

City Council
Regular Meeting
May 25, 2004

The City Council of the City of Titusville, Florida met in regular session on Tuesday, May 25, 2004 in the Council Chamber of City Hall, 555 South Washington Avenue, Titusville, Florida.

xxx

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

xxx

Mayor Swank announced that the City Council would continue its meeting of May 11, 2004 beginning with New Business.

New Business City Manager Harmer stated that per city code, he was required to furnish an in-depth analysis of the budget and financial conditions of the city at midpoint of each fiscal year. The Finance Department completed the fund-level review of revenues and expenditures and the department heads performed the detail line item operating department-level reviews. Based on the reviews, a mid-year budget amendment was proposed to adjust certain appropriation accounts as submitted on the narrative summary and fund balance/working capital spreadsheet.

Member Eigenmann moved to approve the mid-year budget amendment as submitted. Vice-Mayor Ward seconded the motion. The motion carried unanimously.

xxx

Boards and Commissions The Titusville Environmental Commission (TEC) forwarded a request for a change in member status for George Mosakowski from a regular member to alternate member. TEC alternate member Ron Thorstad expressed a desire to change his membership status from alternate to regular member. Alternate member Susan Gosselin desired to remain an alternate member.

Member Rainey moved to approve the above-stated member status change. Vice-Mayor Ward seconded the motion. The motion carried unanimously.

xxx

Mayor and Council Reports – Mayor Swank submitted a written report on his activities since the last regular meeting.

xxx

City Manager Report City Manager Harmer provided a written report and submitted the following action items:

The New Dimensions Dance Company had requested to make a presentation at the May 25th meeting to introduce Council and the community to the organization and their accomplishments. The group was

in the audience and it was requested that Council recognize the group at the beginning of the Petitions and Requests from the Public Present.

The Economic Development Commission (EDC) of the Florida Space Coast requested support of a resolution of the continued operation of Patrick Air Force Base and Cape Canaveral Air Force Station and urged The Department of Defense to exclude these facilities from its list of bases for closure/realignment.

Member Rainey moved to direct staff to prepare said resolution. Member Eigenmann seconded the motion. The motion carried unanimously.

xxx

City Attorney's Report Attorney Severs presented a report on the Oaks at Meadow Woods Subdivision code enforcement issues of clearing without a permit. It was recommended that the developer set aside contiguous lots for a conservation area and the Homeowner's Association receive the property and responsibility for the maintenance thereof. Council concurred with the recommendation.

A foreclosure sale was scheduled for May 26, 2004 at 487 N. Washington Avenue. The city had a special assessment lien for removal of the dilapidated structure including a code enforcement lien and other liens. It was doubtful that the property would sell for in excess of \$150,000, which would be enough to pay the outstanding taxes. As Brevard County held outstanding tax certificates of \$99,022.40, discussions had commenced about the possibility of the county and city agreeing to abate and share proportionately any of the taxes that were bid at the foreclosure sale. Authorization to enter into an agreement with the county was requested.

Member Rainey moved to authorize the city attorney to enter into an agreement with the county as requested. Member Broome seconded the motion. The motion carried unanimously.

Attorney Severs provided reports regarding an easement in regard to transmission lines; 1800 South Street closing; code enforcement issue at the former Wal-Mart; and other code enforcement foreclosures.

xxx

The meeting adjourned at 7:03 p.m.

xxx

Mayor Swank announced that the meeting of May 25, 2004 would begin at this time.

xxx

Mayor Swank called the May 25, 2004 meeting to order at 7:05 p.m. and invited Pastor Jeremy Coppock with Faith Baptist Church to give the invocation. The entire assembly recited the Pledge of Allegiance to the Flag.

xxx

The first matter of business was approval of minutes of regular meeting April 27, 2004 and May 11, 2004. Member Rainey moved to accept the minutes as submitted. Member Broom seconded the motion. The motion carried unanimously.

xxx

Special Recognitions City Manager Harmer recognized Lt. Daryl Blankenship of the Fire and Emergency Services Department as the employee of the month for May 2004.

xxx

Presentations State Representative Ralph Poppell provided a 2004 Legislative update.

xxx

Ms. Angie Sharkey of the Save the Rocket Foundation reviewed refurbishment plans and timeline for the completion of the restoration of the Titan I rocket on U. S. Highway One. The completion was scheduled for January 2005.

xxx

The Titusville Environmental Commission's semi-annual report was deferred to the June 8, 2004 Council meeting.

xxx

Board of Adjustments and Appeals (BAA) Chairman Don Prather presented the board's semi-annual report. In the event that there was only one item scheduled for a meeting, he suggested that the item be deferred to the next meeting unless it was an emergency. City Manager Harmer would investigate and report back on the request.

Member Eigenmann moved to accept the report. Member Broome seconded the motion. The motion carried unanimously.

xxx

The meeting recessed at 7:53 p.m. and reconvened at 8:04 p.m.

xxx

Mr. Michael Myjack and Ms. Kathleen Burson distributed information and submitted a proposal on a Rural Overlay District – Residents Initiative. Mr. Myjack's power point presentation highlighted smart quality growth principles, what were overlay districts, why a rural overlay district, rural overlay highlights, low density baseline information, open space design and options, why conservation planning, conventional calculation for build able area, examples, conservation planning and development returns, green spaces, increased property values, and a summary and conclusion.

Discussion ensued regarding the locations within the city for this type of district, Residential Estate (RE) zoning, acreage, buffer and natural vegetation, lot sizes, natural drainage system, increase in property values, review of the city's ordinances and the *Land Development Regulations*, etc.

Member Eigenmann moved to direct staff to research and provide information on the impact to the Land Development Regulations, the potential ordinance changes required, and other impacts to

implement such an overlay district and report back at a later meeting. Vice-Mayor Ward seconded the motion. The motion carried unanimously.

xxx

Consent Agenda Mayor Swank referenced Item E., Advisability to proceed with an amendment to Section 35-61(e) of the Land Development Regulations, specifically Section 1. (e). He asked staff to look at the modification of percentage for the use of paver stones and other such items.

Member Broome moved to approve the following items of consent as submitted with change to Item E., Section 1. (e) as requested by Mayor Swank.

- A. Approve the donation of forfeiture funds in the amount of \$13,538.07, representing 15 percent of the total funds received in prior fiscal year (\$90,253.78) as required by the Florida Contraband Forfeiture Act. Recommendation: Approve donation to various youth and crime prevention programs as followed: (1) Second Annual Weed and Seed “2004 Drug Free Youth Summit” - \$250; (2) Florida Missing Children’s Day-\$250; (3) YMCA Scholarship program-\$500; and (4) Police Athletic League-\$12,538.07.
- B. Authorize execution of cost share agreement with St. Johns River Water Management District to receive funds in the amount of \$47,464 for construction of a stormwater treatment pond and wetland as a part of the Marina Basin Stormwater Retrofitting Project. Recommendation: Authorize execution of agreement for Marina Basin Stormwater Retrofit Project. Funds were available in Area II Stormwater Improvements, SJRWMD Cost Share Grant and Environmental Protection Agency 319 Grant.
- C. Approve additional funding for the on-going engineering design of Park Avenue widening improvements in a not-to-exceed amount of \$200,000 to Baskerville-Donovan, Inc./Reynolds, and Smith & Hill (BDI/RSH) consulting team. Recommendation: Approve as submitted.
- D. Award Bid No. 04-B-025 for manhole rings and lids to Ferguson Waterworks of Orlando in the amount of \$21,979. Recommendation: Award bid as recommended. Funds available in the Water Resources Department Capital Improvement Program-Sewer System Upgrade Program.
- E. Advisability to proceed with amendment to Land Development Regulations by deleting provisions for additional impervious coverage through the use of pervious pavement. Recommendation: Direct staff to proceed with ordinance amendment. Public hearing scheduled for June 22, 2004.

Member Eigenmann seconded the motion. The motion carried unanimously.

xxx

Petitions and Requests from the Public Present Polly Phillips with the New Dimensions Dance Company located at Titusville Ballet and Dance Center and other members of the group outlined their accomplishments. A recital would be held on Friday, May 28, 2004 at Astronaut High School at 7:30 p.m. The public was invited to attend. Vice-Mayor Ward moved to approve the showing of a short video. Member Rainey seconded the motion. The motion carried unanimously.

Al Guterrez distributed information on the Property and Environment Research Center (PERC) and commented on the presentation by Michael Myjack. He was opposed to this process due to the issue of property rights and proposed a counter presentation by PERC.

Tiffany Johnson opposed the rural overlay district plan and requested the opportunity to make a 45-minute counter presentation.

Council discussed the validity of making a 45-minute presentation and also discussed Mr. Myjack's comments on citizen representation. It was felt that there were other citizens who had another view. A presentation would need to be a comparative analysis and would not be presented in a negative fashion. It was noted that Mr. Myjack's presentation was completed in 25 minutes followed by council's questions and comments. Several members of council commented they were against such a long presentation at a regular meeting.

Member Rainey moved to authorize a presentation at a regular Council meeting by Tiffany Johnson as a representative of another group of citizens to outline their point of view on the overlay district in a positive manner. Member Broome seconded the motion. Member Eigenmann requested an amendment to request the Ms. Johnson meet individually with each council member and staff prior to the presentation. Members Rainey and Broome supported the amendment. The motion failed on a 3-to-2 vote. Mayor Swank, Vice-Mayor Ward and Member Eigenmann voted no.

Council discussed the feasibility of a presentation at a regular city council meeting. Discussion ensued regarding the parameters of the presentation and agreed that any presentation would be given in a positive manner. It was noted that negativity would cancel the presentation.

Member Rainey moved to authorize a presentation at a special meeting by Tiffany Johnson, as a representative of another group of citizens, to outline their point of view on the overlay district in a positive manner. Mayor Swank seconded the motion. The motion carried 3-to-2 with Members Broome and Eigenmann voting no.

Charles Moehle attended the meetings for Carpenter Road and stated that the citizens favored larger lots and opposed patio homes. He commented on the Brevard County Commissioner's vote to sue the city over the annexation of Carpenter and Parrish Road at its May 25, 2004 meeting.

Don Page supported the rural overlay district plan. He also attended the Brevard County Commission meeting.

Attorney Severs questioned the reason behind the county's decision to sue the city over the annexation of Carpenter and Parrish Road. He commented on the citizen meetings and the positive attitude regarding the city's Residential Estate (RE) zoning.

Mayor Swank requested the city manager obtain a copy of the video from the County Commission meeting.

Al Barrett commented on the rural overlay district plan and that the lots would be smaller and closer to each other.

Pete Petit commented on the city's regulations for submerged lands east of U. S. Highway One. He opposed the allowance of submerged lands for building purposes.

Laura Ward supported Mr. Petit's comments and opposed the use of submerged lands for building purposes. She asked that this matter be brought up again for discussion. She encouraged council to ask the city attorney for his opinion on this subject.

Member Broome moved to authorize the city attorney to investigate and provide a report on the city's ordinances regulating submerged lands. Member Eigenmann seconded the motion. The motion carried unanimously.

Veronica Clifford referenced first reading for the rezoning of property located at 1301 Armstrong Drive. She opposed a school in the industrial park.

xxx

Ordinances – First Reading Attorney Severs read ORDINANCE NO. 37-2004 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 1301 ARMSTRONG DRIVE FROM ITS PLANNED INDUSTRIAL DEVELOPMENT (PID) CLASSIFICATION TO PUBLIC USE (P) CLASSIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE for the first time by title only. The second reading and public hearing was scheduled for June 8, 2004.

Veronica Clifford opposed the rezoning.

Vice-Mayor Ward stated that he was a member of the Board of Directors for Sculpture Charter School. City Attorney Severs advised that Vice-Mayor Ward was eligible to vote on the issue. He also reported that at its May 25, 2004 meeting, the Brevard County Commission unanimously approved the use.

xxx

Ordinances-Second Reading, Public Hearings & Related Action Attorney Severs read RESOLUTION NO. 18-2004, OF THE CITY COUNCIL OF THE CITY OF TITUSVILLE, FLORIDA APPROVING AND CONFIRMING THE SPECIAL ASSESSMENT FOR THE REMOVAL OF A DILAPIDATED AND UNSIGHTLY STRUCTURE WITHIN THE CITY LIMITS OF THE CITY OF TITUSVILLE AS SET FORTH IN RESOLUTION 1-2004 AND RESOLUTION 5-2004 AND DETERMINING THE METHOD OF PAYMENT OF SPECIAL ASSESSMENT IMPOSED AGAINST A CERTAIN PROPERTY AS DESCRIBED IN THIS RESOLUTION; AND PROVIDING FOR AN EFFECTIVE DATE. The unsightly structure was located at 609 West Court.

Mayor Swank opened the public hearing. No one wished to speak and the public hearing was closed.

Member Rainey moved to adopt Resolution No. 18-2004. 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 carried.

xxx

Member Rainey moved to extend the meeting until completion. Vice-Mayor Ward seconded the motion. Member Broome amended the motion to continue the meeting until 11 p.m. Member Rainey declined the amendment. The motion failed 4-to-1 with Member Rainey voting yes.

Member Broome moved to extend the meeting to 11 p.m. Member Eigenmann seconded the motion. The motion carried unanimously.

xxx

The next item of business was Ordinance No. 36-2004. City Attorney Severs read ORDINANCE NO. 36-2004 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 second time by title only.

City Manager Harmer reported that at its March 23, 2004 meeting, council directed staff to move forward with an ordinance to permit outdoor storage of trailers, boats, and RV's within the Industrial (M-2) zoning classification. During the ordinance preparation, it was discovered that mini-warehouses were allowed as a conditional use in both the Light Industrial Services and Warehousing (M-1) and the Highway Industrial Infill (M-3) zoning districts, and this conditional use was not available in the M-2 district. Since the M-2 district was the most intensive of the industrial zoning districts, it was staff's opinion that mini-warehouses was an appropriate conditional use within this zoning district. The proposed ordinance also contains performance standards for the conditional use permit including screening/buffering, landscaping, setbacks, etc.

Mayor Swank opened the public hearing. As no one wished to speak, the public hearing was closed.

This was the first public hearing and the second and final public hearing was scheduled for June 8, 2004.

xxx

Next items were subject to quasi-judicial rules and council disclosed whether they had spoken with any applicants, visited sites, etc.

Mayor Swank announced that he had a minor discussion with bank representative Allen Boggs. Member Broome also spoke to bank representative Allen Boggs. Mayor Swank also announced that he visited the site but did not speak to anyone on conditional use permit no. 6-2004.

xxx

The next item was RESOLUTION NO. 19-2004 OF THE CITY OF TITUSVILLE, FLORIDA VACATING A CERTAIN PUBLIC DRAINAGE AND UTILITY EASEMENTS; AND PROVIDING FOR AN EFFECTIVE DATE. City Manager Harmer reported that the existing structure at 2605 Barna Avenue was being demolished to combine the property with property to the east for the construction of a Walgreen's Drug Store. When the existing structure was developed, the city required two easements for drainage and stormwater retention. As part of the new development, it was determined that the easements would need to be vacated. The easements were only used for city purposes. Comments

from the Water Resources Department and the Public Works Departments were received with no objections. Staff recommended approval of said easement vacation.

Mayor Swank opened the public hearing. As no one wished to speak, the public hearing was closed.

Member Eigenmann moved to adopt Resolution No. 19-2004 as presented. Member Broome 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 carried.

xxx

Next was consideration of Conditional Use Permit No. 6-2004 to allow manufacturing, assembly and fabrication of products within a completely enclosed structure in a Light Industrial Services and Warehousing (M-1) zoning district located at 875 Buffalo Road. The applicant proposed to re-locate an existing business (Compliance Fiberglass Mfg., Inc.) from its previous location at 1300 White Drive to 875 Buffalo Road. Due to concerns with the geometry of the railroad crossing at Silver Star Road and a history of trailers getting hung up at this crossing, staff recommended the applicant direct traffic to the Buffalo Road railroad crossing. Staff recommended approval with the condition that all commercial vehicles accessing this site must be directed to use the Buffalo Road crossing at the railroad spur.

Mayor Swank opened the public hearing. The applicant, George David, was present to answer questions.

Mayor Swank visited the site and was concerned with commercial vehicles on Buffalo Road. He also indicated concern with the fiberglass work in close proximity of the residents to the south and asked about the plan to minimize the odor. It was noted that it was a mixed-use area with residents within a 100 yards of the building.

Member Eigenmann shared the concerns made by the mayor and asked how the hazardous materials would be contained.

Mayor Swank asked Mr. David to prepare a containment plan to mitigate the hazardous materials.

Member Eigenmann moved to table Conditional Use Permit No. 6-2004 to the June 8, 2004 meeting. Member Broome seconded the motion. The motion carried unanimously.

xxx

New Business The first item was to approve a budget amendment to utilize the reimbursement funds of \$114,188 from the Florida Communities Trust (FCT) to the Stormwater Utility for the Downtown Stormwater Park project. City Manager Harmer reported that in November 2001 that the city purchased the former McCotter Ford property between Orange Avenue and Broad Street from the YMCA for \$300,000. Funding for this purchase was shared equally between the Community

Redevelopment Agency (CRA) and Stormwater Utility. In November 2002, FCT approved a request for reimbursement of \$228,375 of the cost to acquire the property. The CRA and Stormwater Utility each received \$114,288. At its May 11, 2004 meeting, the CRA approved a preliminary design plan of the Downtown Stormwater Park and approved reallocating their share of the FCT reimbursement to the project to upgrade various park amenities such as landscaping, lighting, walkways, etc. It was staff's recommendation that council approve a budget amendment to include the FCT's \$114,188 reimbursement to the Stormwater Utility's project budget.

Member Rainey moved to approve a budget amendment to utilize the reimbursement funds of \$114,188 from the FCT to the Stormwater Utility to be used for the Downtown Stormwater Park. Member Broome seconded the motion. The motion carried unanimously.

xxx

Member Broome moved to address Boards and Commissions at this time. Member Rainey seconded the motion. The motion carried unanimously.

xxx

Boards and Commissions The term for Titusville Housing Authority Member Shirley Watson would expire May 31, 2004. Member Watson wished to serve another term on the Titusville Housing Authority. Member Rainey moved to reappoint Shirley Watson for a four-year term expiring May 31, 2008. Member Broome seconded the motion. The motion carried unanimously.

xxx

The next item was the submittal of the semi-annual report by the Titusville Housing Authority. Member Rainey moved to accept the written report as submitted. Member Broome seconded the motion. The motion carried unanimously.

xxx

Petitions and Requests From the Public Present Laura Ward spoke regarding the Charter Review Committee.

Any other individuals who wished to speak were asked to complete sign-up cards for the next meeting.

xxx

Mayor and Council Reports Mayor provided a written report on his activities since the last meeting.

xxx

City Manager's Report Council acknowledged receipt of city managers written report.

xxx

Member Rainey moved to adjourn. Member Broome seconded the motion. The motion carried unanimously.

The meeting adjourned at 11 p.m.