

City Council
Regular Meeting
September 28, 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, September 28, 2004.

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Mayor Swank called the meeting to order at 6:36 p.m. Present were Mayor Swank, Vice-Mayor Ken Ward and Members Chris Broome, and Conrad Eigenmann. Also in attendance were City Manager Tom Harmer and City Attorney Dwight Severs. Member Jeff Rainey 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.

Mayor Swank commented on the efforts of city employees in the aftermath of Hurricane Jeanne. He thanked all employees of the city that worked during and after the storm to ensure city infrastructure remained intact and was proud of what the employees had accomplished.

City Manager Harmer felt the City fared better than most municipalities in Brevard County. He mentioned repairs being conducted at city Hall as a result of storm damage. He was also proud of the performance of employees before, during, and after the hurricane in maintaining continuity of government. He felt the damage throughout the city was not as severe as damage received from Hurricane Frances. He reported the city incurred unbudgeted costs of approximately 2.5 million dollars from recovery operations due to Hurricanes Charley and Hurricane Frances. Hurricane Jeanne would add to the costs and that budget amendments would be presented to council in the future. He thanked council for its support, employees for their dedication and service, and citizens for their patience.

Vice-Mayor Ward recognized the families of city employees and thanked them for their support.

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Approval of minutes – Member Broome moved to approve the minutes of the regular meeting of September 14, 2004 and special meetings of August 17, 2004 and August 26, 2004 as submitted. Member Eigenmann seconded the motion and it carried unanimously.

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Special Recognitions – City Manager Harmer recognized Detective Arthur Esposito of the Police Department as city employee of the month for September 2004. City Manager Harmer recognized other employees nominated including Senior Planner Don Land with the Community Development Department and Administrative Secretary Gwyneth Hensley with the City

Managers Office. City Manager then read from Detective Esposito's nomination that listed his many accomplishments.

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Presentations – Chairman Ted Beck presented council the semi-annual report from the North Brevard Commission on Parks and Recreation. He announced that Terry Lane was recently officially appointed as North Area Operations Manager for Parks and Recreation. He gave a damage assessment on park facilities in the north Brevard area as a result of recent hurricanes and a status report on referendum projects in the area.

Vice-Mayor Ward asked Mr. Beck whether grants or other assistance was considered to assist in the repair of damaged facilities from the hurricanes. Mr. Lane replied that FEMA funds would be used for many repairs and grants were possible.

Member Broome moved to accept the semi-annual report as submitted. Member Eigenmann 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 Eigenmann seconded the motion. Member Broome then read the following items of consent:

- A. Approve the fiscal year 2003-2004 Budgetary Carry Forward List with funds from the current year 2003-2004 budget appropriations per submitted budget amendment.
- B. Award bid to replace the air-conditioning system at the Blue Herron Plant to Atlantic Air Inc. of Cocoa, Florida in the amount of \$29,335. Funds would be used from the unscheduled water and sewer projects account.
- C. Approve Resolution No. 36-2004 naming street in Fairways Edge Subdivision as Par Lane.
- D. Approve amended By-Laws for the Board of Adjustments and Appeals, as submitted.

There was no discussion and the roll call was:

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

The motion carried.

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Petitions and Requests from the Public Present – Kathleen Burson and Lowell Gray representing the Titusville Riverfront Acquisition Political Action Committee announced the winner of the contest for the PAC graphic display for the upcoming campaign. The campaign is to encourage

citizens to vote in favor of the Riverfront Acquisition Referendum at the November 2, 2004 election.

Joan Wheeler did not support an increase on fees for city services including water, sewer, and disposals in the next fiscal year. She opposed an across the board four percent salary increase for city employees. Ms. Wheeler also requested a copy of changes made to the budget. City Manager stated staff would provide changes to Ms. Wheeler.

Michael Myjack commented on city tax revenue history obtained from the Brevard County web site.

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Ordinances, Second Readings, Public Hearings and Related Action – City Attorney Severs read, ORDINANCE NO. 60-2004, AN ORDINANCE OF THE CITY OF TITUSVILLE, FLORIDA, AMENDING SECTIONS 21-241(a) AND 21-241(b) BY AMENDING, MODIFYING AND INCREASING THE WATER AND SEWER SERVICE CHARGES AND RATES AND AMENDING SECTION 21-243(1) BY CHANGING THE DEPOSIT REQUIREMENTS FOR CUSTOMERS ESTABLISHING CREDIT BY WAIVING NEW DEPOSITS UNDER CERTAIN CIRCUMSTANCES; AMENDING SECTION 21-292(1)(a) OF THE CODE OF ORDINANCES BY CHANGING THE RECLAIMED WATER RATES AND CHARGES AND AMENDING SECTION 47-331(4) AND 47-332(c) BY CHANGING THE MULTI-FAMILY SEWER AND WATER TAP ON FEES AND PROVIDING FOR AN EFFECTIVE DATE, the second time by title only.

City Manager Harmer gave a presentation that outlined the budget workshop process. The presentation included council review, budget development, and budget strategies.

City Manager Harmer also gave cost impacts to the general fund that included senior exemption; the phase out of the solid waste transfer; increases in health care costs; and salary increases. He outlined funding of program enhancements, capital outlays, and capital improvement projects.

City Manager Harmer addressed issues raised by council at its first public hearing on September 14, 2004. The issues addressed were:

- A. Full-time employees – City Manager Harmer gave council a report that compared budgeted personnel from fiscal years 2003/2004 and proposed for 2004/2005.
- B. Updated cost recovery worksheet – He then clarified categories of development and non-development addressed on the worksheet.

City Attorney Severs then read ORDINANCE NO. 61-2004, AN ORDINANCE OF THE CITY OF TITUSVILLE, FLORIDA AMENDING SECTIONS 16-116 BY AMENDING, MODIFYING AND ESTABLISHING A FIVE-YEAR RATE PATH AND INCREASING THE RESIDENTIAL, MULTI-FAMILY, AND COMMERCIAL CAN MONTHLY CHARGE FOR SOLID WASTE AND RECYCLING FEES; AMENDING SECTION 16-117 BY AMENDING AND ESTABLISHING A FIVE-YEAR RATE PATH AND INCREASING THE

COMMERCIAL DUMPSTER MONTHLY CHARGE FOR SOLID WASTE AND RECYCLING FEES AND INCREASING THE COMMERCIAL DUMPSTER RENTAL FEES; AND PROVIDING FOR AN EFFECTIVE DATE and

ORDINANCE NO. 63-2004, AN ORDINANCE OF THE CITY OF TITUSVILLE, FLORIDA AMENDING VARIOUS SECTIONS OF THE CODE OF ORDINANCES BY IMPLEMENTING THE CITY OF TITUSVILLE 2004 USER FEE/COST RECOVERY STUDY; BY AMENDING CHAPTER 2 OF THE CODE BY ADDING SECTION 2-88; BY AUTHORIZING THE CITY MANAGER TO IMPLEMENT ADMINISTRATIVE POLICIES, ADMINISTRATIVE PROCEDURES AND USER FEES; AMENDING SECTION 3-4(c)(3); BY CHANGING AND MODIFYING THE SERVICE FEE FOR FALSE ALARMS; AMENDING CHAPTER 6 OF THE CODE OF ORDINANCES BY AMENDING APPENDIX 6(A); BY CHANGING, MODIFYING AND ADDING VARIOUS PERMIT FEES BY IMPLEMENTING THE COST RECOVERY STUDY; BY AMENDING SECTION 9-13 BY CHANGING AND MODIFYING FIRE INSPECTION FEES; AMENDING CHAPTER 39 OF THE CODE OF ORDINANCES BY ADDING A NEW SUBSECTION 39-132 AUTHORIZING VARIOUS UTILITY SITE PLAN AND UTILITY REVIEW PERMITS AND FEES; AMENDING SECTION 47-291 THROUGH 47-299 BY INCREASING, ADDING AND MODIFYING VARIOUS FEES FOR ADMINISTRATIVE REVIEWS, LAND DEVELOPMENT REVIEWS, SITE PLAN APPROVALS, STREET AND RIGHT-OF-WAY REVIEWS AND APPROVAL, SUBDIVISION REVIEWS, ZONING REVIEWS AND APPROVALS; AMENDING SECTION 51-112 BY INCREASING THE INSPECTION FEE FOR SUBDIVISION IMPROVEMENTS; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE and

ORDINANCE NO. 64-2004, AN ORDINANCE OF THE CITY OF TITUSVILLE, FLORIDA, PROVIDING FOR THE MILLAGE FOR THE OPERATION OF THE CITY OF TITUSVILLE; AND PROVIDING FOR AN EFFECTIVE DATE and

ORDINANCE NO. 65-2004, AN ORDINANCE OF THE CITY OF TITUSVILLE, FLORIDA, ADOPTING THE GENERAL AND RELATED BUDGETS OF THE CITY OF TITUSVILLE FOR THE FISCAL YEAR 2004-2005; AND PROVIDING FOR AN EFFECTIVE DATE and

ORDINANCE NO. 66-2004, AN ORDINANCE OF THE CITY OF TITUSVILLE, FLORIDA, ADOPTING THE ENTERPRISE FUND AND CAPITAL IMPROVEMENTS PROGRAM BUDGETS OF THE CITY OF TITUSVILLE FOR THE FISCAL YEAR 2004-2005; AND PROVIDING FOR AN EFFECTIVE DATE, the second time by title only.

Mayor Swank opened the public for comments on Ordinance Nos. 60-2004, 61-2004, 63-2004, 64-2004, 65-2004, and 66-2004.

Michael Myjack was concerned that rate increases and waiving of tap-on fees outlined in Ordinance No. 60-2004 were not justified.

City Manager Harmer clarified the rate increase studies used in the development of the ordinance were financially sound and clarified that tapon fees would not be waived.

Joan Wheeler opposed an across the board salary increase for all employees of the city and commented on the User Fee Cost Recovery Study. She asked for clarification on the fee increase for solid waste collection. She also asked for clarification as to who represented the city in negotiations with labor unions for salary increases. Ms. Wheeler requested copies of any changes made to the proposed budget for fiscal year 2004-2005 since the budget workshop.

Member Eigenmann felt the negotiation process with labor unions was complicated and requested the City Manager clarify the process. City Manager Harmer then briefly clarified the negotiation process between the city and the three separate labor unions. He also explained the executive session meetings held for negotiations with labor unions.

Vice-Mayor Ward clarified that tap-on fees addressed in Ordinance No. 60-2004 were not being waived and that only annexation fees were being waived.

City Manager Harmer acknowledged that changes made to the proposed fiscal year 2004-2005 budget changes would be made available to Ms. Wheeler.

Mayor Swank closed the public hearing.

Member Broome moved to approve Ordinance No. 60-2004 as submitted. Vice-Mayor Ward seconded the motion and the roll call was:

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

The motion carried.

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Member Broome moved to approve Ordinance No. 61-2004 as submitted. Vice-Mayor Ward seconded the motion and the roll call was:

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

The motion carried.

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Member Broome moved to approve Ordinance No. 63-2004 as submitted. Vice-Mayor Ward seconded the motion and the roll call was:

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

The motion carried.

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City Manager Harmer clarified the millage rate and highlighted the difference between the rollback rates, which was approximately \$140,000. He gave an estimated impact to the budget that would have seventy five percent (75%) of the costs refunded by the federal government.

Vice-Mayor Ward moved to approve Ordinance No. 64-2004 with a millage rate of 5.8504 at 3.12% above the rollback rate. Member Broome seconded the motion and the roll call was:

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

The motion carried.

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Member Broome moved to approve Ordinance No. 65-2004 as submitted. Vice-Mayor Ward seconded the motion and the roll call was:

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

The motion carried.

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Member Broome moved to approve Ordinance No. 66-2004 as submitted. Vice-Mayor Ward seconded the motion and the roll call was:

Mayor Swank	yes
Member Eigenmann	no
Vice-Mayor Ward	yes

Member Broome

yes

The motion carried.

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City Attorney Severs then read, ORDINANCE NO. 62-2004, AN ORDINANCE OF THE CITY OF TITUSVILLE, FLORIDA, AMENDING ORDINANCE NO. 14-2004 BY RE-IMPOSING COMMERCIAL IMPACT FEES EFFECTIVE OCTOBER 1, 2004 CONTINUING THE SUSPENSION OF INDUSTRIAL IMPACT FEES; AND PROVIDING FOR AN EFFECTIVE DATE the second time by title only.

City Manager Harmer outlined the ordinance that would reinstate fees for commercial construction at \$0.18 per square foot. He gave staff's recommendation to approve the ordinance based upon new commercial construction that could generate \$20,000 in new impact fees.

Mayor Swank opened the public hearing.

Charles Moehle opposed adoption of the ordinance and felt it would have a negative impact on future commercial development within the city.

Mayor Swank closed the public hearing.

Vice-Mayor Ward moved to deny Ordinance No. 62-2004. Mayor Swank seconded the motion for discussion and felt larger chain stores budgeted impact fees but smaller businesses may not be able to pay the additional fee. He supported commercial development in Titusville, but felt recent hurricanes may deter future commercial development.

Member Broome called for the vote and the roll call was:

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

The motion carried and the ordinance was denied.

Mayor Swank recommended the item be included in future goals workshops.

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City Attorney Severs then read, ORDINANCE NO. 59-2004, AN ORDINANCE OF THE CITY OF TITUSVILLE, FLORIDA AMENDING SECTION 21-1 OF THE CODE OF ORDINANCES BY TEMPORARILY SUSPENDING PROVISIONS RELATING TO EXTENSION OF WATER/SEWER/RECLAIMED WATER SERVICES TO NON CONTIGUOUS PROPERTIES; AMENDING SECTION 47-298 OF THE LAND

DEVELOPMENT REGULATIONS BY WAIVING THE ANNEXATION FEES AND ASSOCIATED ADVERTISING FEES UNTIL SEPTEMBER 30, 2005; AND PROVIDING FOR AN EFFECTIVE DATE, the second time by title only.

City Manager Harmer outlined the ordinance that would extend the annexation fee waivers and suspend provisions related to the extension of water/sewer/reclaimed water services to non-contiguous properties until September 30, 2005.

Mayor Swank opened the public hearing.

Michael Myjack opposed adoption of the ordinance and was concerned as to who would pay for the extension of service. He felt annexation fees should be collected in order to assist in paying for schools and roads.

City Manager Harmer clarified that developers were responsible for paying for the extension of service lines and that negotiated payback agreements would be established for those developments over time as individual property owners purchase property.

Charles Moehle supported adoption of the ordinance and felt the ordinance provided no “free ride” to anyone.

Mayor Swank closed the public hearing.

Member Broome moved to approve Ordinance No. 59-2004 as submitted. Vice-Mayor Ward seconded the motion and the roll call was:

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

The motion carried.

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City Attorney Severs then read, ORDINANCE NO. 67-2004, AN ORDINANCE OF THE CITY OF TITUSVILLE, FLORIDA, AMENDING THE DEFINITION OF SETBACK AS CONTAINED IN SECTION 27-11 OF THE LAND DEVELOPMENT REGULATIONS; CREATING SECTION 59-33.5 RELATING TO DRIVEWAY CLEAR ZONES, AMENDING SECTION 59-34 OF THE LAND DEVELOPMENT REGULATIONS RELATING TO FENCES AND WALLS; AND PROVIDING FOR AN EFFECTIVE DATE, the second time by title only.

City Manager Harmer outlined the ordinance that was created as a result of a recommendation from the Board of Adjustments and Appeals at its July 28, 2004 meeting. The board moved to request council consider the ordinance amending Section 27-11 as it applied to the definition of

setbacks, Section 59-34 as it applied to fences, and also directed staff to include language in the ordinance to address sight clearance where driveways exit a property.

Mayor Swank opened the public hearing. No citizens wish to speak and the public hearing was closed.

Member Eigenmann moved to approve Ordinance No. 67-2004 as submitted. Member Broome seconded the motion.

Mayor Swank suggested Section 2 of the proposed ordinance be eliminated. He felt property rights would be infringed upon. Member Eigenmann felt the language in the section was intended to address safety and ask Planner Don Land to clarify the language. Mr. Land clarified that safety reasons led to the language in Section 2.

Vice-Mayor Ward asked Mr. Land if all properties within the City would be affected by the ordinance. Mr. Land deferred to the City Attorney and Mr. Severs clarified that perspective property owners for anything new after the effective date of the ordinance would be subject to its contents. Vice-Mayor Ward supported the Mayor's objection.

Member Eigenmann amended the motion to approve Ordinance No. 67-2004 with Section 2 of the ordinance deleted. Member Broome's second held and the roll call was:

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

The motion carried.

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City Attorney Severs then read, ORDINANCE NO. 68-2004, AN ORDINANCE OF THE CITY OF TITUSVILLE, FLORIDA, AMENDING ARTICLE III TO THE CITY CODE TO CHANGE THE REQUIRED NUMBER OF SPACES FOR MULTI-FAMILY HOUSING. THE DIMENSIONS FOR PARKING SPACES TO ALLOW FOR LARGER PARKING STALLS, TO REMOVE COMPACT PARKING SPACE REQUIREMENTS, AND PROVIDING FOR AN EFFECTIVE DATE, the second time by title only.

City Manager Harmer outlined the ordinance that would amend the parking regulations to require larger parking spaces. He reported that in reviewing recent private and public development designs, staff noticed an increased number of requests from residents and city officials for larger parking spaces due to the average increase in vehicle sizes and that the proposed ordinance drafted by staff adequately addressed the requests.

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

Vice-Mayor Ward felt an effective date of thirty days should be established.

Member Eigenmann moved to approve Ordinance No. 68-2004 as submitted with an effective date of November 1, 2004. Member Broome seconded the motion and the roll call was:

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

The motion carried with effective date as November 1, 2004.

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Petitions and Requests from the Public Present – Tiffany Johnson requested clarification of the purpose of 20/20 meetings by the city. She requested a copy of manual used for the meetings. She commented on a reported presentation by a citizen at a past 20/20 meeting and felt the citizen did not represent her as a property owner. She also felt that the meetings were not properly noticed.

City Manager Harmer clarified the purpose of 20/20 meetings were a result of past visioning meetings and the various community members involved in the meetings only provided issues for the city manager to consider as future issues to be reviewed by city council.

Member Broome departed the meeting at 8:18 p.m.

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Boards and Commissions – Member Eigenmann moved to reappoint Greg Aker as a member of the Community Redevelopment Agency to a four-year term to expire September 30, 2008. Vice-Mayor Ward seconded the motion and it carried unanimously.

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Vice-Mayor Ward moved to reappoint Rod Northcutt and Walter Santschi as regular members to the North Brevard Library Board for two-year terms to expire September 30, 2006. Member Eigenmann seconded the motion and it carried unanimously.

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Council acknowledged the membership of the Titusville Student Advisory Council for the 2004-2005 school year as follows:

Kevin Chapla – Titusville High School	Priti Modi – Titusville High School
Travis Clinger – Astronaut High School	Amit Patel – Astronaut High School
Jessica Dew – Astronaut High School	Justin Roth – Titusville High School

Douglas Doud – Astronaut High School Katie Schuler – Titusville High School
Leah Greenblum – Astronaut High School Emily Williams – Astronaut High School
Shannon Hurst – Titusville High School

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

Mayor Swanked thanked all city employees for their hurricane recovery efforts.

Vice-Mayor Ward gave a heart-felt acknowledgement to the citizens and employees of Titusville.

Member Eigenmann asked for the citizens’ patience with city clean-up efforts due to the hurricanes.

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

City Manager Harmer read the names of the following employees of the Police Department who had received letters of appreciation:

Lisa DiLiberto
Ed Bryant

Doug Massey
Tom Fiorito

Dana Gondek

City Manager Harmer reported the city was chosen to receive an Assistance to Firefighters Grant. He then reported that the Florida League of Cities had notified the City that the City’s Downtown Façade Improvement Program was featured in the 2004 edition of *City Innovations Showcase* magazine.

City Manager Harmer reported an ordinance on new landscaping and tree protection would be placed on the agenda for first reading at the November 8, 2004 regular city council meeting and that building permit fees were waived in the aftermath of Hurricanes Charley, Frances, and Jeanne.

City Manager Harmer provided council a FEMA Action Plan and reported a supplemental budget amendment to address unbudgeted costs associated with hurricane recovery would be provided in the near future.

City Manager Harmer reported an internal review was being conducted to determine the benefits of a north area police precinct. He advised the Brevard County Commission had delayed the effective date of the School Impact Fee ordinance for thirty days, making the new effective date as October 24, 2004. He reported the city was advised by Bright House Networks that it could accommodate the request for the capability of switching to SCGTV, NASA or church programming in lieu of the normal city government programming and that the change would be made by September 30, 2004.

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City Attorney's Report – City Attorney Severs provided council an update on current litigation filed against the City of Titusville by Brevard County, Titusville/Cocoa Airport Authority, and the Rio del Sol case.

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Mayor Swank acknowledged Interim Executive Director for Community Development Hugh Williams for his service as Municipality Liaison at the Brevard County Emergency Operations Center during the recent hurricanes.

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The meeting adjourned at 8:37: p.m.

Ronald G. Swank, Mayor

ATTEST:

Wanda F. Wells, Interim City Clerk