

City Council  
Regular Meeting  
July 27, 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, July 27, 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 Conrad Eigenmann and Jeff Rainey. Member Jeff Rainey arrived at 6:39 p.m. Also in attendance were City Manager Tom Harmer and City Attorney Dwight Severs. Member Chris Broome was absent.

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

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Mayor Swank announced the applicant requested Conditional Use Permit No. 10-2004 in order to allow a childcare facility in a Single Family Medium Density Residential (R-1b) zoning district located at 444 North Old Dixie Highway be tabled to the August 10, 2004 city council meeting.

Vice-Mayor Ward moved to table Conditional Use Permit No. 10-2004 to the August 10<sup>th</sup> meeting. Member Eigenmann seconded the motion and it carried unanimously.

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Approval of Minutes - Vice-Mayor Ward moved to approve the minutes of the July 13, 2004 regular meeting as submitted. Member Eigenmann seconded the motion and it carried unanimously.

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Special Recognitions – City Manager Harmer introduced Foreman Jorge Rivera of the Solid Waste Department as the city employee of the month for July 2004. City Manager Harmer read from Mr. Rivera’s nomination as well as the names of other nominees. Mayor Swank thanked Mr. Rivera for his hard work and dedication to the city.

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Police Commander John Lau of the Police Department recognized Imperial Estates Elementary School for their contribution of \$2,800 toward the purchase of a K9 Agility Course for the Police Department through its “pennies for puppies” program. Commander Lau presented a plaque to Principal Michael Story, representative of Imperial Estates Elementary School. He also recognized Assistant Principal Stephanie Green, Andy Williams and Randy Varner. Principal Story outlined the school’s program and challenged other schools in the area to conduct similar programs.

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Presentations – Representatives Bart Hagemeyer and Mike Turner from the National Oceanic and Atmospheric Administration recognized the city’s Osprey Plant for its contribution as a weather observation station. They presented a certificate of appreciation accepted by Water Resources Director Raynetta Grant and other water resource employees including Matt Hixson, Carol Isman, and John Rabaut.

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PMG Associates, Inc. Representative Phil Gonot presented a Growth Impact Study that pertained to Titusville. Discussion of the report included questions concerning reported data on property value, population estimates, personnel requirements, and overall status compared to other municipalities and counties in maintaining the proper level of service.

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

Mayor Swank requested the city manager to report back to council with staff recommendations derived from the report.

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Consent Agenda – Vice-Mayor Ward moved to approve the following items of consent as submitted, subject to reading. Vice-Mayor Ward read the following consent agenda items into the record:

- A. Authorize to accept donation of \$5,600 from the National Association of Chiefs of Police and utilize funds in combination with prior donations to purchase a K9 Agility Course at a cost not to exceed \$5,995 and to authorize related budget amendment.
- B. Approve third amendment to deed restrictions for Sterling Forest Subdivision.
- C. Approve the sale of City of Titusville owned property at 411 South Park Avenue, commonly known as the Genuity Building, for the proposed amount of \$169,900.
- D. Approve construction of a speed hump between 4500 and 4505 Gray Avenue with residents paying half the cost and the City paying half the as requested by residents of Gray Avenue.
- E. Authorize use of forfeiture funds and budget transfer to purchase equipment for the Police Department at a cost not to exceed \$23,800.
- F. Authorize execution of the Florida Department of Environmental Protection (FDEP), Florida Recreation Development Assistance Program (FRDAP) Agreement for the Downtown Stormwater Park in the amount of \$103,956.

Member Eigenmann seconded the motion. The motion carried unanimously.

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Petitions and Requests from the Public Present Al Gutierrez opposed the City placing a Riverfront Acquisition Referendum question on the November 2, 2004 ballot and expressed concerned with the tax increases a bond referendum would create.

Joan Wheeler commented on increased tax revenues by millage rates remaining the same and requested a more appropriate tentative millage rate be established by the city council. Vice-Mayor Ward replied council would consider her suggestion and that the key in the budget process was maintaining appropriate levels of service for the citizens.

Don Page commented on the agenda packet that was not available at the public library on the day of the meeting. The city clerk's office makes only one copy which was made available at the public library from the time the agenda was copied until the day of the meeting. Member Eigenmann moved to direct staff to make an additional copy for the public library. Member Rainey seconded the motion and it carried unanimously.

William Kolodney felt a recent article in a local newspaper, which described his point of view toward submerged land usage along the Indian River was incorrect. He felt the article was the result of citizens who do not live in Titusville.

Pete Petyk was concerned for the lack of a funding source for expanding infrastructure to support commercial development in view of waiving the impact fees. He mentioned the possible future construction of a Walmart Supercenter in the Garden Street/I-95 area.

City Manager Harmer reported impact fees would be discussed in upcoming budget meetings.

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Ordinances – First Reading City Attorney Severs read, ORDINANCE NO. 50-2004, AN ORDINANCE OF THE CITY OF TITUSVILLE, FLORIDA, AMENDING ORDINANCE NO. 30-1999 THAT AUTHORIZED THE TRANSFER OF CERTAIN FUNDS FROM THE SOLID WASTE FUND TO THE GENERAL FUND; AUTHORIZING A REDUCTION AND ELIMINATION OF THE CONTINUING CONTRIBUTION FROM THE SOLID WASTE FUND TO THE GENERAL FUND; AND PROVIDING FOR AN EFFECTIVE DATE, and

ORDINANCE NO. 51-2004, AN ORDINANCE OF THE CITY OF TITUSVILLE, FLORIDA, AMENDING CHAPTER 2, ADMINISTRATION, ARTICLE II, CITY COUNCIL, SECTION 2-29, EXECUTION OF CERTAIN LEGAL INSTRUMENTS, AMENDING ARTICLE IV, OFFICERS AND EMPLOYEES, DIVISION 2, CITY MANAGER, SECTION 2-87, BUDGET PREPARATION AND ADMINISTRATION, AMENDING ARTICLE V, FINANCIAL MATTERS, DIVISION 2, LOCAL PREFERENCE PURCHASING, SECTION 2-180, CRITERIA FOR AWARD OF PURCHASES AND SECTION 2-181, PURCHASES RESTRICTED, TO CLARIFY AND PROVIDE UNIFORM LANGUAGE, GRANTING ADDITIONAL AUTHORITY TO THE CITY MANAGER, AND INCREASE THE BIDDING THRESHOLD; AND PROVIDING FOR AN EFFECTIVE DATE, the first time by title only.

The public hearing was scheduled for August 10, 2004.

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Mayor Swank called a recess at 7:55 p.m. Council reconvened at 8:05 p.m.

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Ordinances-Second Reading, Public Hearings and Related Action City Attorney Severs read, ORDINANCE NO. 44-2004, AN ORDINANCE OF THE CITY OF TITUSVILLE, FLORIDA, AMENDING SECTION 16-15 OF THE CODE OF ORDINANCES OF THE CITY OF TITUSVILLE BY CLARIFYING SAID SECTION BY SPECIFYING THAT IT IS UNLAWFUL TO PLACE CERTAIN REFUSE, TRASH, LEAVES, LAWN CLIPPINGS, ETC., ON ANY STREET OR INTO ANY STORMWATER SYSTEM; AND PROVIDING FOR AN EFFECTIVE DATE the second time by title only.

City Manager Harmer outlined the ordinance as a clarification of the existing code and gave staff's proposal to educate citizens along with minor amendments to the proposed ordinance. He distributed samples of educational material that would be included in future water bills.

Mayor Swank opened the public hearing.

Kevin Beverly opposed adoption of the proposed ordinance. He felt blowing grass into streets was an accepted practice.

Member Eigenmann clarified the types of practices the ordinance intended to prevent.

Mayor Swank clarified the importance of keeping the stormwater system clear and spoke of past street flooding, which resulted from blocked stormwater drains.

Mayor Swank closed the public hearing.

Member Eigenmann moved to approve Ordinance No. 44-2004 with minor amendments. 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 carried.

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City Attorney Severs read, ORDINANCE NO. 45-2004, AN ORDINANCE OF THE CITY OF TITUSVILLE, FLORIDA, AUTHORIZING THE CALLING OF A REFERENDUM TO DETERMINE IF THE ELECTORATE DESIRES TO AUTHORIZE THE CITY TO ISSUE ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTIONS; AND PROVIDING FOR AN EFFECTIVE DATE the second time by title only.

City Manager Harmer outlined the ordinance which would replace the current ordinance that would sunset at the end of 2004. The ballot language would be transmitted to the Supervisor of Elections Office to be included in the November 2, 2004 ballot.

Mayor Swank opened the public hearing.

Veronica Clifford supported future economic development and felt the development was positive for the community. She also felt council's vision on economic development was not clear and she opposed adoption of the ordinance.

Mayor Swank and Vice-Mayor Ward responded and expressed their feelings on economic development.

Mayor Swank closed the public hearing.

Member Eigenmann felt the proposed ballot language was confusing.

City Attorney Severs clarified the language as a requirement by the *Florida Statute* and felt only minor changes could be made.

Member Eigenmann moved to approve Ordinance No. 45-2004, amended to delete the phrase, "to continue," from the section of the ballot for citizens to answer no. Member Rainey seconded the motion and the roll call was:

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

The motion carried.

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City Attorney Severs read, ORDINANCE NO. 46-2004, AN ORDINANCE OF THE CITY OF TITUSVILLE, FLORIDA, AMENDING SECTION 6A-1(c) (PERMIT FEES), BY MODIFYING THE ALLOWABLE EXPENDITURES OF THE BUILDING DEPARTMENT SURCHARGE FUND; AND PROVIDING FOR AN EFFECTIVE DATE the second time by title only.

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

Vice-Mayor Ward commented on the term "technology" that was incorporated into the ordinance. City Manager Harmer clarified the technological needs in the Building Department and described how current funding restricted Building Department functions.

Vice-Mayor Ward moved to approve Ordinance No. 46-2004 as submitted. Member Rainey seconded the motion and the roll call was:

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

The motion carried.

Mayor Swank read quasi-judicial rules of procedure.

City Attorney Severs read, ORDINANCE NO. 47-2004, 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, BY AMENDING THE VARIOUS ELEMENTS OF SAID PLAN AND MAPS BY CHANGING THE FUTURE LAND USE DESIGNATION FOR CERTAIN PROPERTY LOCATED AT THE NORTH SIDE OF COLUMBIA BOULEVARD (S.R. 405), EAST OF WINDOVER WAY AND WEST OF KIRKWOOD TRAIL FROM RESIDENTIAL TO COMMERCIAL HIGH-INTENSITY AND CONSERVATION DESIGNATIONS; AND PROVIDING FOR AN EFFECTIVE DATE, and

ORDINANCE NO. 48-2004 AN ORDINANCE AMENDING ORDINANCE NO. 5-1993 OF THE CITY OF TITUSVILLE, FLORIDA, BY AMENDING THE ZONING MAP MADE A PART OF SAID ORDINANCE BY REFERENCE BY CHANGING PROPERTY LOCATED AT THE NORTH SIDE OF COLUMBIA BOULEVARD (S.R. 405), EAST OF WINDOVER WAY AND WEST OF KIRKWOOD TRAIL FROM ITS PRESENT SINGLE FAMILY MEDIUM DENSITY RESIDENTIAL (R-1b) CLASSIFICATION TO COMMUNITY COMMERCIAL (CC) AND OPEN SPACE AND RECREATION (OR) CLASSIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE., the second time by title only.

The Planning and Zoning Commission, acting as the Local Planning Agency, recommended approval.

Mayor Swank opened the public hearing.

Attorney Doug Baker representing the applicants requested approval. He highlighted the specific area of the property and made himself available for questions.

Anthony DeBello opposed the adoption of the ordinances and felt noise levels created by educational facilities was too high for the residential area surrounding the property.

Mayor Swank clarified that wetlands on the property could be used as a buffer for noise.

John Angel opposed adoption of the ordinances and felt commercial high intensity development was inconsistent with the surrounding properties. He then announced that an inspector from the Florida Environmental Protection Agency would be visiting the site.

Enrique Barnes opposed adoption of the ordinances.

Steve Gerston opposed adoption of the ordinances and requested council table action on the item to allow area residents to meet with staff.

Doug Baker spoke in rebuttal to the citizen's opposition and encouraged meeting with staff. He highlighted that residents were given due notice of the public hearing and he felt State Road 405 had become an economic corridor within the city. Mr. Baker commented on the buffers and stated his client would adhere to the *Land Development Regulations*.

Mayor Swank had concerns with a school located on State Road 405 and asked Mr. Baker to confirm or deny the applicants intended use of the property. Mr. Baker replied that, to his knowledge, nothing was in place for a school to be located on the property.

Vice-Mayor Ward asked Planning Administrator Keith Cunningham to clarify required buffering in transition from Residential to Commercial zoning districts. Mr. Cunningham replied that certain setbacks were required and gave limitations outlined in the Land Development Regulations. Vice-Mayor Ward felt State Road 405 was a commercial corridor and asked Mr. Cunningham to outline the difference between Neighborhood Commercial and Community Commercial zoning districts. Mr. Cunningham then gave differences in permitted uses between the two zoning categories. Vice-Mayor Ward felt the area was unique and the request was reasonable, but also felt a development plan was necessary as he was uncomfortable with the intended use of the property if zoned Community Commercial. Vice-Mayor Ward stated he could not support the application without assurances of the applicants intended use of the property.

Member Eigenmann concurred with Vice-Mayor Ward and felt he could not support the application as submitted, but would support Neighborhood Commercial zoning for the property.

Mayor Swank concurred with both Vice-Mayor Ward and Member Eigenmann and asked Mr. Baker if the applicant could meet with area residents and submit a binding conceptual plan for the property for future consideration by council. Mr. Baker requested council table the item to a future meeting in order to allow the applicant to discuss the application with area residents.

Vice-Mayor Ward clarified his concerns for the use of the property and its uniqueness as it related to the requested zoning and that area residents should be made aware of the proposed use.

City Manager Harmer recommended council table the item to the regular meeting of August 24, 2004 in order for the applicant to meet with area residents and that it would be the applicants responsibility to schedule the meeting with the residents.

Member Eigenmann moved to table consideration of Ordinance No. 47-2004 and Ordinance No. 48-2004 to the regular meeting of August 24, 2004. Member Rainey seconded the motion and it carried unanimously.

Vice-Mayor Ward then moved to allow John Angel to speak. Member Eigenmann seconded the motion and it carried unanimously.

John Angel felt assurances were needed that the applicant would coordinate a meeting with residents and to provide full disclosure of intended uses of the property. Mr. Angel also felt that the current school on adjacent property failed to meet conditions established for the property in the past pertaining to placement of a solid barrier as opposed to a chain link fence that was still in place.

Mayor Swank requested the city manager to investigate the issue.

Member Rainey clarified that applicants who fail to hold meetings directed by council could have applications denied. Member Eigenmann concurred with Member Rainey and felt knowledge of plans prior to action being taken was important.

Doug Baker understood the concern of the residents and asked for contact information of those present.

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City Attorney Severs read, ORDINANCE NO. 49-2004, AN ORDINANCE AMENDING ORDINANCE NO. 5-1993 OF THE CITY OF TITUSVILLE, FLORIDA, BY AMENDING THE ZONING MAP MADE A PART OF SAID ORDINANCE BY REFERENCE BY CHANGING PROPERTY LOCATED SOUTH OF PARK AVENUE AND EAST OF BRITTANY WAY FROM ITS COMMUNITY COMMERCIAL (CC) CLASSIFICATION TO OFFICE PROFESSIONAL (OP) CLASSIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE, the second time by title only.

City Manager Harmer outlined the ordinance that would provide a transition between multi-family zoning and commercial zoning as submitted by the applicant, Bud Crisafulli. He then reported the Planning and Zoning Commission had recommended approval.

Mayor Swank opened the public hearing.

Bud Crisafulli, applicant, made himself available for any questions that pertained to the application.

Mayor Swank closed the public hearing.

Vice-Mayor Ward moved to approve Ordinance No. 49-2004 as submitted. Member Eigenmann seconded the motion and the roll call was:

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

The motion carried.

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Old Business City Manager Harmer outlined Resolution No. 29-2004 to place a referendum question on the November 2, 2004 ballot for the acquisition of riverfront property with a \$10.3 million, 20-year General Obligation Bond as directed by council at its regular meeting on July 13, 2004.

City Attorney Severs gave council suggested language to add to the resolution that addressed parks and recreation uses as well as restrictions on the use of funds.

Al Gutierrez opposed adoption of the resolution and felt citizens who lived outside of the city limits were responsible for the proposed referendum.

Lowell Gray gave proposed options to council to consider which included the deletion of certain properties to allow for the bond amount and proposed millage rate to be decreased.

Laura Ward asked for clarification whether the bond amount included maintenance cost and suggested the city attorney represent the city in future property acquisition negotiations.

Member Rainey felt maintenance considerations should be included in the resolution as part of the bond amount.

City Attorney cautioned council that including maintenance cost in the resolution as part of the bond amount would result in the elimination of possibilities of early payoff.

Member Eigenmann felt maintenance costs should not be funded with referendum funds and he expressed concerned with up to \$10 million coming from citizens.

Mayor Swank suggested the city attorney negotiate cost of property prior to the referendum going to the public.

Member Eigenmann felt citizens should be given a guarantee in return for their tax dollars.

City Manager Harmer clarified the recommendations of the Riverfront Acquisition Referendum Committee and that parcels would be identified up front and the county could support maintenance costs.

Vice-Mayor Ward felt the referendum question should remain as originally written.

City Attorney Severs envisioned thresholds would be set and that appraisals would be made to determine if parcels would be purchased. He also felt that options to purchase property would be obtained as soon as possible for flexibility and the Riverfront Acquisition Referendum Committee did prioritize properties to purchase.

Member Rainey requested clarification of Brevard County maintaining purchased property through the MSTU. City Manager Harmer acknowledged his request and replied he would obtain the answer.

Member Eigenmann wanted to see the referendum go forward and that the citizens needed to have the right to say yes or no to the referendum.

Member Eigenmann moved to approve Resolution No. 29-2004 with revisions suggested by the city attorney and amended to include parks and recreation uses. 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 carried.

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New Business City Manager Harmer outlined an Interlocal Agreement with Parrish Medical Center to consolidate occupational health maintenance, health risk assessment, and to consider joint purchase of property/casualty insurance. Staff felt the joint venture would improve health services to City of Titusville employees. He recognized Executive Director of Support Services Frank Ross, City Risk Manager Joel McPherson, and Chris McAlpine of Parrish Medical Center for the development of the agreement.

Chris McAlpine of Parrish Medical Center made himself available for questions.

Member Rainey moved to approve an Interlocal Agreement with Parrish Medical Center to consolidate occupational health maintenance, health risk assessment, and to consider joint purchase of property/casualty insurance as submitted. Vice-Mayor Ward seconded the motion and it carried unanimously.

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City Manager Harmer outlined staffs request for a budget amendment to establish a project account for a Network Upgrade in the amount of \$87,800. He highlighted that on May 16-20, 2004 the City experienced an extended network outage that resulted in complete failure of two network devices. He then outlined a three-phase plan to replace current network infrastructure designed to increase network speed and that the requested amendment would fund the initial phase of the plan.

Member Rainey moved to approve a budget amendment to establish a project account for a Network Upgrade in the amount of \$87,800 as submitted. Vice-Mayor Ward seconded the motion and it carried unanimously.

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City Manager Harmer outlined staff's recommendation to approve Area Impact Plan No. 2-2004 for lots 6, 7, and 8, Third Addition to Indian River City Plat – 5402 Riveredge Drive as submitted by Therese S. Brown for three patio homes.

Laura Ward supported the project and encouraged council to approve the Area Impact Plan.

Vice-Mayor Ward moved to approve Area Impact Plan for 5402 Riveredge Drive as submitted. Member Eigenmann seconded the motion and it carried unanimously.

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City Manager Harmer announced the proposed budget for Fiscal Year 2004/2005 was prepared and would be delivered to council at the meeting. He informed council that necessary actions were to establish a tentative millage rate and to set public hearing dates on the tentative budget for Fiscal Year 2004/2005. City Manager Harmer outlined staff's recommendation that a tentative millage rate of 6.2408 be set, which represented ten percent above the rolled-back rate and would give maximum flexibility in ultimately establishing the final millage rate after the budget workshops and public hearings. He also outlined staff's recommendation to establish the two public hearings on the proposed budget as September 14, 2004 at 6:30 p.m. and September 28, 2004 at 6:30 p.m.

Member Rainey moved to approve a tentative millage rate as 6.2408 and to establish public hearing dates on the proposed budget as September 14, 2004 at 6:30 p.m. and September 28, 2004 at 6:30 p.m. Mayor Swank seconded the motion and the motion failed by a vote of 2 to 2 with Vice-Mayor Ward and Member Eigenmann opposed.

Vice-Mayor Ward felt ten percent above the rolled-back rate was not appropriate, but would support a tentative millage rate of 5.9571 that would represent a five percent above the rolled-back rate.

Vice-Mayor Ward moved to approve a tentative millage rate of 5.9571, which represented five percent above the rolled-back rate and to establish public hearing dates on the proposed budget as September 14, 2004 at 6:30 p.m. and September 28, 2004 at 6:30 p.m. Member Eigenmann seconded the motion for discussion and concurred with Vice-Mayor Ward. Member Rainey concurred and had no issues. The roll call was:

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

The motion carried.

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Petitions and Requests from the Public Present Molly Farace commented on brick maintenance at the Veterans Memorial Park and expressed concern with the Titusville Flag and Memorial Committee membership.

City Manager Harmer clarified there were certain issues pertaining to the maintenance of bricks at the Veterans Memorial Park. He further stated he would discuss the membership issue with the Titusville Flag and Memorial Committee.

Vice-Mayor Ward felt no veteran groups were purposely excluded from membership on the Titusville Flag and Memorial Committee.

Attorney Severs reminded council of the agreement between the City and the Veteran Memorial Foundation, which required council to approve any change in responsibility by the foundation.

William Young introduced himself to council and requested consideration for membership on the Planning and Zoning Commission.

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Boards and Commissions Member Rainey moved to appoint William Kolodney as a regular member to the Board of Adjustments and Appeals to a two-year term to expire July 31, 2006. Member Eigenmann seconded the motion and it carried unanimously.

Vice-Mayor Ward moved to reappoint Sheldon Brown to the Board of Adjustments and Appeals to a two-year term to expire July 31, 2006. Member Rainey seconded the motion and it carried by majority vote 3 to 1 with Mayor Swank voting no.

The time was 10:30 p.m. and Vice-Mayor Ward moved to extend the meeting until each agenda item was addressed. Member Rainey seconded the motion and it carried unanimously.

Vice-Mayor Ward moved to reappoint Donald Prather to the Board of Adjustments and Appeals to a two-year term to expire July 31, 2006. Member Rainey seconded the motion and it carried by majority vote 3 to 1 with Mayor Swank voting no.

Vice-Mayor Ward moved to reappoint John Hudgens to the Board of Adjustments and Appeals, as an alternate member for a two-year term to expire July 31, 2006. Member Rainey seconded the motion and it carried by majority vote 3 to 1 with Mayor Swank voting no.

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Member Rainey moved to appoint alternate member Bonnie Fuller as a regular member on the Planning and Zoning Commission with term expiring on January 31, 2006. Member Eigenmann seconded the motion and it carried unanimously.

Vice-Mayor Ward moved to appoint alternate member Shawn Williams as a regular member on the Planning and Zoning Commission with term expiring on January 31, 2004. Member Eigenmann seconded the motion and it carried unanimously.

Vice-Mayor Ward moved to appoint Daniel Treder as an alternate member on the Planning and Zoning Commission. Member Rainey seconded the motion and it carried unanimously.

Member Rainey moved to appoint William Young as an alternate member on the Planning and Zoning Commission. Member Eigenmann seconded the motion and it carried unanimously.

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Mayor and Council Reports Council acknowledged receipt of the Mayor's written report on his activities since the last meeting. Mayor Swank also commented on upcoming activities in the downtown area and of his meeting with members of the Governors Select Board on Ecotourism at the City Marina.

Member Rainey commented on his trip to Washington D.C. and highlighted his visit to the Pentagon where he met the Secretary of Defense. He then urged all citizens to support those serving in the military.

Member Rainey moved to present Richard Thornberg a plaque to recognize his 28 years of services on the Board of Adjustments and Appeals. Member Eigenmann seconded the motion and it carried unanimously.

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City Manager's Report - Council acknowledged receipt of the City Managers written report.

City Manager Harmer reported the receipt of Letters of Appreciation for the following employees:

Finance Department Lynn Belle

Fire and Emergency Services

David Cody

Bridget Kozielski

Police Department

Victor Rodriguez

Matt Demmon

Mel Williams

John Lau

Barry Williams

Cleyton Bray

Joel Hunter

Richard Tirado

Chris DeLoach

Jeff Lutz

Eerik Meisner

Aaron Ziegler

John Little

Gary Boyer

Arthur Esposito

Alexia Ferran

Patty Morgan

Mark Morgan

Public Works Department Jane Allen

City Manager Harmer informed council of the upcoming budget workshops scheduled for August 14, 2004 at 9:30 a.m. and August 17, 2004 at 6:30 p.m.

City Manager Harmer reported that the AWOS Tower project at Dunn Airpark had stopped.

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City Attorney's Report City Attorney Severs reported receipt of correspondence from Brevard County which pertained to Conflict Resolution Proceedings pursuant to statutes that resulted from litigation filed against the city on the proposed annexation of property in the Fox Lake Road/Carpenter Road area. City Attorney Severs requested authority to meet with Brevard County officials to discuss a possible resolution of the conflict.

Vice-Mayor Ward moved to authorize the city attorney and city manager to meet with Brevard County officials to discuss conflict resolution. Member Eigenmann seconded the motion and it carried unanimously.

City Attorney Severs gave an update on the Airport Authority litigation filed against the city, which pertained to rezoning of property at 1301 Armstrong Drive. Mr. Severs commented on correspondence received from the applicants' attorney that outlined an offer to resolve the issue. The offer included items a cap of total number of students; the sale of the property after ten years; and an ordinance modification designed to prohibit future construction techniques in an airport noise zone by future applicants. He then requested authority from council to discuss resolution of this matter with the Airport Authority.

Mayor Swank asked what would happen to students of the school during negotiations. City Attorney Severs replied the issue was not addressed in the correspondence received.

Vice-Mayor Ward moved to authorize the city attorney and city manager to meet with representatives from the Airport Authority and Sculptor Charter School to discuss the conflict and reach a resolution. Member Rainey seconded the motion and it carried unanimously.

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The meeting adjourned at 10:57 p.m.

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Ronald G. Swank, Mayor

ATTEST:

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Wanda F. Wells, Interim City Clerk