

City Council
Regular Meeting
August 24, 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, August 24, 2004.

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Mayor Swank called the meeting to order at 6:33 p.m. Present were Mayor Ron Swank, Vice-Mayor Ken Ward, Members Chris Broome and Jeff Rainey. Also in attendance were City Manager Tom Harmer and City Attorney Dwight Severs. Member Conrad Eigenmann 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 procedures for public comments.

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Member Broome moved to table agenda items that pertained to public hearing scheduled for Ordinances Nos. 47-2004 and 48-2004 that related to Small Scale Amendment No. 8-2004 to the meeting of October 26, 2004. Member Rainey seconded the motion and it passed unanimously.

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Approval of minutes – Member Rainey moved to approve the minutes of the regular meeting of August 10, 2004 as submitted. Member Broome seconded the motion and it carried unanimously.

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Consent Agenda – Member Broome moved to approve the following items of consent, subject to reading, as submitted. Member Rainey seconded the motion. Member Broome then read the following items of consent:

- A. Approve Resolution No. 32-2004 naming the private accesses, which serve the Summerhill Apartments and directing their use upon the official maps and records of the City.
- B. Approve amendments to deed restrictions for Sancturary II Subdivision.
- C. Approve advisability to proceed with ordinances amending landscaping and tree protection.
- D. Approve advisability to proceed with an ordinance to amend the required dimensions for parking spaces to allow larger parking spaces.
- E. Approve the sale of the Fire Station property located at 113 Hopkins Avenue.

The roll call was:

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

The motion carried.

Member Broome then moved to approve the final plat and deed restrictions for Royal Oak Patio Homes Phase II Subdivision. Member Rainey seconded the motion and it carried unanimously. Vice-Mayor Ward abstained from voting due to a possible conflict of interest.

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Petitions and Requests from the Public Present – Don Page commented on future annexation and expressed concerns of annexation in the community without proper planning, vision, and effective comprehensive plan.

Connie Milton applauded council for its action at its August 10, 2004 regular meeting when council voted to have language drafted for inclusion in the Joint Planning Agreement with Brevard County to clarify the intent by the City of Titusville not to annex property south of Kings Highway and north of Parrish Road. She then requested council take the same action for residents of the Windover Farms area.

Laura Ward commented on the intent of the proposed additional language in the Joint Planning Agreement with Brevard County pertaining to annexation of property from Port St. John, Mims, and Scottsmoor. She felt any agreement or statement in a Joint Planning Agreement was not binding and contractual and could be revoked at any time without notice.

Arlynn Baker thanked council on their actions pertaining to proposed development by Walmart in the Garden Street/I-95 area. She felt development in the area would have a negative impact on the well fields and city water supply. She informed council she had collected over 800 signatures opposing the Walmart development in the area and asked to be updated on future actions that pertained to the issue. City Attorney Severs acknowledged a previous agreement with Ms. Baker to keep her updated and informed her no action or correspondence was received since their previous meeting.

Lowell Gray commented on a letter from Brevard County that addressed maintenance of county-owned riverfront property that included removal of exotic trees and plants from the area outlined by the Riverfront Acquisition Referendum Committee as the window two area.

Pete Petyk opposed the policy to waive impact fees for commercial development. He then commented on newspaper articles that discussed growth rates within the city and its impact on future water supply. He felt inserts in citizen water bills reflected political views. City Manager Harmer clarified the information printed in the newspaper was not accurate.

Woody Rice invited Mr. Petyk to the Space Coast Economical Development Commission to show him how information is obtained. He then commented on current water supply and future water supply initiatives being explored.

William Kolodney commented on appointment procedures for city boards and commissions. He felt a cloud was placed over his appointment to the Board of Adjustments and Appeals due to the replacement of long-time board member Richard Thornberg. He suggested council explore establishing term limits for board membership and felt too much emphasis was placed on experience.

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Ordinances, Second Readings, Public Hearings and Related Action – 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.

City Manager Harmer outlined the ordinance authorizing a reduction and elimination of the continuing contribution from the Solid Waste Fund to the General Fund effective October 1, 2004. The reduction and elimination of the contribution would be phased in over multi-year budget for Fiscal Year 2004/2005 and Fiscal Year 2005/2006.

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

Member Rainey moved to approve Ordinance No. 50-2004. Member Broome seconded the motion and the roll call was:

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

The motion carried.

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City Attorney Severs read, 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 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.

City Manager Harmer outlined the ordinance that would increase the City Manager's approval authority from \$10,000 to \$15,000 and bring the city to a consistent level with other municipalities.

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

Member Broome moved to approve Ordinance No. 51-2004. Member Rainey seconded the motion and the roll call was:

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

The motion carried.

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Mayor Swank read quasi-judicial rules of procedure.

City Manager Harmer advised council staff recommended action on Resolution No. 33-2004 be tabled to the regular meeting October 26, 2004. Vice-Mayor Ward clarified that concurrence from all required utility companies had not been received, but felt the item could be addressed and approved conditionally. City Manager Harmer advised council staff had not conducted a review of the application, which led to the request for item to be tabled.

Vice-Mayor Ward moved to table Resolution No. 33-2004 to the regular meeting of October 26, 2004. Member Rainey seconded the motion and it carried unanimously.

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Interim Executive Director of Community Development Hugh Williams discussed Resolution No. 34-2004 vacating that portion of the Parkwood Avenue right-of-way lying south of Tangle Drive located in Tanglewood Unit Four subdivision. Mr. Williams reported that, by a vote of 6 to 1, the Planning and Zoning Commission recommended approval of Resolution No. 34-2004 at its regular meeting on August 18, 2004. Mr. Williams also noted that after additional review of the request, staff had identified concerns that included the possible future need for the existing stub out if area to the south was developed as residential. Mr. Williams advised staff felt vacating the stub-out was premature and changed its original recommendation to approve the request to recommending the request be denied.

Mayor Swank opened the public hearing.

Lisa Smith, representing the Tanglewood Homeowners Association, recommended approval of Resolution No. 34-2004. Ms. Smith referenced speeding vehicles from the Hunters Ridge area and its related safety concerns for residents of the area. She further felt that any development to the south could create its own ingress and egress.

Mayor Swank asked Ms. Smith if alternate language to secure the stub-out would be acceptable to the residents. Ms. Smith felt this would not alleviate the situation and stressed residents wanted to vacate the stub-out to both commercial and residential development.

The following citizens supported approval of Resolution No. 34-2004: Janice Hussey, Louise Matthews, Wayne Matthews, Lynn Cowart – Waived time, Ramona Lambert, Thomas Smith, Janice Lucas – Waived time, Claude Lucas – Waived time, Jean Corbin – Waived time, Robert Ching – Waived time, Carol Feagan – Waived time, Mark Mumblow, Gretchen Carraway – Waived time, Dwayne Burns – Waived time, Archie Philips – Waived time, Ellen Philips – Waived time, Jane Francoeur – Waived time, Katheryn Baxter, and Kenneth Blizzard.

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

Member Rainey moved to approve Resolution No. 34-2004 as submitted. Vice-Mayor Ward seconded the motion. Member Broome pointed out scrivener’s errors and the roll call was:

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

The motion carried.

Mayor Swank called a break at 7:50 p.m. and council reconvened at 7:57 p.m.

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Planning Administrator Keith Cunningham highlighted Resolution No. 35-2004 vacating the 10-foot easement on the north and south boundaries of Lot 42 of Central Park Estates Subdivision, as well as the south boundary of Lots 43 and 44. If approved, the south half of Lot 42 would be combined with Lot 41, while the north half of Lot 42 would be combined with Lots 43 and 44, and the applicant would be provided to allow access, if needed.

Vice-Mayor Ward asked if lots would be combined. Mr. Cunningham confirmed that the request, if approved, would create three lots as opposed to four lots as previously configured.

The applicant, David Facemire, made himself available for questions.

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

Member Rainey moved to approve Resolution No. 35-2004. Member Broome seconded the motion and the roll call was:

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

The motion carried.

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Planning Administrator Keith Cunningham highlighted Conditional Use Permit Application No. 9-2004 to allow a convenience store in a Community Commercial (CC) zoning district at the southeast corner of Buffalo Road and North Washington Avenue. Mr. Cunningham advised the property was administratively rezoned in 1993 and council approved a similar Conditional Use Permit on July 23, 2002. Mr. Cunningham reported the Planning and Zoning Commission had recommended approval of the request.

Vice-Mayor Ward clarified the application eliminated the use as a restaurant and property access.

Mayor Swank opened the public hearing.

Jean Derby Shute supported approval of the application.

Woody Rice highlighted environmental improvements made to the property and urged council to approve the request.

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

Member Rainey moved to approve Conditional Use Permit No. 9-2004. Member Broome seconded the motion and the roll call was:

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

The motion carried.

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Planning Administrator Keith Cunningham highlighted Conditional Use Permit No. 10-2004 to allow a childcare facility at 444 North Old Dixie Highway as applied for by Amy Quigley. Mr. Cunningham's review included the recommendation of the Planning and Zoning Commission to deny the application from its meeting of July 21, 2004 due to certain concerns for parking, landscaping and stormwater management. Mr. Cunningham advised council that since the

Planning and Zoning Commission meeting, an updated site plan had been received and reviewed by the Planning staff. Each issue of concern expressed by staff and the Planning and Zoning Commission had been identified and resolved in the updated site plan and the planning staff has recommended approval of the request.

Mayor Swank opened the public hearing.

Margaret Quigley commented on her daughter's qualifications to manage a childcare facility and urged council to approve the application. Mayor Swank reported he received a telephone call from Ann Patch of Patch Learning Center supporting the approval of the application.

Attorney John Evans, representing the applicant, distributed photographs and an updated site plan to council for review. He highlighted where the applicant had addressed each concern identified by the Planning staff and felt the childcare facility would function well with the neighborhood.

Megan Quigley support approval of the application and felt the childcare facility would benefit the neighborhood.

Shelby Holden waived her time.

The applicant, Amy Quigley, requested approval of the application and felt she was well qualified to manage a childcare facility.

Micah Nix, Edwin Frochlich, and Jodi Stephens supported the approval of Conditional Use Application No. 10-2004.

David Young opposed the approval of the application. He felt the applicant was a wonderful neighbor, but parking problems and noise from children was not needed in the neighborhood.

Laura Ward read a letter from an elderly person who opposed approval of the application. She felt the application was not compatible with the neighborhood and that a more favorable location could be found.

In rebuttal, John Evans felt Ms. Ward did not clearly understand the conditional use and restated the applicant had addressed each requirement appropriately.

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

Vice-Mayor Ward moved to approve Conditional Use Permit No. 10-2004. Member Rainey seconded the motion and the roll call was:

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

The motion carried.

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City Attorney Severs read, ORDINANCE NO. 52-2004, AN ORDINANCE OF THE CITY OF TITUSVILLE, FLORIDA, AMENDING SECTION, 7, CHAPTER 63-2001, LAWS OF FLORIDA, SPECIAL ACTS OF 1963, BY ANNEXING CERTAIN PROPERTY LOCATED AT 6550 SOUTH U.S. HIGHWAY ONE TO BE INCLUDED WITHIN THE CITY LIMITS; AND PROVIDING FOR AN EFFECTIVE DATE, and

ORDINANCE NO. 54-2004, 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 MAP TO INCLUDE CERTAIN PROPERTIES TO BE ANNEXED INTO THE CITY LIMITS OF THE CITY OF TITUSVILLE, FLORIDA AND DESIGNATING A LAND USE CLASSIFICATION; AMENDING THE FUTURE LAND USE MAP TO INCLUDE CERTAIN PROPERTIES LOCATED AT 6550 SOUTH U.S. HIGHWAY ONE TO BE ANNEXED INTO THE CITY WITH COMMERCIAL HIGH INTENSITY LAND USE; AND BY AMENDING THE FUTURE LAND USE MAP TO INCLUDE CERTAIN PROPERTIES LOCATED SOUTH OF GOLDEN KNIGHTS BOULEVARD AND WEST OF THE FLORIDA EAST COAST RAILROAD FROM PUBLIC TO INDUSTRIAL DESIGNATION; AND BY AMENDING THE VARIOUS ELEMENTS OF SAID PLAN AND MAPS BY CHANGING THE FUTURE LAND USE DESIGNATION FOR CERTAIN PROPERTY LOCATED AT 3669 SOUTH HOPKINS AVENUE FROM COMMERCIAL HIGH INTENSITY TO COMMERCIAL LOW INTENSITY DESIGNATION; AND BY AMENDING THE VARIOUS ELEMENTS OF SAID PLAN AND MAPS BY CHANGING THE FUTURE LAND USE MAP TO INCLUDE CERTAIN PROPERTIES TO BE ANNEXED INTO THE CITY LIMITS OF THE CITY OF TITUSVILLE, FLORIDA AND DESIGNATING A LAND USE CLASSIFICATION; AMENDING THE FUTURE LAND USE MAP TO INCLUDE CERTAIN PROPERTIES LOCATED NORTH OF WENDY LEE DRIVE APPROXIMATELY 1,200 FEET WEST OF SISSON ROAD TO BE ANNEXED INTO THE CITY WITH RESIDENTIAL LAND USE; AND PROVIDING FOR AN EFFECTIVE DATE, and

ORDINANCE NO. 55-2004, 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 DESIGNATING PROPERTY LOCATED AT 6550 SOUTH U.S. HIGHWAY ONE AS COMMUNITY COMMERCIAL (CC) ZONING CLASSIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE, the second time by title only

Planning Administrator Keith Cunningham highlighted Ordinance Nos. 52-2004, 54-2004, and 55-2004 as it pertained to Small Scale Amendment No. 10-2004. He stated the application was for the annexation of approximately 6.65 acres, as requested by Michael Gaich, trustee. Mr. Cunningham indicated the applicant had submitted a Development Agreement that described the

proposed development of the site as four 10,800 square foot buildings with approximately 180 parking spaces. He then reported that at its August 18, 2004 meeting, the Planning and Zoning Commission recommended approval with the condition that the Development Agreement included language indicating the permitted principal uses to be constructed or permitted on the property would not include the sales and service of automobiles and related automotive uses. City Manager Harmer read suggested language for the Development Agreement.

Mayor Swank opened the public hearing.

Attorney John Evans, representing the applicant, distributed a location map of the property to council and recommended approval of the application.

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

Member Broome moved to approve Ordinance No. 52-2004, section of Ordinance No. 54-2004 that pertained to Small Scale Amendment No. 10-2004, and Ordinance No. 55-2004. Vice-Mayor Ward seconded the motion and the roll call was:

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

The motion carried.

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City Attorney Severs read, ORDINANCE NO. 53-2004, AN ORDINANCE OF THE CITY OF TITUSVILLE, FLORIDA, AMENDING SECTION 7, CHAPTER 63-2001, LAWS OF FLORIDA, SPECIAL ACTS OF 1963, BY ANNEXING CERTAIN PROPERTY LOCATED NORTH OF WENDY LEE DRIVE APPROXIMATELY 1,200 FEET WEST OF SISSON ROAD, TO BE INCLUDED WITHIN THE CITY LIMITS; AND PROVIDING FOR AN EFFECTIVE DATE, and

ORDINANCE NO. 58-2004, 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 DESIGNATING PROPERTY LOCATED NORTH OF WENDY LEE DRIVE APPROXIMATELY 1,200 FEET WEST OF SISSON ROAD, AS MULTI-FAMILY HIGH DENSITY RESIDENTIAL (R3) CLASSIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE, the second time by title only.

Planning Administrator Keith Cunningham highlighted Ordinance Nos. 53-2004 and 58-2004 as submitted by Jen-Lee Development, on behalf of Jack Weinroth as it pertained to Small Scale Amendment No. 13-2004 to voluntarily annexation of approximately 1.13 acres on Wendy Lee Drive, west of Sisson Road with Residential land use and Multi-Family High Density Residential

(R3) zoning classification. Mr. Cunningham advised council the proposed development within the district would be designed carefully to provide maximum compatibility with adjacent development by proper architectural design, landscaping, screening, and parking and as part of the application. The owner indicated they would provide an easement and work with the city on the construction of a proposed multiuse trail. He then reported that the Planning and Zoning Commission recommended approval at its August 18, 2004 meeting, with the applicant's concurrence, that the property would be zoned Multi-Family Medium Density Residential (R2) with conditions that included, a five (5) foot right-of-way be dedicated to the city along both sides of the proposed annexation adjacent to Wendy Lee Drive; an additional right-of-way be dedicated at the southwest corner outside (southwest) of the arc described by a 25-foot radius; and a permanent easement along the north portion of the proposed annexation for the purpose of a multi-use trail.

Mayor Swank opened the public hearing.

William Arnoff represented the applicant and supported adoption of the ordinances and highlighted the owner's willingness to provide an easement and work with the city on the construction of a proposed multiuse trail.

Veronica Clifford supported the annexation, but opposed the requested zoning classification. She was concerned with traffic issues and felt the proposed zoning was not compatible with criteria outlined in the city's *Land Development Regulations*.

Peter Petyk opposed the adoption of the ordinances and felt the proposed zoning did not meet the requirements outlined in the *Land Development Regulations*.

Marcia Keller opposed the adoption of the ordinances.

William Arnoff rebutted the opposition and felt the requested zoning met all requirements and was compatible with past zoning classifications of the property.

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

Mayor Swank asked for clarification to the type of street Wendy Lee Drive was considered. City Manager Harmer stated Wendy Lee Drive was considered a local street. Mayor Swank felt he could not support the application as submitted *for a local street (Mayor Swank made correction at the September 14, 2004 meeting)*.

Vice-Mayor Ward saw no issues with the application. Mr. Cunningham clarified that surrounding properties were zoned R2.

Vice-Mayor Ward moved to approve Ordinance No. 53-2004, Ordinance No. 54-2004 as it pertained to Small Scale Amendment No. 13-2004, and Ordinance No. 58-2004 with conditions outlined by the Planning and Zoning Commission. Member Broome seconded the motion and the roll call was:

Member Rainey yes

Vice-Mayor Ward	yes
Member Broome	yes
Mayor Swank	no

The motion carried.

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City Attorney Severs read, ORDINANCE NO. 56-2004, 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 GOLDEN KNIGHTS BOULEVARD AND WEST OF THE FLORIDA EAST COAST RAILROAD FROM ITS PRESENT PUBLIC USE (P) ZONING CLASSIFICATION TO INDUSTRIAL (M2) ZONING CLASSIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE, the second time by title only.

Planning Administrator Keith Cunningham outlined Ordinance No. 56-2004 as it pertained to Small Scale Amendment No. 11-2004 to rezone approximately 9.9 acres on the south side of Golden Knights Boulevard and west of the FEC Railroad as submitted by John H. Evans, on behalf of Flagler Development Corporation. He highlighted the current zoning of the recently acquired property was no longer appropriate and the requested land use and zoning was consistent with the land use and zoning on adjacent property under the same ownership. He then reported the Planning and Zoning Commission recommended approval at its August 18, 2004 meeting.

Mayor Swank opened the public hearing.

Attorney John Evans, representing the applicant, recommended council approve the application.

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

Member Broome moved to approve Ordinance No. 56-2004 and Ordinance No. 54-2004 as it pertained to Small Scale Amendment No. 11-2004. Member Rainey seconded the motion and the roll call was:

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

The motion carried.

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City Attorney Severs read, ORDINANCE NO. 57-2004, 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 3669 SOUTH HOPKINS AVENUE FROM ITS PRESENT NEIGHBORHOOD COMMERCIAL (NC) ZONING CLASSIFICATION TO OFFICE PROFESSIONAL (OP) ZONING CLASSIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE, the second time by title only.

Planning Administrator Keith Cunningham outlined Ordinance No. 57-2004 as it pertained to Small Scale Amendment No. 12-2004 as submitted by Anne Nelson, on behalf of Thomas Metz, owner. He highlighted that the Office Professional (OP) zoning district was designed to be compatible with residential uses and was partially intended to serve as a buffer or transitional area between such development while occupying larger land areas and that this request met the requirements outlined in the land use policies and future land use map of the comprehensive plan.

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

Member Broome moved to approve Ordinance No. 57-2004 and Ordinance No. 54-2004 as it pertained to Small Scale Amendment No. 12-2004. Vice-Mayor Ward seconded the motion and the roll call was:

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

The motion carried.

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Old Business – City Manager Harmer outlined staff’s request that council give direction and their support of an ordinance, which would extend the current waiver of fees associated with annexations from September 30, 2004 to September 30, 2005. The action would be consistent with activities of other local municipalities and the approval did not obligate council to approve the ordinance, but would authorize staff to conduct research for future consideration by the Planning and Zoning Commission and City Council in September of 2004.

Vice-Mayor Ward moved to continue the annexation action plan for one year and proceed with the preparation of ordinances. Member Broome seconded the motion and it carried unanimously.

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City Manager Harmer outlined staff’s recommendation to authorize the execution of an amendment to the Cocoa/Titusville Water Supply Interlocal Agreement dated April 12, 1994 with the City of Cocoa to provide for rate reduction, extend the agreement in perpetuity, approve balloon payment of \$863,207, and related budget amendment. Mr. Harmer reported the staff of the City of Cocoa reviewed the amendment and it was anticipated that, with one minor revision, it would be presented to the Cocoa City Council at the next scheduled meeting and subject to

final review by the City Attorney. It was recommended that council authorize execution of the second amendment to the interlocal agreement dated April 12, 1994 and approve a budget amendment to transfer funds from the reserve account.

Member Rainey moved to authorize the execution of an amendment to the Cocoa/Titusville Water Supply Interlocal Agreement dated April 12, 1994 with the City of Cocoa to provide for rate reduction, extend the agreement in perpetuity, approve balloon payment of \$863,207, and related budget amendment to transfer funds from the reserve account. Member Broome seconded the motion and it carried unanimously.

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New Business – Member Rainey commented on conversations with citizens that concerned location of carports and requested advise from the City Attorney. City Attorney Severs recommended an ordinance to grandfather carports that met high standards.

Member Rainey moved to direct staff to draft an ordinance to address carports that would grandfather existing carports of certain standards as outlined in the city code. Vice-Mayor Ward seconded the motion.

Mayor Swank asked if the ordinance would include “Carports on Demand” and if building permits would be required. Vice-Mayor Ward clarified that he felt the ordinance would address the process of an inspection method for carports and any necessary setbacks required. Member Broome felt the motion was a common sense approach and desired to avoid creating a financial hardship for citizens.

The motion carried unanimously.

City Manager Harmer asked for clarification that the ordinance would address metal carport or temporary canvas carports. Member Rainey clarified the ordinance would address permanent carports.

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Petitions and Requests from the Public Present – Pete Petyk commented on tree maintenance in the River Oaks, Barna Avenue area in the event of safety and requested the City Manager to look into the issue. Member Broome thanked Mr. Petyk and felt citizens should be compelled to address tree trimming to avoid problems. City Manager Harmer would report back to council on the issue and how the city code related to such maintenance.

Laura Ward thanked council on the re-notification of surrounding property owners on a previously considered conditional use permit. She questioned the tabling procedures on certain applications and felt that by requesting items be tabled to future meetings was a game played by attorneys and applicants.

Vice-Mayor Ward felt games were rare and assured Ms. Ward that council did not play games. Member Broome agreed with Ms. Ward and felt time was wasted in tabling items and

applications should not go before council unless they were complete. Mayor Swank agreed that too many items were tabled and felt items should be voted upon or withdrawn.

Veronica Clifford requested clarification as to the specific reason for the request to table consideration on Ordinance Nos. 47-2004 and 48-2004.

City Manager Harmer clarified the applicant had requested the items be tabled. Member Broome informed Ms. Clifford the applicant was suffering from an illness, which resulted in the request to table item.

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Boards and Commissions – Member Rainey moved to reappoint R. Scott Johnson as a member to the North Brevard Commission on Parks and Recreation to a term to expire August 31, 2006. Vice-Mayor Ward seconded the motion and it carried unanimously.

Member Broome moved to appoint Enrico Pucci as a member to the North Brevard Commission on Parks and Recreation to a term to expire August 31, 2006. Vice-Mayor Ward seconded the motion and it carried unanimously.

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Mayor and Council Reports – Council acknowledged receipt of the Mayor’s Report.

Mayor Swank reported on his attendance at the Florida League of Cities annual conference.

Vice-Mayor Ward reported his attendance at the Titusville Economic Development Commission and announced that Sculptor Charter School would open August 25, 2004.

Member Broome congratulated the Solid Waste Department on their performance. He reported on complaints received from citizens about no law enforcement presence at intersections with traffic lights out. He invited citizens to review the City Manager’s After Action Report for Hurricane Charley.

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City Manager’s Report - Council acknowledged receipt of the City Managers Report.

City Manager Harmer clarified from a discussion previously in the meeting that lawn watering restrictions were still in effect for the city.

City Manager Harmer reported on the budget workshop conducted August 17, 2004 and announced the next workshop would be held August 26, 2004 at 6:30 p.m. Mayor Swank stressed the need for a quorum at the next meeting.

City Manager Harmer read the names of the following employees who had received letters of appreciation: Fire and Emergency Services: Tiffany Ford, Mike Mako, Chris Hitt, and Don Pierce, Police Department: Mark Morgan, Z. Rimoczi, Deadra Andis, Scott Larsson, Steve

Scofield, Cleyton Bray, Dave McCourt, Josh Little, Arthur Esposito, Lisa DiLiberto, Penny Aiken, Jeanne VanZandt, Ralph Warren, Tom Fiorito, J.D. McMartin, and Scott Blizard.

City Manager Harmer reported receipt of correspondence from Brevard County that addressed the removal of Brazilian peppers and vines on riverfront properties located within the City.

City Manager Harmer reported the Department of Community Affairs had reviewed the Comprehensive Plan Amendment adopted May 11, 2004 and found it met the requirements of *Florida Statutes*.

City Manager Harmer reported guidance given staff to develop a pre-annexation analysis of the impact on services and to consider the need for technical assistance in the review process for annexation applications received for large parcels in the Fox Lake Road area.

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City Attorney's Report – City Attorney Severs reported a pending code enforcement matter, which regarded a paintball facility previously approved. He recommended to staff to revoke the permit if conditions could not be met and felt the Code Enforcement process should be taken. If they are not in compliance after such action, the permit should be revoked.

City Attorney Severs reported on a proposed amendment to ethics rules by the Florida Bar Association. The amendment would address whether it was proper for attorneys or clients to contact public officials relative to public hearing items.

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The meeting adjourned at 10:10 p.m.

Ronald G. Swank, Mayor

ATTEST:

Wanda F. Wells, Interim City Clerk