

City Council  
Regular Meeting  
May 11, 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, May 11, 2004.

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Mayor Ronald Swank called the meeting to order at 6:40 p.m. Present were Vice-Mayor Ken Ward and Member Conrad Eigenmann. Also in attendance were City Manager Tom Harmer and City Attorney Dwight Severs. Members Chris Broome and Jeff Rainey were absent.

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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.

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Approval of Minutes – Vice-Mayor Ward moved to approve the minutes of the special meeting of April 29, 2004 as submitted. Member Eigenmann seconded the motion and it passed unanimously.

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Special Recognitions – Mayor Swank, on behalf of council, presented a proclamation that declared May 15, 2004 as “Kids Day America.” Dr. David Daly accepted the proclamation on behalf of Kids Day America/International and gave a short presentation on the organization’s dedicated efforts and programs in support of children’s health, safety and environmental awareness. Mayor Swank commended Dr. Daly on his organization’s efforts in helping children in Brevard County.

Mayor Swank, on behalf of council, presented a proclamation that declared the week of May 9 – May 15, 2004 as “National Police Week” and May 15, 2004 as “National Police Memorial Day.” Police Chief Tony Bollinger accompanied by Public Information Officer Warren Van Vuren, accepted the proclamation on behalf of the Titusville Police Department. Mayor Swank commended the entire Police Department for making Titusville a safer place to live, work, and play.

City Manager Tom Harmer reported on his activities during his work day spent with the Police Department. He then introduced Police Department Public Information Officer Van Vuren who gave council a presentation on Police Department operations and organization.

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Presentations – State Representative Bob Allen gave an update on the legislative session that had recently ended. Representative Allen’s update outlined issues that directly affected the citizens of Titusville that included taxes, mandates, education, funding for the North Brevard Alzheimers Center, \$3 million funded for improvements for the Max Brewer Bridge, and the proposed additional \$25,000 homestead exemption. Mayor Swank thanked Representative Allen for his update and asked him to speak more specifically on the proposed second \$25,000 homestead exemption. Representative Allen explained that he supported the second \$25,000 homestead exemption and that he was aware of the possible impact its approval would have on taxpayers and local municipalities. Mayor Swank was concerned that the decrease in tax revenues created by the second \$25,000 homestead exemption would have a negative impact on the City’s ability to provide adequate service. Vice-Mayor Ward thanked Representative Allen for being present at the meeting and providing an update.

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Member Rainey arrived at 7:11 p.m.

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Consent Agenda – Vice-Mayor Ward moved to move Consent Agenda items A, B, and D to New Business due to citizens desiring to speak to the items. Member Eigenmann seconded the motion and it passed unanimously.

Vice-Mayor Ward moved to approve the following items of consent as submitted.

- C. Approve amendments to the declaration of covenants, conditions and restrictions for Sterling Forest Subdivision as recorded in Plat Book 50, Pages 85 – 88 of the Public Records of Brevard County, Florida.
- D. Approve the designation of former fire station at 113 South Hopkins Avenue as surplus property to allow for the listing of the property for sale with the broker of record.
- E. Authorize the execution of Solid Waste Franchise Agreements to Fletcher’s Hauling, Inc. of Malabar, Florida and Remar Cleaning of Satellite Beach, Florida for the collection and removal of construction debris within City limits.
- F. Waive the requirements for curb and gutter for the Sereno Pointe Subdivision pursuant to Section 51-113(b), *Land Development Regulations*.
- G. Approve an addendum to the existing agreement with Public Resources Management Group (PRMG) in the amount of \$16,000 to provide a rate sufficiency review of the City’s water and sewer rates with funds available in the Water Resources Administration professional services operating account.

H. Approve the contract renewal with Blue Cross Blue Shield (BCBS) for health insurance and prescription coverage for the annual renewal period of June 1, 2004 through May 31, 2005 with various City funds and employee dependent contributions.

Member Eigenmann seconded the motion and the roll call was:

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

The motion passed unanimously.

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Petitions and Requests from the Public Present Al Gutierrez supported a second \$25,000 homestead exemption and recommended the outsourcing of some City services. He also supported development within the City if done properly.

Lisa Smith, speaking on behalf of residents of Tanglewood Subdivision, requested additional time to speak. Vice-Mayor Ward moved to allow Ms. Smith seven minutes to speak. Member Rainey seconded the motion and it passed unanimously. Ms. Smith, speaking for residents of Tanglewood Subdivision, was opposed to future development of a Walmart Supercenter on Garden Street. Ms. Smith felt the proposed development would create traffic problems and cause safety concerns.

Mayor Swank asked City Attorney Severs to report on meetings he had attended with Walmart representatives. Attorney Severs reported that he had attended two meetings with representatives of Walmart and that Walmart would coordinate and conduct community meetings with residents of the area as well as give a future presentation to City Council as to future plans.

Member Eigenmann felt the consensus of council was in opposition to future Walmart's development and clearly stated that Walmart had submitted nothing to council for consideration.

Amy Tidd represented the Sierra Club, Turtle Coast Group in opposition to future development of a Walmart Supercenter on Garden Street. She stated concern for water in the area.

Mayor Swank felt alternative locations within the City should be provided to Walmart representatives for consideration of future development.

Vice-Mayor Ward clarified council's concern for the development of a second Walmart Supercenter within the City.

Member Rainey opposed further Walmart development and was concerned as to Walmart's reasoning for developing a second supercenter within the City.

Molly Farace thanked Representative Allen for his update and supported future improvements to the A. Max Brewer Bridge. She then thanked Vice-Mayor Ward for attending the recent ground breaking ceremony for the Veterans Memorial Pier improvement project. She felt the Gold Star Mothers supported the improvement project at the Veterans Memorial Pier but was concerned for the relocation and treatment of the concrete pedestal used at the pier to hold a memorial plaque while improvements were being made.

Vice-Mayor Ward asked Ms. Farace to clarify her statement concerning the treatment of the concrete pedestal at the pier. Ms. Farace replied that the Gold Star Mothers supported the moving of the pedestal but wanted assurance it would be moved properly and with care.

Stan Adams asked for legal assistance in dealing with unruly dogs in his neighborhood stating he felt the behavior of neighborhood dogs shortened the life of his wife and also had affected his health.

Thelma Roper supported the concerns Ms. Farace had made previously concerning the improvement project at the Veterans Memorial Pier. She urged council and other citizens to show their nonsupport of the renewal of the "Patriot Act."

Mayor Swank asked Ms. Roper for publications he could review concerning the "Patriot Act."

Executive Director for Economic Development, Walt Johnson announced that a Community Growth Forum would be held at Brevard Community College's North Campus on May 12, 2004 and encouraged the public to attend. He then introduced Rod Thorstad of the Florida Nature Alliance who discussed the event further.

Vanessa Arrizari spoke in opposition to future development of a Walmart Supercenter on Garden Street. She cited many safety and traffic concerns.

Walter Pine felt council had not done enough to discourage Walmart development. He was not pleased with the level of disrepair the Veterans Memorial Pier was in and that of the pedestal placed by the Gold Star Mothers. He opposed actions taken by the Titusville Environmental Commission and felt council was responsible for TEC actions. He urged council not to support the renewal of the "Patriot Act."

Vice-Mayor Ward felt council had in fact taken action in regard to future Walmart development.

Susan Stuckey felt the interests of developers and not that of home owners were taken into consideration on the determination of zoning for property at the intersection of Parrish Road and Singleton Avenue soon to be annexed into the City.

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Ordinances-First Reading – City Attorney Severs read, ORDINANCE 36-2004, AN ORDINANCE OF THE CITY OF TITUSVILLE, FLORIDA, AMENDING SECTIONS 59-501 THROUGH 59-523 OF THE LAND DEVELOPMENT REGULATIONS BY ALLOWING

OUTDOOR STORAGE AS A PERMITTED USE IN THE INDUSTRIAL (M-2) ZONING DISTRICT AND ALLOWING MINI-WAREHOUSE AS A CONDITIONAL USE IN THE INDUSTRIAL (M-2) ZONING DISTRICT; AND PROVIDING FOR AN EFFECTIVE DATE the first time by title only. The first public hearing for this ordinance was scheduled for May 25, 2004; the second and final on June 8, 2004.

Molly Farace supported the future adoption of the ordinance.

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Mayor Swank called a recess at 8:35 p.m. Council reconvened at 8:53 p.m.

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Ordinances-Second Reading, Public Hearings and Related Action The first public hearing item was Resolution 17-2004 extending the build-out date of the VectorSpace Development of Regional Impact until December 31, 2012. City Manager Harmer outlined the resolution and that the East Central Florida Regional Planning Council had approved the extension of the build-out date and that staff and the Planning and Zoning Commission had recommended approval of the resolution as written.

Mayor Swank opened the public hearing.

Attorney John Evans requested approval of the resolution and made himself available for questions.

There being no other citizens desiring to speak, Mayor Swank closed the public hearing.

Member Rainey moved to adopt Resolution 17-2004 as written. Member Eigenmann seconded the motion and the roll call was:

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

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

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City Attorney Severs read ORDINANCE 24-2004, AN ORDINANCE OF THE CITY OF TITUSVILLE, FLORIDA, AMENDING THE CODE OF ORDINANCES BY ADDING SECTION 59-48, 59-49, AND 59-50; BY AMENDING THE LAND DEVELOPMENT REGULATIONS AND THE RESIDENTIAL ESTATE (RE) ZONING DISTRICT CATEGORY TO PROVIDE FOR CLUSTER DEVELOPMENT AND OPEN SPACE WITHIN

THE (RE) ZONING DISTRICT; PROVIDING REGULATIONS, CRITERIA, AND STANDARDS; AND PROVIDING FOR AN EFFECTIVE DATE the third time by title only.

Planning Administrator Keith Cunningham outlined the ordinance as being voluntary and allowed the developer to reduce lot sizes and cluster the development if a minimum of 50 percent of the project site was set aside as open space and conservation. In addition, the ordinance had a requirement to provide a thirty-foot buffer along public roadways and a twenty-foot buffer between adjacent parcels. The first reading of the ordinance and first public hearing was conducted April 27, 2004. The Planning and Zoning Commission had recommended approval.

Mayor Swank opened the public hearing.

Bob Gray supported adoption of the ordinance.

Al Gutierrez supported adoption of the ordinance and suggested financial incentives for builders.

Veronica Clifford opposed adoption of the ordinance and felt its contents were global.

Vice-Mayor Ward clarified the intent of the ordinance as giving an option for rezoning.

Gloria Heiden thanked council for the ordinance and strongly supported its adoption.

Walter Pine supported the adoption of the ordinance as long as it remained voluntary. He was concerned that the set backs may not properly address fire hazards.

Tiffany Johnson supported adoption of the ordinance.

Michael Moehle supported the adoption of the ordinance and urged council not to make the requirements of the ordinance too burdensome. He felt a hardship variance should be considered for the wetlands.

Thelma Roper was concerned with the use of a conservation easement.

Don Heiden supported the adoption of the ordinance.

Charles Moehle supported the adoption of the ordinance.

Attorney John Evans supported the adoption of the ordinance.

Don Page appreciated council's action in developing the ordinance and supported its adoption.

There being no other citizens desiring to speak, Mayor Swank closed the public hearing.

Member Rainey was proud that the community, developers, and staff were able to work together in the creation of the ordinance and moved to adopt Ordinance 24-2004 as written. Member Eigenmann seconded the motion and the roll call was:

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

The motion passed unanimously and Ordinance 24-2004 was adopted.

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Ordinance 25-2004 providing for cluster development and open space within the single-family high density residential (R-1c) zoning district was withdrawn by staff and no action was taken.

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City Attorney Severs read ORDINANCE NO. 26-2004, AN ORDINANCE OF THE CITY OF TITUSVILLE, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS AND THE TITUSVILLE SHORELINE AREA OVERLAY DISTRICT BY ADDING A NEW SUBSECTION NO. SECTION 59-948; BY PROVIDING THAT SUBMERGED LANDS LOCATED WITHIN THE TITUSVILLE SHORELINE AREA OVERLAY DISTRICT SHALL NOT BE COUNTED IN THE CALCULATIONS OF ALLOWABLE DENSITY; SUPERSEDING ANY CONFLICTING PROVISIONS AND PROVIDING FOR AN EFFECTIVE DATE the third time by title only.

City Manager Harmer outlined the ordinance that would eliminate the use of submerged lands east of U.S. Highway One in density calculations. The first reading and first public hearing had been conducted April 27, 2004. The Planning and Zoning Commission had recommended approval.

Mayor Swank opened the public hearing.

Greg Val Dyke opposed the adoption of the ordinance.

John Chastain opposed the adoption of the ordinance and was disappointed and felt council was moving away from self-reliance.

Attorney Jack Kirschenbaum, representing residents of Kennedy Point Condominiums and Yacht Club, opposed the adoption of the ordinance and recommended council to either deny the ordinance or amend the ordinance to allow a grandfather clause to allow the use of submerged lands in future density calculations by his clients under vested rights. He provided council copies of various case law decisions pertaining to vested rights.

Mayor Swank requested clarification of Mr. Kirschenbaum's argument.

City Attorney Severs clarified that vested rights were addressed within the text of the ordinance. He then reviewed the initial Conditional Use Permit application submitted by Kennedy Point in 1999. He further felt it was difficult to write into the ordinance an exception for a specific

property and cautioned council to carefully consider taking such action. He then explained to council vested rights.

Vice-Mayor Ward felt the ordinance did not consider certain properties as Kennedy Point.

Al Gutierrez opposed adoption of the ordinance and cautioned council that passage of such an ordinance could result in future litigation.

Veronica Clifford supported the adoption of the ordinance.

Tiffany Johnson supported the adoption of the ordinance.

Attorney Jack Kirschenbaum, representing clients other than Kennedy Point residents, opposed the adoption of the ordinance. He referenced other proposed projects that had used submerged lands in density calculations that included Rio Del Sol and River Palms II/III.

Walter Pine opposed adoption of the ordinance and felt property rights were the main issue. He suggested council either deny the ordinance or amend the ordinance to address granting of exceptions.

John Herring opposed the adoption of the ordinance and supported property rights. He recommended the ordinance be amended to require the notification of prospective owners to be made aware of its contents.

Kathleen Burson supported the adoption of the ordinance and felt its adoption would lessen environmental impacts.

Bob Snider supported the adoption of the ordinance and commended council and staff on its creation.

Laura Ward supported the adoption of the ordinance and felt council members should not be convinced to change their minds.

Peter Petyk supported the adoption of the ordinance and highlighted portions of past City codes that addressed submerged lands.

City Attorney Severs clarified the existing content of the code pertaining to submerged lands as requested by Mayor Swank.

There being no other citizens desiring to speak, Mayor Swank closed the public hearing.

Mayor Swank asked City Attorney Severs if Kennedy Point, Rio Del Sol, and River Palms II/III were protected under vested rights.

City Attorney Severs explained the hearing process in proving vested rights. He gave options on writing items into the ordinance to establish effective dates and clarified laws that pertained to the purchase of property and vested rights.

Vice-Mayor Ward moved to deny Ordinance 26-2004. Member Rainey seconded the motion for discussion and felt he could not support the ordinance. The roll call was:

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

The motion passed by majority vote 3 to 1 and Ordinance 26-2004 was denied.

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The time was 10:30 p.m. and Member Rainey moved to extend the meeting to 11:00 p.m. Member Eigenmann seconded the motion and it passed unanimously.

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Mayor Swank called for a recess at 10:30 p.m. Council reconvened at 10:40 p.m.

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Laura Ward felt there was no logic in the allowable density for zoning districts associated with Comprehensive Plan Amendment 2004-01 and Ordinance 35-2004.

Planning Administrator Keith Cunningham clarified zoning districts used in Comprehensive Plan Amendment 2004-01.

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City Attorney Severs read ORDINANCE NO. 35-2004, 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 OF TITUSVILLE, BY AMENDING THE FUTURE LAND USE MAP TO INCLUDE CERTAIN PROPERTIES LOCATED ON THE WEST SIDE OF S.R. 405 APPROXIMATELY 1,500 FEET NORTH OF S.R. 50 AND EAST OF I-95; EAST OF I-95 APPROXIMATELY 2,000 FEET SOUTH OF S.R. 406; EAST OF I-95 APPROXIMATELY 3,000 FEET SOUTH OF S.R. 50; AT THE SOUTHWEST CORNER OF SINGLETON AVENUE AND PARRISH ROAD; AT THE SOUTHEAST CORNER OF SINGLETON AVENUE AND PARRISH ROAD; AT THE NORTHEAST CORNER OF CARPENTER ROAD AND FOX LAKE ROAD; ON THE SOUTH SIDE OF FOX LAKE ROAD EAST OF CARPENTER ROAD; ON THE SOUTH SIDE OF FOX LAKE ROAD SOUTH OF CARPENTER ROAD; AND AMENDING THE TEXT IN THE FUTURE LAND USE ELEMENT BY CLARIFYING

RESIDENTIAL LAND USES AND ESTABLISHING MAXIMUM RESIDENTIAL DENSITIES; AND PROVIDING FOR AN EFFECTIVE DATE the second time by title only.

City Attorney Severs then read ORDINANCE 27-2004, 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 ON THE WEST SIDE OF STATE ROAD 405 (SOUTH STREET) AND EAST OF I-95 TO BE INCLUDED WITHIN THE CITY LIMITS; DESIGNATING LAND USE CLASSIFICATION; PROVIDING ZONING CATEGORY; AND PROVIDING FOR AN EFFECTIVE DATE the second time by title only.

Planning Administrator Keith Cunningham highlighted the ordinance and its related land use as contained in Ordinance 35-2004 as Comprehensive Plan Amendment No. 2004-01A. The item would annex into the City approximately 21.51 acres with Commercial High Intensity Land Use and Community Commercial (CC) zoning designation with proposed retail use as applied for by Modern, Inc. The Planning and Zoning Commission recommended approval.

Mayor Swank opened the public hearing.

Stacy Ranger, representing the Brevard County Board of County Commissioners, gave council a copy of the letter from Brevard County to the Florida Department of Community Affairs, dated February 18, 2004 that objected to the annexation and comprehensive plan amendments of the City under Comprehensive Plan Amendment 2004-01.

Charles Moehle supported the adoption of the ordinance.

There being no other citizens desiring to speak, Mayor Swank closed the public hearing.

Member Eigenmann moved to adopt Ordinance 27-2004 as submitted. Member Rainey seconded the motion and the roll call was:

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

The motion passed unanimously and Ordinance 27-2004 was adopted.

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City Attorney Severs read ORDINANCE 28-2004, 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 EAST OF I-95, WEST OF SINGLETON AVENUE, AND SOUTH OF GARDEN STREET TO BE INCLUDED WITHIN THE CITY LIMITS; DESIGNATING LAND USE

CLASSIFICATION; PROVIDING ZONING CATEGORY; AND PROVIDING FOR AN EFFECTIVE DATE the second time by title only.

Planning Administrator Keith Cunningham highlighted the ordinance and its related land use as contained in Ordinance 35-2004 as Comprehensive Plan Amendment No. 2004-01B. The item would annex into the City approximately 63 acres with Low Density Residential and Conservation Land Use and Single-Family Low Density Residential (R-1a) and Open Space and Recreation (OR) zoning designation with proposed single-family residential use as applied for by Soreno Point, LLC. The Planning and Zoning Commission recommended approval.

Mayor Swank opened the public hearing.

Ted Ruta supported the adoption of the ordinance.

There being no other citizens desiring to speak, Mayor Swank closed the public hearing.

Member Rainey moved to adopt Ordinance 28-2004. Vice-Mayor Ward seconded the motion and the roll call was:

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

The motion passed unanimously and Ordinance 28-2004 was adopted.

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City Attorney Severs read ORDINANCE 29-2004, 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 EAST OF I-95, WEST OF WINDOVER WAY, AND SOUTH OF CHENEY HIGHWAY (STATE ROAD 50) TO BE INCLUDED WITHIN THE CITY LIMITS; DESIGNATING LAND USE CLASSIFICATION; PROVIDING ZONING CATEGORY; AND PROVIDING FOR AN EFFECTIVE DATE the second time by title only.

Planning Administrator Keith Cunningham highlighted the ordinance and its related land use as contained in Ordinance 35-2004 as Comprehensive Plan Amendment No. 2004-01C. The item would annex into the City approximately 17 acres with Low Density Residential and Conservation Land Use and General Use (GU) and Open Space and Recreation (OR) zoning designation with proposed single-family residential use as applied for by Fred Renaud, owner. The Planning and Zoning Commission recommended approval.

Mayor Swank opened the public hearing.

Nancy Merchant opposed the adoption of the ordinance and was concerned that the value of her property would decline due to the applicant's use of the property.

Vice-Mayor Ward clarified that the current County zoning of the property was the same as the zoning the City would give.

The time was 11:00 p.m. Member Rainey moved to extend the meeting to 11:30 p.m. Vice-Mayor Ward seconded the motion and it failed by a majority vote of 3 to 1 with Member Rainey voting yes and Member Eigenmann, Vice-Mayor Ward, and Mayor Swank voting no.

Vice-Mayor Ward moved to extend the meeting to 11:15 p.m. Member Rainey seconded the motion and it passed unanimously.

Veronica Clifford felt the applicant should have submitted a binding site plan with the application.

There being no other citizens desiring to speak, Mayor Swank closed the public hearing.

Member Rainey moved to adopt Ordinance 29-2004. Vice-Mayor Ward seconded the motion and the roll call was:

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

The motion passed unanimously and Ordinance 29-2004 was adopted.

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City Attorney Severs read ORDINANCE 30-2004, 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 THE SOUTHWEST INTERSECTION OF SINGLETON AVENUE AND PARRISH ROAD TO BE INCLUDED WITHIN THE CITY LIMITS; DESIGNATING LAND USE CLASSIFICATION; PROVIDING ZONING CATEGORY; AND PROVIDING FOR AN EFFECTIVE DATE the second time by title only.

Planning Administrator Keith Cunningham highlighted the ordinance and its related land use as contained in Ordinance 35-2004 as Comprehensive Plan Amendment No. 2004-01D. The item would annex into the City approximately 71.34 acres with Low Density Residential and Conservation Land Use and Single Family High Density Residential (R-1c) and Open Space and Recreation (OR) zoning designation with proposed single-family residential use as applied for by General Development, Inc. The Planning and Zoning Commission recommended approval.

Mayor Swank opened the public hearing.

Molly Farace supported the adoption of the Ordinance.

Steve Jack felt the property should be rezoned as noted on the application and gave council an email from the Department of Environmental Protection that concerned the property.

Adam Armaganian, the applicant, accepted a change in zoning on the property from R-1c to R-1b and announced he would meet with the Department of Environmental Protection.

Cindy Collins gave council photographs that illustrated the type of existing housing in the area. She opposed the adoption of the Ordinance.

The time was 11:15 p.m. Vice-Mayor Ward moved to extend the meeting until each public hearing item and any time critical item was addressed. Member Rainey seconded the motion and it passed by majority vote 3 to 1 with Member Eigenmann voting no.

Polly Phillips was opposed to the adoption of the ordinance and gave council maps to illustrate that she felt (RE) zoning was appropriate for the area and that the citizens of the area deserved (RE) zoning like the residents in the Carpenter Road and Fox Lake Road area received.

Kathleen Burson opposed the adoption of the ordinance and felt that (RE) zoning was agreed upon at past neighborhood meetings. She concurred with Ms. Phillips' comments that the citizens of the area deserved (RE) zoning like the residents in the Carpenter Road and Fox Lake Road area received.

Peter Petyke opposed the adoption of the ordinance and felt council should consider the desires of the area residents.

Monica Key opposed the adoption of the ordinance.

There being no other citizens desiring to speak, Mayor Swank closed the public hearing.

Member Rainey moved to adopt Ordinance 30-2004 as amended to read with the zoning classification of Single Family Low Density Residential (R-1b) and Open Space and Recreation (OR). Vice-Mayor Ward seconded the motion and the roll call was:

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

The motion passed by majority vote 3 to 1 and Ordinance 30-2004 was adopted.

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City Attorney Severs read ORDINANCE 31-2004, 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 THE SOUTHEAST INTERSECTION OF SINGLETON AVENUE AND PARRISH ROAD TO BE INCLUDED WITHIN THE CITY LIMITS; DESIGNATING LAND USE CLASSIFICATION; PROVIDING ZONING CATEGORY; AND PROVIDING FOR AN EFFECTIVE DATE the second time by title only.

Planning Administrator Keith Cunningham highlighted the ordinance and its related land use as contained in Ordinance 35-2004 as Comprehensive Plan Amendment No. 2004-01E. The item would annex into the City approximately 14.86 acres with Low Density Residential Land Use and Single Family High Density Residential (R-1c) and ~~Open Space and Recreation (OR)~~ (scrivener's error corrected by city council at the June 22, 2004 regular meeting) zoning designation with proposed single-family residential use as applied for by Birchwood Development Group, Inc. The Planning and Zoning Commission recommended approval.

Mayor Swank opened the public hearing.

Jerri Hafizi, representing Birchwood, supported the adoption of the ordinance and requested a decrease of setback from twenty-five feet to twenty feet.

There being no other citizens desiring to speak, Mayor Swank closed the public hearing.

Vice-Mayor Ward moved to adopt Ordinance 31-2004 as amended to read with the zoning classification of Single Family Low Density Residential (R-1b) and ~~Open Space and Recreation (OR)~~ (scrivener's error corrected by city council at the June 22, 2004 regular meeting). Member Rainey seconded the motion and the roll call was:

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

The motion passed by majority vote 3 to 1 and Ordinance 31-2004 was adopted.

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City Attorney Severs read ORDINANCE 32-2004, 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 WEST OF I-95, EAST OF CARPENTER ROAD, AND NORTH OF FOX LAKE ROAD TO BE INCLUDED WITHIN THE CITY LIMITS; DESIGNATING LAND USE CLASSIFICATION; PROVIDING ZONING CATEGORY; AND PROVIDING FOR AN EFFECTIVE DATE the second time by title only.

Planning Administrator Keith Cunningham highlighted the ordinance and its related land use as contained in Ordinance 35-2004 as Comprehensive Plan Amendment No. 2004-01F. The item would annex into the City approximately 73.86 acres with Low Density Residential and Conservation Land Use and Residential Estate (RE) and Open Space and Recreation (OR) zoning designation with proposed single-family residential use as applied for by John H. Evans, P.A. on behalf of B.S. Holloway, Trustee. The Planning and Zoning Commission recommended approval.

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

Member Eigenmann moved to adopt Ordinance 32-2004. Vice-Mayor Ward seconded the motion and the roll call was:

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

The motion passed unanimously and Ordinance 32-2004 was adopted.

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City Attorney Severs read ORDINANCE 33-2004, 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 WEST OF I-95 AND SOUTH OF FOX LAKE ROAD TO BE INCLUDED WITHIN THE CITY LIMITS; DESIGNATING LAND USE CLASSIFICATION; PROVIDING ZONING CATEGORY; AND PROVIDING FOR AN EFFECTIVE DATE the second time by title only.

Planning Administrator Keith Cunningham highlighted the ordinance and its related land use as contained in Ordinance 35-2004 as Comprehensive Plan Amendment No. 2004-01H. The item would annex into the City approximately 5.38 acres with Low Density Residential and Conservation Land Use and Residential Estate (RE) and Open Space and Recreation (OR) zoning designation with proposed single-family residential use as applied for by Gary Altman, owner. The Planning and Zoning Commission recommended approval.

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

Member Eigenmann moved to adopt Ordinance 33-2004. Member Rainey seconded the motion and the roll call was:

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

The motion passed unanimously and Ordinance 33-2004 was adopted.

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City Attorney Severs read ORDINANCE 34-2004, 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 WEST OF I-95 AND NORTH OF FOX LAKE ROAD TO BE INCLUDED WITHIN THE CITY LIMITS; DESIGNATING LAND USE CLASSIFICATION; PROVIDING ZONING CATEGORY; AND PROVIDING FOR AN EFFECTIVE DATE the second time by title only.

Planning Administrator Keith Cunningham highlighted the ordinance and its related land use as contained in Ordinance 35-2004 as Comprehensive Plan Amendment No. 2004-01R. The item would annex into the City approximately 5.69 acres with Low Density Residential and Conservation Land Use and Residential Estate (RE) and Open Space and Recreation (OR) zoning designation with proposed single-family residential use as applied for by Land, Sea & Air Sales and Leasing. The Planning and Zoning Commission recommended approval.

Mayor Swank opened the public hearing.

Gary Kimball, the applicant, was present to clarify the proposed use of the property.

There being no citizens desiring to speak, Mayor Swank closed the public hearing.

Vice-Mayor Ward moved to adopt Ordinance 34-2004 with the stipulation that the existing tower in the area would remain. Member Eigenmann seconded the motion and the roll call was:

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

The motion passed unanimously and Ordinance 34-2004 was adopted.

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Vice-Mayor Ward moved to adopt Ordinance 35-2004 amending the Future Land Use Map of the Comprehensive Plan (2004-01). Member Eigenmann seconded the motion and the roll call was:

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

The motion passed unanimously and Ordinance 35-2004 was adopted.

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New Business – Member Rainey moved to approve the following consent agenda items that were moved earlier in the meeting:

- A. Approve an agreement with Sterling Forest, LLC for the installation of a reuse line on Sisson Road between State Road 50 and State Road 405. The developer will pay for the installation and the City will repay the developer over a five-year period with funds from Water Resources Reuse Irrigation fund account.
- B. Adopt Resolution 13-2004 to declare the necessity for the installation of an eight-inch reclaimed water line along Sisson Road between State Road 50 and State Road 405 and schedule public hearing for June 8, 2004.
- D. Direct staff to proceed with preparation of an ordinance setting forth a referendum question for the November 2, 2004 ballot to extend the economic development ad valorem tax exemption for new businesses and the expansion of existing businesses.

Vice-Mayor Ward seconded the motion and the roll call was:

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

The motion passed unanimously.

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Mayor and Council Reports Vice-Mayor Ward moved to authorize the Mayor, Council Members, and City Manager to appear at Brevard County Charter Review Commission meetings and to otherwise indicate City concerns and disapproval of the several measures, which seem to limit or reduce City Home Rule authority. Member Rainey seconded the motion and it carried unanimously.

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City Manager's Report – City Manager Harmer recommended council approve the proposed distribution of the Edward C. Byrne grant funds allocated for Brevard County law enforcement programs.

Member Rainey moved to approve the proposed distribution of the Edward C. Byrne grant funds allocated for Brevard County programs as submitted and to authorize the Mayor to forward confirmation to Brevard County. Vice-Mayor Ward seconded the motion and it passed unanimously.

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

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The meeting adjourned at 12:00 a.m.

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Ronald G. Swank, Mayor

ATTEST:

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Wanda F. Wells, Assistant City Clerk