

City Council
Regular Meeting
October 12, 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, October 12, 2004.

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Mayor Swank called the meeting to order at 6:35 p.m. Present were Mayor Swank, and Members Chris Broome and Jeff Rainey. Also in attendance were City Manager Tom Harmer, City Attorney Dwight Severs, and Recording Secretary Judy Renaud. Vice-Mayor Ken Ward and Member Conrad Eigenmann were absent. Member Eigenmann arrived at 7:41 p.m.

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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 the procedures for public comment.

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Approval of Minutes Member Broome moved to approve the minutes of the regular meeting September 28, 2004. Member Rainey seconded the motion. The motion carried unanimously.

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Presentations Dockmaster Mark Leslie presented an overview on the Titusville Municipal Marina. He reported that the ship's store was in the process of being expanded. He provided an update on the damage from Hurricane Charley, Frances, and Jeanne; and reported on the Marina's business plan. A study by the University of Central Florida identified a need for the implementation of an infrastructure replacement plan. Staff reviewed and evaluated the rates and it was determined to increase rates to maintain competitive pricing and to meet the needs of the Marina. Staff would use a phased-in approach to increase the rates.

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

- A. Approve amendment to deed restrictions for Meadowridge Subdivision. Recommendation: to approve as submitted.

The motion carried unanimously.

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Petitions and Requests from the Public Present Al Guterrez opposed the city's riverfront acquisition and county's EELS referendums on the November 2, 2004 ballot.

Jim Lathrop, a resident of the Titusville Municipal Marina presented a petition opposing the thirty percent (30%) rate increase. He suggested the increase be kept to a more reasonable rate.

John Kaufman reported that the petition submitted by Mr. Lathrop had over 100 names and was developed to allow the Marina Staff to understand the tenants' viewpoint on the increase. After discussion with staff, it was his opinion that the tenants were able to work with the proposed plan.

Mayor Swank clarified that the phased-in approach for the rate increase for the current tenants would begin January 2005. New boaters were subject to the increase November 2004.

Daniel Burdell expressed concern for the elderly living in the Titusville Towers who were evacuated during the hurricanes. When the shelters were closed, there was some elderly unable to return to their apartments and were without housing.

It was noted that the residents of the Titusville Towers were evacuated for Hurricane Frances and Hurricane Jeanne. The elderly were transported to special needs or other shelters.

Laura Ward, a member of the Titusville Housing Authority, reported that some of the ALF residents were transported to Deland, Florida. The Titusville Housing Authority contacted family members and residents were transported to shelters for safety reasons. There was water damage to the units and the authority made every effort to repair the units in a timely manner. There were eleven units damaged and she invited council to tour the building.

Mayor Swank recommended Ms. Ward meet with Mr. Burdell and suggested a checklist to verify where the residents were transported and why they were evacuated from their home.

Rose Easley expressed concern with the Towne Realty project on Riveredge Drive. She requested assurance that the developer would install a public sidewalk. She was not in favor of a gated access on Riveredge Drive. She also reported on a meeting with the developer, the city, and the residents.

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Ordinances- First Reading Attorney Severs read ORDINANCE NO. 69-2004 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 LYING ON THE NORTH SIDE OF CHENEY HIGHWAY (STATE ROAD 50) EAST OF HICKORY HILL BOULEVARD FROM ITS NEIGHBORHOOD COMMERCIAL (NC) CLASSIFICATION TO COMMUNITY COMMERCIAL (CC) CLASSIFICATION AND PROVIDING FOR AN EFFECTIVE DATE; and

ORDINANCE NO. 70-2004 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 ON THE NORTH SIDE OF KNOX MCRAE DRIVE WEST OF MELROSE AVENUE FROM GENERAL USE (GU) AND OPEN SPACE AND RECREATION (OR) TO SINGLE-FAMILY MEDIUM DENSITY RESIDENTIAL (R-1b) AND OPEN SPACE AND RECREATION (OR) CLASSIFICATIONS AND PROVIDING FOR AN EFFECTIVE DATE; and

ORDINANCE NO. 71-2004 AMENDING ORDINANCE NO. 5-1993 FOR THE CITY OF TITUSVILLE, FLORIDA, BY AMENDING THE ZONING MAP MADE A PART OF SAID ORDINANCE BY REFERENCE BY CHANGING PROPERTY LOCATED ON THE WEST SIDE OF SOUTH SINGLETON AVENUE AT THE INTERSECTION OF GROVE STREET FROM RESIDENTIAL ESTATE (RE) TO MULTI-FAMILY MEDIUM DENSITY RESIDENTIAL (R2) CLASSIFICATION AND PROVIDING FOR AN EFFECTIVE DATE and

ORDINANCE NO. 72-2004 OF THE CITY OF TITUSVILLE, FLORIDA, AMENDING SECTION 7, CHAPTER 63-2001, LAWS OF FLORIDA, SPECIAL ACTS OF 1963, BY ANNEXING CERTAIN PROPERTY LOCATED ON RIVEREDGE DRIVE APPROXIMATELY 1,178 FEET SOUTH OF THE NORTHERN TERMINUS OF RIVEREDGE DRIVE TO BE INCLUDED WITHIN THE CITY LIMITS AND PROVIDING FOR AN EFFECTIVE DATE; and

ORDINANCE NO. 73-2004 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 PROPERTY 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 PROPERTY LOCATED ON RIVEREDGE DRIVE APPROXIMATELY 1,178 FEET SOUTH OF THE NORTHERN TERMINUS OF RIVEREDGE DRIVE TO BE ANNEXED INTO THE CITY WITH MEDIUM DENSITY RESIDENTIAL LAND USE; 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 ON SOUTH WASHINGTON AVENUE APPROXIMATELY 1,178 FEET SOUTH OF THE NORTHERN TERMINUS OF RIVEREDGE DRIVE FROM COMMERCIAL HIGH INTENSITY TO MEDIUM DENSITY RESIDENTIAL DESIGNATION AND PROVIDING FOR AN EFFECTIVE DATE AND

ORDINANCE NO. 74-2004 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 DESIGNATING PROPERTY LOCATED ON RIVEREDGE DRIVE APPROXIMATELY 1,178 FEET SOUTH OF THE NORTHERN TERMINUS OF RIVEREDGE DRIVE AS MULTI-FAMILY MEDIUM DENSITY

RESIDENTIAL (R2) CLASSIFICATION; 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 ON SOUTH WASHINGTON AVENUE APPROXIMATELY 1,178 FEET SOUTH OF THE NORTHERN TERMINUS OF RIVEREDGE DRIVE FROM LIGHT INDUSTRIAL SERVICES AND WAREHOUSING (M1) TO MULTI-FAMILY MEDIUM DENSITY RESIDENTIAL (R2) CLASSIFICATION AND PROVIDING FOR AN EFFECTIVE DATE for the first time by title only. The second readings and public hearings were scheduled for October 26, 2004.

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Ordinances-Second Reading, Public Hearings and Related Action City Manager Harmer recommended the City Council hold a Public Hearing on the use of 2004 Local Law Enforcement Block Grant funds of \$29,245.00 and approve the use of Forfeiture funds for the \$3,249.00 as a matching requirement for a total of \$32,494.00. Staff submitted a proposal for the use of these funds. An Advisory Committee reviewed and approved the use of funds as follows: 1. Selective Traffic Enforcement, \$12,364.00; 2. Domestic Violence Cases Prevention/Follow-up/Enforcement, \$9,300.00; and 3. Career Criminals Follow-up/Enforcement \$10,830.00 for a total of \$32,494.00.

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

Member Rainey moved to approve the use of 2004 Local Law Enforcement Block Grant fund of \$29,245.00 and the use of Forfeiture funds for \$3,249.00 as a matching requirement for a total of \$32,494.00. Member Broome seconded the motion. The motion carried unanimously.

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The only item under old business was the small area plan for Riveredge Drive. Mayor Swank expressed concern that two council members, who would remain on Council after the election, were not present.

Member Rainey moved to table discussion on the small area plan for Riveredge Drive to the October 26, 2004 meeting. Member Broome seconded the motion. The motion carried with Mayor Swank voting no.

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The first item under new business was appeal public service commission farmton certification for water service. City Manager Harmer reported in January, 2003, city council authorized outside Counsel Ed de la Parte to file an objection to the Farmton Water Resources application for an original certificate to provide water services to acreage owned by Miami Corporation in Brevard and Volusia counties. On September 21, 2004, the Public Service Commission (PSC) approved the Farmton application and adopted the staff recommendation, which found that there was a demand for services within the area of the proposed certificate. Based on the fact that the city's substantial interests would be adversely affected if the PSC order were unchallenged,

Attorney Ed de la Parte recommended that the city appeal the order. On September 28, 2004, the Brevard County Commission approved an appeal of the PSC order. In addition, on September 15, 2004, the St. Johns River Water Management District (SJRWMD) issued a Notice of Intent to issue a consumptive use permit for the Area IV well field. The consumptive use permit was scheduled before the SJRWMD governing board on November 9, 2004. It was recommended that city council authorize an appeal of the PSC's approval of Farnton Water Resources application for Original Water Service Certificate in Brevard and Volusia counties and approve \$50,000 for assistance of an outside Counsel. Funding was available in the Water Resources Department, Account 402.555.580.65-00, Project WC0210.

Member Broome moved to authorize an appeal of the PSC's approval of the Farnton Water Resources application and approved \$50,000 for the assistance of an outside counsel as submitted. Member Rainey seconded the motion. The motion carried unanimously.

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The final item under new business was the Shoreline Mixed Use (SMU) High-Residential Development on the West Side of Washington Avenue. City Manager Harmer reported that staff had received numerous inquiries regarding developing/redeveloping property on the west side of Washington Avenue as high-rise condominiums/mixed use developments. The current land use categories and zoning districts on the west side of Washington Avenue did not permit those types of residential development and the SMU land use had not been applied to the west side of Washington Avenue. The city has a SMU land use category and a SMU zoning designation. Currently, all SMU land use and zoning was located on the east side of Washington Avenue. Both the Comprehensive Plan and the *Land Development Regulations* provided location criteria for the SMU. Additionally, through the Conditional Use Process, additional building height over fifty feet and additional residential density (not to exceed 20 units per acre) could be requested. During the visioning workshops, council indicated a desire to encourage high rise development on the west side of Washington Avenue instead of development on the east side of Washington Avenue. City Manager Harmer distributed a map indicating existing/approved projects five stories or greater and potential/current applications on file or inquiries regarding future development/redevelopment for projects five stories or greater. Staff requested clarification from council as it related to the development of residential high rise buildings on the west side of Washington Avenue.

Jim DiRiso, a financial consultant, reported on the closing of franchises in the U. S. Highway One Corridor and the loss of small businesses in the area.

John Evans, attorney, felt the ordinance presently allowed for development on the west side of Washington Avenue. He asked for an interpretation from the city attorney.

Mayor Swank indicated that the future land use map showed that the SMU was directly on the east side of Washington Avenue. He provided the following suggestions: 1. The west side be called Titusville Mixed Use (TMU). 2. That R3 zoning be allowed for residential, mixed use, commercial development. 3. Suggested that the SMU ordinance be changed to allow a maximum of 50 feet height requirement. 4. The west side of U. S. Highway One was allowed development

over the 50-foot height requirement. 5. The areas included State Road 50 north to where the downtown mixed use ends and from the Florida East Coast Railroad on the west to U. S. Highway One on the east.

Member Conrad Eigenmann arrived at 7:41 p.m.

Member Eigenmann stated this was an important issue to the council and city. In the visioning meetings, there were discussions about promoting growth on the west side of U. S. Highway One. There were a variety of perceptions on the current SMU ordinance and how it was interpreted by the developer, the city, and the council. There were several issues and clarifications to be addressed, especially when the council considered development in other areas. Member Eigenmann stated that he was pro-growth on the west side of U. S. Highway One. He expressed the following issues: 1. The use of properties on both side of U. S. Highway One to deal with density. 2. There was a stair-step issue. 3. To encourage developers to build on the west side and to encourage growth in certain areas. 4. To consider the existing residents living on the west side of U. S. Highway One. There were vacant areas that would be developed adjacent to existing single-family homes.

Attorney Severs advised that upon review of the Comprehensive Plan, the Future Land Use Map, and the Land Development Regulation's the Shoreline Mixed Use was not intended to be applied to the west side of U. S. Highway One. During the review, there was not language on the U. S. Highway One Corridor but the SMU ordinance considered the Indian River/Washington Avenue corridor. In addition, there was a shoreline mixed-use district that was well defined in the *Code of Ordinances*.

Member Rainey moved to authorize city staff and city attorney to prepare an ordinance outlining the issues presented this evening and in previous visioning meetings to provide development on the west side of U. S. Highway One. Member Eigenmann seconded the motion. Discussion ensued.

Mayor Swank clarified that the south terminus was State Road 50, from the Florida East Coast Railroad to U. S. Highway One.

Member Rainey suggested that the proposed ordinance address the City limits. Member Eigenmann agreed.

The motion carried unanimously.

City Manager Harmer stated that the Comprehensive Plan change would be a six-to-nine month process.

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Mayor and Council Reports – Council acknowledged receipt of the Mayor's written report.

Member Eigenmann stated that there was a misunderstanding among residents in North Brevard County regarding the city's intent about water service in that area. He suggested that the city

convey to those residents that the city was not going to annex and/or require hook-up to water. The city was only planning a 20-year strategy for its water supply.

Mayor Swank commented that it was not the city's intent to expand the southern and northern boundaries. Member Broome had talked with people about these issues. Economically, it was not feasible for the City to annex. Member Rainey suggested that after the election in January, 2005, the City send a letter to residents in the Mims and Scottsmoor areas to set the record straight.

Mayor Swank commented on the NAACP annual Freedom Fund Banquet.

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City Manager's Report Council acknowledged receipt of the City Manager's Report.

City Manager Harmer requested approval for a joint meeting with the Titusville/Cocoa Airport Authority regarding its pending lawsuit regarding Sculptor School. The meeting would begin at 5 p.m. There were several dates presented for council's consideration. City Council discussed holding the meeting in the Council Chamber to allow for the meeting to be recorded for broadcasting. Member Rainey moved to hold a joint meeting on Wednesday, November 10, 2004, beginning at 5 p.m., in the Council Chamber. He further authorized the meeting to be recorded and televised. Member Broome seconded the motion. The motion carried unanimously. Council discussed the need for a facilitator. Member Rainey moved to authorize a facilitator at the discretion of the city attorney. Attorney Severs reported that the Conflict Resolution meeting was very brief and there was not an offer extended to the city. The motion failed for a lack of a second.

City Manager Harmer read the names of the following employees who received letters of appreciation: City Attorney Dwight Severs; Community Development Cindy Wilson and Brenda Evans; Police Department Jerry Babcock, Tony Bollinger, Arthur Esposito, and Bob Kelly; Public Works Department the Solid Waste Division.

City Manager Harmer reported that all of the requested changes by council were incorporated in the Fiscal Year 2004/2005 adopted Budget.

It was announced that the Titusville Police Department's SIS and CIS units received the *Outstanding Law Enforcement* award for 2003/2004 Crimeline.

A status report was enclosed regarding council's request for the preparation of an ordinance to update standards for carports. Based on the current schedule, the ordinance would be on the first meeting in November for Public Hearing.

The following special meetings/upcoming events were announced: October 17, 2004, Fallen Fire Fighter's Memorial, Fire Station #11, 11 a.m.; October 23, 2004, 8th Annual Policeman's Ball, La Cita Country Club, 7:00 p.m.; October 27, 2004, Teacher Appreciation Ceremony, St.

James AME Church, 6:30 p.m.; and October 28, 2004 City's annual Boards and Commissions Reception, North Brevard Senior Center, 6:30 p.m.

Member Rainey commented on a trip he took to St. Petersburg where he took the back roads and noticed the lack of clean-up of debris. He thanked the city employees for their clean-up efforts.

Member Eigenmann also mentioned that the city was working very diligently to pick up hurricane debris while continuing with the daily obligations. He asked the citizens to be patient.

Mayor Swank announced that citizens could report debris on the city's home page (www.titusville.com) or call the city.

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City Attorney's Report – Attorney Severs reported that a brief had been filed in the Rio Del Sol lawsuit. There was a 20-day time frame to file a reply. A copy was sent to the City Manager's and City Clerk's office.

Attorney Severs stated he appeared before the Board of County Commissioners this morning concerning the Great Outdoors expansion and the County's DRI transmittal to DCA. He indicated a willingness to meet with the Great Outdoors before the trial date of November 2, 2004.

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The meeting adjourned at 8:15 p.m.

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Ronald G. Swank, Mayor

ATTEST:

Jeanee Claus, City Clerk