that outlined the proposed project she obtained from the internet.

City Attorney Severs requested council approval to attend Site Plan Review Committee meetings relating to Walmart to ensure safety concerns of the city and citizens are addressed. Member Eigenmann moved to approve the attendance of City Attorney Severs at Site Plan Review Committee meetings concerning the proposed Walmart project. Member Rainey seconded the motion and it passed unanimously.

City Manager Harmer reported that Walmart representatives had briefly met with him and they planned on holding neighborhood meetings if it was decided to go forward with the project. Mayor Swank reported that Walmart had not submitted any applications to the city for consideration. Member Rainey felt he could not support a second Walmart in the city. Member Eigenmann recommended the City Manager obtain information on communication between Walmart and area property owners.

Veronica Clifford questioned public hearing procedures and asked for clarification between comprehensive plan amendments and annexations. She also asked about tree removal ordinances and area and yard requirements in R-1b zoning districts. City Manager Harmer clarified the issues she was concerned with.

Pete Petyk provided his personal simple overview of growth in Titusville. He felt that quality single-family homes were better than high-density developments.

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Mayor Swank called a short recess at 8:02 p.m. Council reconvened at 8:15 p.m.

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Ordinances-Second Reading, Public Hearings and Related Action –

Attorney Severs read, ORDINANCE 16-2004, AN ORDINANCE OF THE CITY OF TITUSVILLE, FLORIDA, AMENDING SECTION 47-105 OF THE CODE OF ORDINANCES OF THE CITY OF TITUSVILLE, BY CLARIFYING THE RESUBMITTAL OF A REZONING, COMPREHENSIVE PLAN AMENDMENT, CONDITIONAL USE, OR ANNEXATION REQUESTS; AND PROVIDING FOR AN EFFECTIVE DATE the second time by title only.

City Manager Harmer outlined the ordinance that council requested at its meeting January 27, 2004 meeting as a result of the denial of proposed Ordinance No. 3-2004. Council directed the preparation of a new ordinance clarifying the existing ordinance such that a resubmittal with a significant change in either zoning, comprehensive plan amendment, or conditional use would not be considered identical. A copy of the denied ordinance was provided to council for comparative purposes. He then reported that the Planning and Zoning Commission unanimously recommended approval of the ordinance at its March 17, 2004 meeting.

Mayor Swank opened the public hearing.

Thelma Roper supported the ordinance but felt the term “significant” as it pertained to a change should be more clearly defined. Vice-Mayor Ward clarified the intent of the ordinance and felt the term “significant” was clear enough as written.

Brad Downs had a neutral position on the item but agreed with Ms. Roper that the term “significant” could be more clearly defined. He asked if annexation were included in the original ordinance. City Attorney Severs clarified that annexations were left out of the original ordinance previously denied.

Veronica Clifford was concerned that the term “significant” would have different interpretations between council and staff and felt the current ordinance was sufficient.

Mayor Swank closed the public hearing.

City Manager Harmer clarified that council would determine the significance of changes made by applicants and staff would only provide council with recommendations. Member Broome felt the term “significant” should be better defined and recommended the addition of language to the ordinance. Both Vice-Mayor Ward and Member Rainey felt comfortable with the language of the ordinance as written. Mayor Swank concurred with Member Broome and supported the City Manager’s clarification. Member Eigenmann felt the ordinance was not necessary and council could work with applicants by approving applications with conditions using the existing ordinance.

Vice-Mayor Ward moved to adopt Ordinance 16-2004 as submitted. Member Rainey seconded the motion for discussion. Member Broome recommended an amendment to the motion by adding that statement, “significant change would be interpreted as council’s reason for denial of original submittal.” City Attorney Severs felt the addition of the statement may clarify the ordinance. Vice-Mayor Ward declined to amend his motion. Member Rainey held his second and the roll call was:

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

The motion passed by majority vote 4-1 and Ordinance 16-2004 was adopted.

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City Attorney Severs read, ORDINANCE NO. 17-2004 AN ORDINANCE OF THE CITY OF TITUSVILLE, FLORIDA AMENDING SECTIONS 31-32 AND 31-34 OF THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF TITUSVILLE BY ADDING A NON VOTING SCHOOL BOARD APPOINTEE TO THE PLANNING AND ZONING COMMISSION/LOCAL PLANNING AGENCY; AND PROVIDING FOR AN EFFECTIVE DATE the second time by title only.

City Manager Harmer outlined the ordinance that at the regular meeting February 24, 2004, council approved the advisability to proceed with an ordinance, which added a School Board appointee to the Planning and Zoning Commission/Local Planning Agency as a non-voting member. The Brevard County School Board recently appointed Mr. John Cipolletti as its representative to the City of Titusville's Planning and Zoning Commission/Local Planning Agency. Mr. Cipolletti was appointed for a one-year term and had participated in Planning and Zoning Commission meetings as a nonvoting member since late 2003.

Mayor Swank opened the public hearing.

Veronica Clifford asked if the appointee could become a voting member. Mayor Swank clarified that the appointment was for a non-voting member.

Mayor Swank closed the public hearing.

Member Eigenmann move to approve Ordinance 17-2004 as submitted. Vice-Mayor Ward seconded the motion and the roll call was:

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

The motion passed unanimously and Ordinance 17-2004 was adopted.

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Attorney Severs read, ORDINANCE 19-2004, AN ORDINANCE OF THE CITY OF TITUSVILLE, FLORIDA, AMENDING ORDINANCE NO. 76-1984 WHICH APPROVED AND ADOPTED THE COMMUNITY REDEVELOPMENT PLAN OF THE COMMUNITY REDEVELOPMENT AGENCY DATED AUGUST 1, 1984 BY AMENDING SAID PREVIOUSLY ADOPTED PLAN; AMENDING ORDINANCE 31-1996 DATED OCTOBER 22, 1996 WHICH UPDATED THE REDEVELOPMENT PLAN; PROVIDING FOR RESOLUTION OF ANY CONFLICTS; PROVIDING FOR RATIFICATION OF PREVIOUS ACTIONS OF THE COMMUNITY REDEVELOPMENT AGENCY AND THE CITY COUNCIL; AND PROVIDING FOR AN EFFECTIVE DATE the second time by title only.

City Manager Harmer outlined the ordinance and stated that the Community Redevelopment Agency reviewed the plan and recommended approval. He further reported that the previous update to the plan was completed in 1996 and that there had been several revisions to the plan and the ordinance would formally amend the plan. He highlighted the following actions accomplished by the CRA over the past few years:

- A. Approved the 210 unit Harbor Pointe Condominium development on the Poe parcel.
- B. Relocated the Space Walk of Fame Riverwalk and the Apollo Monument from the shoreline of the Indian River.
- C. Approved the Downtown Stormwater Park as the new location for the relocated Riverwalk and monuments.
- D. Incorporated the Parks and Recreation Referendum projects in the plan.

This was the first of two public hearings with the final public hearing scheduled for April 13, 2004.

Mayor Swank opened the public hearing. There being no citizens who desired to speak, Mayor Swank closed the public hearing.

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City Attorney Severs read ORDINANCE 20-2004, AN ORDINANCE OF THE CITY OF TITUSVILLE, FLORIDA, AMENDING SECTIONS 47-101(b), 47-102(b), AND 47-131 BY ADDING SUBSECTION (d), BY REQUESTING THAT AN APPLICANT FOR ANNEXATION, ZONING OR CONDITIONAL USE PERMIT SUBMIT AS A PART OF THE APPLICATION, A CONCEPTUAL SITE PLAN AND AGREEMENT WHEN THE APPLICATION INVOLVES FIVE ACRES OR MORE; AND PROVIDING FOR AN EFFECTIVE DATE the second time by title only.

City Manager Harmer highlighted the item that, as requested at the February 24, 2004 regular meeting, would add a conceptual site plan to exhibits required as part of the application package for annexation, zoning and conditional use. For sites five acres and more the proposed ordinance stated that applications shall also include, to the extent appropriate as determined by the Administrator, information required for Development Agreements.

Mayor Swank opened the public hearing.

Thelma Roper supported the ordinance and felt developers would not be given “rubber stamp” passage.

Mayor Swank identified minor administrative errors in the body of the ordinance for correction. He also felt the conceptual site plan should be made binding and recommended the word “binding” be incorporated into the document.

Member Eigenmann felt the five-acre threshold should be eliminated from the document. Mayor Swank concurred and was concerned that citizens desiring to build a single-family house may be bound to submit the binding conceptual site plan. Member Eigenmann clarified that the ordinance contained language that could exclude the requirement in such instances.

City Manager Harmer clarified that the five-acre threshold was placed in the ordinance to establish the requirement and staff would support council desires. He then suggested additional language be added to the ordinance to address single-family parcels.

Mayor Swank closed the public hearing.

Member Rainey moved to adopt Ordinance 20-2004 with an amendment to eliminate the five-acre threshold and further requiring a “binding” conceptual site plan. Member Eigenmann seconded the motion and the roll call was:

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

The motion passed unanimously and Ordinance 20-2004, as amended, was adopted.

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Petitions and Requests from the Public Present –

Al Barrett congratulated Member Rainey on his upcoming testimony before the Presidential Space Program Committee in Atlanta, Georgia. Vice-Mayor Ward congratulated Member Rainey as well and wished him good luck.

Veronica Clifford asked that the backup information for council agendas be made available to the public library sooner. She further felt that public hearing notices should be advertised in the *Florida Today* and not the *Orlando Sentinel*. City Manager Harmer reported that legal ad rates would be discussed with *Florida Today*.

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Mayor and Council Reports – Council acknowledged receipt of the Mayor’s written report on his activities since the last meeting.

Member Eigenmann expressed concern about yard clippings being blown into the streets and ultimately the stormwater system. He asked City Manager Harmer to investigate the practice.

Vice-Mayor Ward thanked the police and fire departments for their response to a tragic accident earlier in the day that involved one of his employees.

Member Broome thanked citizens for their attendance and input. He asked whether the city’s group health insurance could be made available to the general public. City Manager Harmer reported that the city’s insurance consultant was concerned that such an action may negatively impact future premiums.

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City Manager’s Report – Council acknowledged receipt of the City Manager’s report.

City Manager Harmer highlighted the following issues from his report:

- A. Neighborhood meetings on the subject of future development with residents of Carpenter and Fox Lake Roads and Parrish Road were scheduled for March 23 – 24, 2004 for Carpenter and Fox Lake Roads and March 29 and 31, 2004 for Parrish Road.
- B. The Joint Planning Agreement was forwarded to Brevard County and would be scheduled for public hearing April 21, 2004 before the Planning and Zoning Commission and April 27, 2004 before council.

City Manager Harmer then read the following names of employees who received letters of appreciation:

Community Development:

Tom Floyd	Keith Cunningham	Terrie Franklin
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Fire and Emergency Services:

Reggie Belle	Kevin Woodward	Brian Litterilla
Doug Chamberlain	Rick Talbert	Scott Gaenicke

Police Department:

Pat Herndon	Gary Boyer	Eerik Meisner
Tony Bollinger		

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Member Eigenmann apologized to citizens for the conflict of meetings between City Council and the neighborhood visioning meeting.

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The meeting adjourned at 9:25 PM

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Ronald G. Swank, Mayor

ATTEST:

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Karan J. Rounsavall, City Clerk