

City Council  
Regular Meeting  
November 9, 2004

The City Council of the City of Titusville, Florida met in regular session on Tuesday, November 9, 2004 in the Council Chamber of City Hall, 555 South Washington Avenue, Titusville, Florida.

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Present were Mayor Ron Swank, Vice-Mayor Ken Ward, and Council Members Chris Broome, Conrad Eigenmann, and Jeff Rainey. Also in attendance were City Attorney Dwight Severs, City Manager Tom Harmer, City Clerk Jeaneen Clauss, and Assistant City Clerk Wanda Wells.

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Mayor Swank announced that the City Council would continue its meeting of October 26, 2004 beginning with Petitions and Requests from the Public Present. He called the meeting to order at 6:42 p.m.

Petitions and Requests from the Public Present Citizens signed up at the October 26<sup>th</sup> meeting were Joan Wheeler, Laura Ward, and Kathleen Burson. Present was Kathleen Burson and she did not wish to speak at this time.

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Mayor and Council Reports Mayor Swank provided a written report.

Mayor Swank commented on attending the Fallen Firefighters Memorial Service on October 17, 2004 and the Student Advisory Council meeting on October 19, 2004.

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City Manager Report City Manager Harmer provided a written report.

City Manager Harmer read letters of appreciation for Community Development: Hugh Williams; Police Department: Erich Barrett, Mel Williams, Bill Amos, "Z" Rimoczi, Gary Boyer, Todd Murphy, Dave McCourt, Alexia Ferran, and Victor Rodriguez; Public Works Department: Solid Waste Division.

City Manager Harmer advised Space Coast League of Cities requested municipalities to provide their top three legislative priorities for 2005. A list prepared by the Executive Leadership Team would be presented to council at the end of the November 9, 2004 meeting during the City Manager's Report.

City Manager Harmer advised Conflict of Resolution meeting with the Titusville-Cocoa Airport Authority that was scheduled for November 10, 2004 was cancelled and would be rescheduled. Proposed dates were December 7, 2004, December 8, 2004, or December 9, 2004. Member Eigenmann moved to scheduled meeting on December 7, 2004 or December 9, 2004. The preferred date was December 7, 2004. Vice-Mayor Ward seconded the motion and it carried unanimously.

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City Attorney's Report Attorney Severs had no report.

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The meeting adjourned at 6:54 p.m.

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Mayor Swank announced that the meeting of November 9, 2004 would begin at this time.

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Mayor Swank called the November 9, 2004 meeting to order at 6:55 p.m. and invited Pastor Dennis Bell with St. James A.M.E. Church to give the invocation. The entire assembly recited the Pledge of Allegiance to the Flag.

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The first matter of business was approval of minutes of regular meeting October 26, 2004 and special meeting November 4, 2004. City Manager Harmer stated Laura Ward requested a change in the October 26, 2004 minutes where she spoke under public hearings regarding Small Scale Amendment No. 14-2004 to include additional language stating the condition of her support for Ordinance Nos. 72-2004, 73-2004, and 74-2004. The condition of Ms. Ward's support was for the project to be the last multifamily project on Riveredge Drive. Member Eigenmann moved to accept the minutes as corrected. Vice-Mayor Ward seconded the motion and it carried unanimously.

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Special Recognitions Mayor Swank and City Manager Harmer recognized area businesses and entities for their efforts during the Hurricanes of 2004. Each business was honored with a plaque. Businesses and entities represented at meeting were Brevard County Transportation Engineering Division – John Denninghoff and Dave Russo, CVS Pharmacy – Jack McFarland, Durango's Steakhouse – Nick Scott, Kelsey's Pizza – Nick Iltsoopoulos, Titusville Chamber of Commerce – Marcia Gaedcke, Walmart Supercenter – Mitch Day, and Watkins Oil Company – Jack Faulkner. Others unable to attend were HAS Engineers and Scientists – Jeff Ratliff, Sonny's Bar-B-Q – Bob Chapman, Wild Ocean Seafood Market – Laurilee Thompson, Winn Dixie Store #2209 – Paul Franks, After Disaster, Knight Industries, Mr. Submarine, Show Time Deli, and Suntrust Bank.

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City Manager Harmer recognized Nancy Dresser as the new Housing and Community Development Director. Ms. Dresser has worked as the city's Housing and Community Development Planner for the past eight years and was recently appointed as the Housing and Community Development Director.

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Mayor Swank recognized Members Broome and Rainey for their hard work and dedication serving as city council as this would be their last city council meeting. Both members received plaques. Members Chris Broome and Jeff Rainey gave thanks to family, council, and staff. Member Rainey gave special thanks to City Manager's Administrative Assistant Karen Hood for her friendship and assistance during his tenure.

Member Eigenmann asked Member Rainey if he could be called upon to discuss future water needs since he completed research on this issue during his time as a council member. Member Rainey agreed.

Vice-Mayor Ward and Member Eigenmann also stated a few kind words of both Members Broome and Rainey.

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Presentations Chief Operator/Pre-Treatment Specialist Robert Harrison gave a brief overview of the operations of the water reclamation plant. Mr. Harrison presented a powerpoint presentation highlighting the water reclamation facilities, water reclamation division, and water reclamation division core functions.

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Consent Agenda Member Broome moved to approve the following consent agenda items in accordance with recommendations.

- A. Approve the award of \$51,590 in FY03/04 and FY04/05 Community Housing Development Organization (CHDO) funds to North Brevard Charities Sharing Center and accept Brevard County HOME Consortium CHDO funds in the amount of \$248,410 to fund the Transitional Housing Project.
- B. Approve the proposed strategies for the FY2005-2010 Consolidated Plan, which allows staff to begin preparing the Consolidated Plan document and approve the FY05/06 request for proposals process for CDBG and HOME funds.
- C. Approve awarding a task order to Baskerville-Donovan, Inc. (BDI) in the amount of \$92,500 to provide design, permitting, and bidding services for the Osprey Plant Residuals Processing Upgrade Project, as part of their continuing engineering services agreement with the City.
- D. Approve a sole source contract with Baker's Transport Service, Inc. of Lakeland, Florida to transport lime slurry from the Mourning Dove water treatment plant at an estimated cost of \$33,000 per year.
- E. Award bid for the purchase of commonly needed automobile parts and components to the low bidder, Bennet Auto Supply of Titusville, Florida for a total not-to-exceed \$175,000. In award secondary bid to Stadley Auto Parts of Titusville, Florida for a total not-to-exceed \$75,000. Both of these bid awards are for use on an annual as-needed basis.
- F. Approve the cancellation of the second regular City Council meeting in December (December 28, 2004). A special meeting may be added, if needed.
- G. Approve Resolution 38-2004 authorizing the clean-up of petroleum contamination on City property located at 4660 Sisson Road along; authorizing execution of related agreements with Florida Department of Environmental Protection and Ardaman & Associates, Inc. of Cocoa, Florida for said clean-up effort, in a not-to-exceed amount of \$54,862.50.

Member Eigenmann seconded the motion. The roll call was:

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

The motion carried.

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Petitions and Requests from the Public Present The following citizens spoke in support of the Titusville Towers and Executive Director Bob Lambert's actions during the Hurricanes: Joan Gray of 405 Indian River Avenue, Rhoda Garland of 405 Indian River Avenue, Bob Weld of 405 Indian River Avenue, Edward Bryant of 405 Indian River Avenue, and Agnes Smith of 405 Indian River Avenue.

Carol Gainer, daughter of mother that lives at 405 Indian River Avenue, opposed the actions taken by Executive Director Bob Lambert during the Hurricanes and distributed pictures to council. She was concerned about personal property being moved from resident's home without permission. She also expressed concern of plumbing and other living conditions.

Lowell Gray of 2580 White Oak Lane Drive commented on the Riverfront Referendum and distributed a written request for council to temporarily stop granting conditional use permits allowing height deviations on the Indian River Lagoon. He also requested council take the necessary time before considering any additional conditional use permits to assure the usage of the Indian River Waterfront. He continued by asking council to make use of Rule 13 to vote again on Conditional Use Permit No. 13-2004 that was approved at the October 26, 2004 city council meeting by a three to one decision.

Joe O'Doherty of 4594 Helena Drive commented on living in Titusville. He supported a clear view of the river. He also stated that he supported planned growth and would like to see businesses developed that offer shopping and additional restaurants. He requested a Rule 13 on the Conditional Use Permit No. 13-2004 that was approved at the October 26, 2004 city council meeting.

Kathleen Burson of 385 Delespine Avenue commented on high-rise buildings and maximizing public access. She requested council rule 13 Conditional Use Permit No. 13-2004 that was approved at the October 26, 2004 city council meeting. She also thanked council for approving to put the riverfront referendum on the November 2, 2004 ballot. She distributed information relating to conditional uses along with a petition signed by citizens of Titusville requesting the city not allow any new high rise buildings on the east side of U.S. Highway One and that there be no allowed increase in the height of buildings on the west side until a master plan vision was approved describing in words, graphics, plan view, and elevation - how the corridor would be developed/redeveloped.

Bill Tumblin of 325 Indian River Avenue expressed concern of the vision for city. He requested a rule 13 on Conditional Use Permit No. 13-2004 that was approved at the October 26, 2004 city council meeting. He also commented on letter received from Miracle City Mall dated November 9, 2004 requesting council to postpone development on Harrison Street.

John Evans of 1702 South Washington Avenue representing applicant for Conditional Use Permit No. 13-2004 advised council that his client had already spent money on project based on approval at the

October 26, 2004 city council meeting. He also expressed concern if council rendered a rule 13 on said project.

Frances Riley of 506 Lake Drive advised council and citizens of several events during the current week of Veterans Day. He invited council and citizens to attend.

Tiffany Johnson of 457 Fern Avenue distributed information relating to the Rural Overlay District. She commented on Michael Myjack's presentation given on the Rural Overlay District and expressed concern of making a decision based on presentation.

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The meeting recessed at 8:30 p.m. and reconvened at 8:43 p.m.

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Ordinances – First Reading Attorney Severs read ORDINANCE NO. 76-2004, AN ORDINANCE OF THE CITY OF TITUSVILLE, FLORIDA, AMENDING SECTION 2-133, 2-135, 2-136, 2-137, AND 2-138 BY CLARIFYING METHOD FOR APPROVAL OF TRAVEL; ESTABLISH A PROCESS FOR REVIEW AND APPROVAL OF MEALS FOR EMPLOYEE RECOGNITION; AND PROVIDING FOR AN EFFECTIVE DATE first time by title only. The second reading and public hearing was scheduled for November 23, 2004.

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Vice-Mayor Ward moved to discuss a master plan for Riveredge Drive. Member Rainey asked that this issue be discussed after public hearing. Vice-Mayor Ward agreed.

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Ordinances-Second Reading, Public Hearings & Related Action Attorney Severs read ORDINANCE NO. 75-2004, AN ORDINANCE OF THE CITY OF TITUSVILLE, FLORIDA AMENDING CHAPTER 47 ARTICLE XII OF THE LAND DEVELOPMENT REGULATIONS TO ADD SECTION 47-250 ALLOWING EXISTING FREE STANDING METAL CARPORTS AS EXISTING NON CONFORMING STRUCTURES AND CLARIFYING THAT PURSUANT TO CODE OF ORDINANCES SECTION 6-56 A PERMIT IS REQUIRED FOR THE CONSTRUCTION OF THE ACCESSORY STRUCTURE; REQUIRING A PERMIT FOR EXISTING STRUCTURES PROVIDED FOR INSPECTION; PROVIDING FOR REVIEW OF EXISTING STRUCTURES AND DETERMINATION OF COMPLIANCE OR NON COMPLIANCE; MAKING PROVISIONS FOR ENFORCEMENT ACTION; AND PROVIDING FOR AN EFFECTIVE DATE second time by title only.

City Manager Harmer advised additional language was added to Ordinance No. 75-2004 per council's request at the October 26, 2004 regular meeting.

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

Council discussed whether to require any additional limitations within the ordinance. Member Broome moved to approve Ordinance No. 75-2004. Member Eigenmann seconded the motion for discussion.

Council agreed that a limit of one structure per property be established in ordinance unless homeowner can prove a burden to have an additional structure. The roll call was:

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

The motion carried.

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Next items were subject to quasi-judicial rules and council disclosed whether they had spoken with any applicants, visited sites, etc. Council stated they had not discussed this issue with anyone.

City Attorney Severs read ORDINANCE NO. 70-2004 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 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 second time by title only.

City Manager Harmer gave a brief overview and advised letter from applicant was received requesting item to be tabled to the December 14, 2004 city council meeting. He also stated that a motion to table item would require additional advertising and notification to surrounding property owners at the applicant's cost.

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

Member Rainey moved to table Ordinance No. 70-2004 with cost of advertising and notification to surrounding property owners paid by the applicant. Member Broome seconded the motion. The roll call was:

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

The motion carried.

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Member Rainey moved to discuss issues regarding Riverfront property. Member Eigenmann seconded the motion and it carried unanimously.

Vice-Mayor Ward expressed concern of reevaluating the shoreline. He continued with comments that were made at the Community Redevelopment Agency regarding being fair to property owners and transferring density from one property to another. Member Ward moved to direct staff to further expand upon investigation a master plan for the Riveredge Drive corridor working with the Community Redevelopment Agency. Member Eigenmann seconded the motion with additional discussion.

Council discussed Riverfront Referendum, developing the shoreline, transferring density from one property to another, developing a master plan, notifying riverfront property owners, and hiring a consultant.

Motion was amended to direct staff to further investigate the corridor and expand the concept for transitional planning, with the possible transfer of development rights. Council suggested each prepare an outline in drawing form of their view of a direction for the master plan. Mention was made of hiring a visioning consultant as part of this process. City Manager Harmer suggested they incorporate this concept into the DCA transmittal scheduled for the next meeting, which would allow them a few months to prepare their sketches of ideas and bring in a consultant, if desired. Vice-Mayor Ward and Member Eigenmann agreed to amendment. The roll call was:

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

The motion carried.

Member Rainey moved to notify property owners along U.S. Highway One near the River Lagoon. Discussion ensued as to whether property owners should be notified at this time. Member Rainey withdrew his motion.

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Old Business The first item of Old Business was the Public Works Facility Action Plan: Acquisition of Property. Public Works Director Jim Herron gave an overview of the proposed future sites for the new Public Works Facility. He highlighted location, acreage, price, advantages and disadvantages of each location, land acquisition criteria, and time frame of completion. Mr. Herron stated he felt as though the best alternative was the Flagler Development, which was property located at the southeast quadrant of TICO area, south of Golden Knights Blvd, and west of the railroad.

Council expressed concern of location in regards to the transfer station.

Member Rainey moved to approve the Flagler Development, which was property located at the southeast quadrant of TICO area, south of Golden Knights Blvd, and west of the railroad. Member Broome seconded for discussion. Member Broome requested additional information as to the divisions of public works that would be located at this site. The motion carried three to two with Vice-Mayor Ward and Member Eigenmann opposed. Concern the proposed location is too far from other operations was the reason indicated for descending votes.

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Next item under old business was the settlement agreement with the Great Outdoors requesting authorization for settlement of pending litigation and authorize the mayor and public officials to execute settlement documents. City Attorney Severs gave a brief overview. After one day of trial, the plaintiffs approached the city and suggested that a compromise be made. After negotiations, the City Manager, City Attorney, and Water Resource Director agreed to the following settlement: (1) Paragraph 6F of the agreement would be amended to eliminate the language regarding the city using its best efforts provide two million gallons of effluent per day and, in lieu thereof, the city would install at its expense a pipeline from cell 4 of the Blue Herron wetlands directly to the reservoir of The Great Outdoors with The Great Outdoors providing any and all easements. The city's maintenance responsibility for the pipeline would stop at the Ellis Canal; (2) The city would provide up to 750,000 gallons per day to The Great Outdoors based upon their needs and if needed. There would be no charge or costs for the water transmitted by the city to The Great Outdoors. A map would be attached identifying the area; (3) The Great Outdoors would execute any necessary easements for the outfall and electric transmission line for the city's facilities; (4) Paragraph 6H would be modified to allow public access to the wetland system through the city's property during daylight hours and subject to other parameters; (5) The Great Outdoors would install an additional reservoir at its expense and work with the city regarding storing adequate reserve in order to meet its need; and (6) All of the above would be subject to appropriate engineering and permits.

Member Eigenmann moved to authorize settlement of pending litigation and authorize the mayor and public officials to execute settlement documents. Member Eigenmann asked whether the agreement would sunset. City Attorney Severs responded that if necessary, the facility could be abandoned. Member Broome seconded the motion and it carried unanimously.

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Last item under old business was staff review of the rural overlay district proposal. Community Redevelopment Specialist Courtney Harris presented a powerpoint presentation highlighting staff review and suggestions. It included a rural overlay summary, conservation subdivision, what other places were doing, arguments against conservation subdivision, key issues, philosophy, county/city policies, must consider housing diversity, current regulations/goals, what our county was doing, what the city was doing, and staff recommendations. Staff recommendations were not to adopt the rural overlay district as proposed, designate the area between the annexation boundaries and the city limits as the urban fringe area for a study, amend the cluster development ordinance to provide bonuses for design and percentage of land preserved, include an analysis of the urban fringe as part of the Titusville 20/20 action plan to determine zoning designations and areas where conservation subdivision and TND concepts can apply, and coordinate with the county on their adjacent land uses and designations to provide for compatibility.

Don Simms, Tiffany Johnson of 457 Fern Avenue, Mike Moehle, and Charles Moehle opposed the adoption of the rural overlay district and requested council to not adopt the rural overlay district.

Member Rainey moved to not adopt the rural overlay district as staff recommended. Member Broome seconded the motion and it carried unanimously.

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It was now 10:30 p.m. Member Broome moved to extend meeting in order to complete all agenda items. Member Eigenmann seconded the motion and it carried unanimously.

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Petitions and Requests From the Public Present Laura Ward of 5317 Riveredge Drive asked for clarification as to how upcoming conditional use permits would be handled for the area of Riveredge Drive.

Tiffany Johnson of 457 Fern Avenue thanked council for voting against the rural overlay district.

Bill Tomblin of 325 Indian River Avenue commented on riverfront referendum and asked council to review carefully upcoming conditional use permits. He also stated that he supported the concept of transferring density from one property to another.

Charles Moehle thanked council for the decision that was made regarding the Rural Overlay District.

Lowell Gray of 2580 White Oak Lane Drive thanked council and commented on the Riverfront Referendum. He requested council Rule 13 Conditional Use Permit No. 13-2004 that was approved at the October 26, 2004 city council meeting.

Kathleen Burson of 385 Delespine Avenue requested a Rule 13 on Conditional Use Permit No. 13-2004 and commented on money spent by applicant. She also commented on transferring density to other property owners.

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Boards and Commissions The only item under boards and commissions was the Titusville Housing Authority Semi-Annual Report. Chairperson Billie Fitzgerald thanked council for their support and stated the safety of residents in the Titusville Towers was the prime concern of the commissioners. The authority also provided a written report.

Member Rainey moved to approve written report as submitted. Member Broome seconded the motion and it carried unanimously.

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Mayor and Council Reports Mayor Swank provided a written report.

Mayor Swank commented on attending the Walmart Teacher Appreciation Reception on October 27, 2004 and the Titusville Boards and Commission Recognition Ceremony on October 28, 2004.

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City Manager's Report City Manager Harmer provided a written report.

City Manager Harmer distributed a list of legislative priorities developed by executive leadership team and requested council to approve the top three to be forwarded to the Space Coast League of Cities. Member Broome moved to direct city manager to send the following legislative priorities: (1) The

counties interference with cities annexation and land use planning; (2) repeal or modify the Burt Harris Private Property Rights Protection Act (whereby a citizen may pursue payment from a municipality for any land use changes that was perceived to have a negative effect on the value of their property); and (3) support legislation to allow municipalities to apply and obtain certificates of public necessity (COPCN) to provide EMS transport services. Mayor Swank seconded the motion and it carried unanimously.

City Manager Harmer requested for a special meeting to be held on January 18, 2005. The would be the first public hearing to start the allocation process for Fiscal year 2005-2006 CDBG funds. Member Eigenmann moved to hold special meeting on January 18, 2005. Member Rainey seconded the motion and it carried unanimously.

City Manager Harmer read letters of appreciation for Police Department: Scott Larsson, Kevin Vanover, Eerik Meisner, Pat Herndon, Jon Dasno, and Margaret Vess; Water Resources Department: Tony Ferguson.

City Manager Harmer advised the a special city council meeting would be held on November 23, 2004 at 10:30 a.m. for the purpose of transacting any and all necessary business before assumption of office by the newly elected council member. At 11:00 a.m., the newly elected city council shall assume the duties of office. In accordance with the city's charter, Attorney Severs will administer the oath of office to the newly elected council members at said special meeting.

City Manager Harmer advised a town meeting would be scheduled after the December 9<sup>th</sup> meeting was held with Walmart.

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Mayor Swank recognized the Mayor/City Manager's Administrative Secretary Gwyneth Hensley for her efforts of planning the Space Coast League of Cities Dinner Meeting held on November 8, 2004.

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The meeting adjourned at 10:54 p.m.

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Ronald G. Swank, Mayor

ATTEST:

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Jeaneen P. Clauss, CMC, City Clerk