

The City Council of the City of Titusville met in regular session in the Council Chamber of City Hall, 555 South Washington Avenue, on Tuesday, July 22, 2008.

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Mayor Ron Swank called the meeting to order at 6:30 p.m. Present were Mayor Ron Swank, Vice-Mayor Paul Secor, Members Walt Johnson and Jim Tulley. Also present were City Manager Mark Ryan, City Attorney Dwight Severs and City Clerk Wanda Wells. Member Conrad Eigenmann was absent. City Clerk Wanda Wells completed the minutes.

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Mayor Swank asked for a moment of silence and led those present in the Pledge of Allegiance to the Flag. He then reviewed public speaking procedures for the meeting.

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Minutes –

Motion:

Member Tulley moved to approve the minutes of the regular meetings on May 27, 2008 and July 8, 2008, as corrected. The corrections were to change “lupe trail” to “loop trail” and table Ordinance No. 17-2008 to July 22, 2008 versus July 8, 2008 in the minutes of the regular City Council meeting held on July 8, 2008. Member Johnson seconded the motion and it carried unanimously.

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Special Recognitions and Presentations:

Employee of the Month for July 2008 – City Manager Ryan recognized Nic VanCott of the Police Department for the month of July 2008. He read from his nomination, which highlighted his accomplishments and presented him with a plaque and gift.

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Letters of Appreciation – City Manager Ryan read the names of the following employees that received letters of appreciation:

Fire and Emergency Services –
Michael Abernathy Firefighter/Paramedic

Reggie Belle	Life Safety Specialist
Matt Bowman	Firefighter/Paramedic
Jerry Ford	Lieutenant
Josh Hall	Firefighter/EMT
Jeff Harris	Driver-Operator/Paramedic

Police Department –

Allen Davis	Detective
Jennifer Gass	Officer
Zsolt Rimoczi	Officer
Nic VanCott	Officer

Public Works –

Mark Leslie	Dockmaster
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Planning –

Afi Fancon	Planner
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It was announced that staff was requesting Ordinance No. 17-2008 – Residential Treatment Facility and Ordinance No. 25-2008 – Adding Regulations for Dynamic Message Signs be tabled to the August 12, 2008 regular City Council meeting.

Motion:

Member Tulley moved to table both items to the regular City Council meeting on August 12, 2008, as requested. Member Johnson seconded the motion and it carried unanimously.

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Boards and Commissions:

Board of Adjustments and Appeals – The request was to appoint three regular members and one alternate member to the Board of Adjustments and Appeals for two-year terms to expire on July 31, 2010.

Motion:

Member Tulley moved to table the reappointment for current member Kathleen Burson to the regular City Council meeting on August 12, 2008. It failed due to a lack of a second to the motion.

Member Secor nominated Alternate Member Lori Hundley to serve as a regular member, Thomas Taylor to serve as an alternate member, and to reappoint Members Curtis Leady and Dina Belon-Sayre as regular members.

Member Tulley commented on the replacement of current member Kathleen Burson. It was announced that a speaker's card was presented to the City Clerk from Kathleen Burson.

Motion: Member Tulley moved to allow Kathleen Burson to speak at this time. Member Johnson seconded the motion and it carried unanimously.

Kathleen Burson commented on her current position serving as a regular member on the Board of Adjustments and Appeals. She advised that she took her position seriously.

Motion: Vice-Mayor Secor moved to extend Kathleen Burson's time by an additional two minutes. Member Johnson seconded the motion and it carried unanimously.

Kathleen Burson continued by providing her voting history while serving on the Board of Adjustments and Appeals.

Council discussed issues related to Ms. Burson's voting history and the makeup of the board members.

Member Tulley requested Council consider alternate members separately from the regular members. Council agreed to reappoint Members Curtis Leady and Dina Belon-Sayre as regular members for two-year terms to expire on July 31, 2010.

Member Tulley nominated Robert Chavier as an alternate member. Vice-Mayor Secor nominated Thomas Taylor as an alternate member. The roll call was:

Member Tulley	Robert Chavier
Vice-Mayor Secor	Thomas Taylor
Mayor Swank	Thomas Taylor
Member Johnson	Thomas Taylor

Thomas Taylor was appointed as an alternate member for a two-year term to expire on July 31, 2010.

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Petitions and Requests from the Public Present (Open Forum) – Laura Ward, as a member of the Titusville Housing Authority, invited council and the public to attend the rededication of Maxwell Court on Wednesday, July 23, 2008 at 10 a.m. The event was located at 622 Brown Avenue in Titusville.

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Consent Agenda:

Motion:

Vice-Mayor Secor moved to approve Consent Agenda A in accordance with the recommendations. Member Johnson seconded the motion. Vice-Mayor Secor read consent agenda items as follows:

A. Advisability for extension of sidewalk bonds

Approve Staff to research and move forward with an ordinance extending sidewalk bonds.

The motion carried unanimously.

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Mayor Swank read quasi-judicial rules of procedure.

Ordinances – Second Readings, Public Hearings and Related Action:

Ordinance No. 24-2008 – Rezoning No. 7-2008 – City Attorney Severs read ORDINANCE NO. 24-2008, AN ORDINANCE 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 AT 561 N. WASHINGTON AVENUE FROM ITS PRESENT MULTI-FAMILY HIGH DENSITY RESIDENTIAL (R3) TO COMMUNITY COMMERCIAL (CC) ZONING CLASSIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE the second time by title only.

City Manager Ryan highlighted the report to council. The applicant was requesting a rezoning from Multi-family High Density Residential (R-3) to Community Commercial (CC). The subject site was located at 561 North Washington Avenue. Hibiscus Holding Company, the owner of this property owned and developed the medical office park located at 605 North Washington Avenue, which was to the north of this property. They (Hibiscus Holding Company) purchased the subject site with the intent to develop the site at a later date in a way that would be consistent with the style and structure of the medical office park. There are currently no plans to build.

The Planning and Zoning Commission recommended approval, 7-0.

Mayor Swank opened the public hearing.

Patty Reisinger offered to answer questions and advised that she supported the rezoning of the property.

As no one else wished to speak, the public hearing was closed.

Motion:

Member Tulley moved to approve Ordinance No. 24-2008 and Rezoning No. 7-2008 with the following condition: (1) If any development which generates more than 500 new trips occurs

within the subject site then the applicant will be required to conduct a traffic study. Vice-Mayor Secor seconded the motion and the roll call was:

Vice-Mayor Secor	yes
Mayor Swank	yes
Member Johnson	yes
Member Tulley	yes

The motion carried.

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Easement Vacation No. 1-2008 and Resolution No. 19-2008 – Resolution No. 19-2008 amending Resolution No. 17-2008 to correct the legal description of the property and amending the conditions vacating part of a 40 foot public and drainage utility easement as recorded in Official Record Book 857, Page 810 of said Public Records of Brevard County, Florida.

City Manager Ryan highlighted the report to council. In 2006, Easement No. 3-2006 (Resolution No. 17-2006) was approved to vacate an easement. This easement vacation was approved with conditions and one of the conditions stated that in the event that the owner fails to file a final plat of the proposed subdivision within two years, the resolution would be null and void. Since the property is under construction, but has not received a Final Plat approval, the applicant was requesting that this condition be waived.

The Planning and Zoning Commission recommended approval, 7-0.

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

Motion:

Member Johnson moved to approve Easement Vacation No. 1-2008 and Resolution No. 19-2008, as recommended by staff. The changes would be to amend original condition No. 2 to read “In the event the final plat for the proposed subdivision is not approved within one year from the date of approval of Easement Vacation No. 1-2008, the property owner may apply for extensions of time. The Administrator may grant an extension of time up to two (2) years provided the Administrator has been shown good cause for the extension. If the owner of the property has not obtained Final Plat approval prior to expiration of the two years extension, the applicant may apply for an extension to the City Council for an additional two (2) years. After any time period in which an extension of time is not granted or upon failure to obtain Final Plat approval upon expiration of any granted extension, the owner agrees to record the drainage easements as previously existed over the existing drainage facilities. The applicant shall execute the re-recording documents and the City shall hold these documents in escrow pending the fulfillment of the conditions of this vacation request.” Staff is also recommending deleting original condition No. 5 since the issue is addressed in the proposed amended condition above. This recommendation will result in a change to Resolution No. 17-2006 Section 2 and Section 3.

Member Tulley seconded the motion and the roll call was:

Mayor Swank	yes
Member Johnson	yes
Member Tulley	yes
Vice-Mayor Secor	yes

The motion carried.

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Right-of-Way Vacation No. 2-2008 and Resolution No. 20-2008 – Resolution No. 20-2008 vacating, abandoning, and discontinuing certain public streets lying within and include numerous 50-foot rights-of-ways, as shown on the plat of Sun Valley Subdivision, as recorded in Plat Book 11, Page 29 of said Public Records of Brevard County, Florida.

City Manager Ryan highlighted the report to council. Titusville’s Southern Well Fields cover most of the Sun Valley Subdivision south of Cheney Highway, between Barna Avenue and Boyd Road. Titusville has been acquiring the property in this well field for nearly thirty years. It was the intent of this right-of-way vacation request to preserve and protect the City of Titusville’s southern well fields. The existing right-of-way covers 29.05 acres of Sun Valley Subdivision.

The Planning and Zoning Commission recommended approval, 6-0.

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

Motion:

Member Tulley moved to approve Right-of-Way Vacation No. 2-2008 and Resolution No. 20-2008 with the following condition: (1) The City shall provide FPL with a 10 foot utility easement on 11th Street and East 9th Street. Member Johnson seconded the motion and the roll call was:

Member Johnson	yes
Member Tulley	yes
Vice-Mayor Secor	yes
Mayor Swank	yes

The motion carried.

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Right-of-Way Vacation No. 3-2008 and Resolution No. 21-2008 – Resolution No. 21-2008 vacating, abandoning, and discontinuing certain public streets located at the southwest corner of Park Avenue and Knox McRae Drive, running north to south and east to west through the underlying plat of Titusville Fruit and Farms Land Company, Plat Book 2, Page 29.

City Manager Ryan highlighted the report to council. A petition (Right-of-Way Vacation Request No. 3-2008) was received from David Rohal, to vacate a 20 foot unnamed right-of-way

located between Lot 120 and lots 104 and 121 in Section 17, Township 22 South, Range 35 East, as shown on the Titusville Fruit and Farm Land Co. Subdivision. The petition also requested the vacation of 25 feet of Satterfield Road.

The Planning and Zoning Commission recommended approval, 7-0.

Mayor Swank opened the public hearing.

David Rohol offered to answer any questions.

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

Motion:

Vice-Mayor Secor moved to approve Right-of-Way Vacation No. 3-2008 and Resolution No. 21-2008 with the following condition: (1) FPL shall be granted a 25 feet utility easement on Satterfield Road. Member Johnson seconded the motion and the roll call was:

Member Tulley	yes
Vice-Mayor Secor	yes
Mayor Swank	yes
Member Johnson	yes

The motion carried.

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Right-of-Way Vacation No. 4-2008 and Resolution No. 22-2008 – Resolution No. 22-2008 amending Resolution No. 16-2008 which established conditions upon the vacating, abandoning and discontinuing certain public streets to vacate five unimproved 50 feet rights-of-ways as shown in Titusville Fruit and Farm Lands Subdivision, as recorded in Plat Book 2, Page 29 of the Public Records of Brevard County, Florida.

City Manager Ryan highlighted the report to council. In 2006, Right-of-Way No. 3-2006 (Resolution No. 16-2008 was approved to vacate five unimproved 50 feet right-of-ways. This right-of-way vacation was approved with conditions and one of the conditions stated that in the event that the owner fails to file a final plat of the proposed subdivision with necessary easements and right-of-way acceptable to the City of Titusville within two years from May 9, 2006, the resolution would be null and void. Since the property was under construction, but has not received a final plat approval, the applicant was requesting that this condition be waived.

The Planning and Zoning Commission recommended approval, 7-0.

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

Motion:

Member Johnson moved to approve Right-of-Way Vacation No. 4-2008 and Resolution No. 22-2008, as recommended by staff. The changes would be to amend original condition No. 2 to read “In the event the final plat for the proposed subdivision is not approved within one year from the date of approval of Right-of-Way Vacation No. 4-2008, the property owner may apply for extensions of time. The Administrator may grant an extension of time up to two (2) years provided the Administrator has been shown good cause for the extension. If the owner of the property has not obtained Final Plat approval prior to expiration of the two years extension, the applicant may apply for an extension to the City Council for an additional two (2) years. After any time period in which an extension of time is not granted or upon failure to obtain Final Plat approval upon expiration of any granted extension, the owner agrees to record the right-of-way as previously existed. The applicant shall execute the re-recording documents and the City shall hold these documents in escrow pending the fulfillment of the conditions of this vacation.” Staff is also recommending deleting original condition No. 5 since the requirement is contained in the amended condition recommended above. This recommendation will result in a change to Resolution No. 16-2006 Section 2 and Section 3. Member Tulley seconded the motion and the roll call was:

Vice-Mayor Secor	yes
Mayor Swank	yes
Member Johnson	yes
Member Tulley	yes

The motion carried.

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Conditional Use Permit No. 6-2008 – City Manager Ryan highlighted the report to council. The applicant was requesting a conditional use permit to allow a church in a Community Commercial (CC) zoning district. A Church was only permitted as a conditional use in this zoning. The property was located at 4354 South Hopkins Avenue and currently, the site has an existing building which was occupied by different businesses. The space the church was proposing to occupy was currently vacant. The size of the site was approximately 6969 square feet (0.16) and the size of the building was approximately 2065 square feet.

The Planning and Zoning Commission recommended approval, 6-0.

Planning and Growth Management Director Courtney Barker outlined the conditions in the report.

Mayor Swank opened the public hearing.

Marlene Adams expressed concern that if the conditional use permit was approved, it would limit the use of her property that was located less than 300 feet from the subject property.

Planning and Growth Management Director Courtney Barker recommended reviewing the code as it related to the sale of alcohol beverages being located within 300 feet from a church.

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

Motion:

Member Johnson moved to table Conditional Use Permit No. 6-2008 to the regular City Council meeting on August 28, 2008 and authorized staff to review and prepare an ordinance as it related to the restrictions on properties surrounding a church. This ordinance would be presented to Council at its regular meeting on August 12, 2008. Member Tulley seconded the motion and it carried unanimously.

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Ordinances - First Reading

City Attorney Severs read ORDINANCE NO. 26-2008 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 AT 1109 SOUTH STREET AND 1117 SOUTH STREET AND PROPERTY LOCATED IMMEDIATELY WEST OF 1109 SOUTH STREET FROM SINGLE FAMILY HIGH DENSITY (R1C) AND MULTIFAMILY HIGH DENSITY (R3) TO NEIGHBORHOOD COMMERCIAL (NC) ZONING CLASSIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE and

ORDINANCE NO. 27-2008 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 SOUTH OF STATE ROAD 50, EAST OF I-95 AND WEST OF WINDOVER WAY FROM ITS PRESENT TOURIST (T) TO REGIONAL COMMERCIAL (RC) ZONING CLASSIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE and

ORDINANCE NO. 28-2008 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 FUTURE LAND USE MAP AND BY CHANGING THE FUTURE LAND USE DESIGNATION FOR CERTAIN PROPERTY LOCATED SOUTH OF STATE ROAD 50, EAST OF I-95 AND WEST OF WINDOVER WAY FROM ITS PRESENT CONSERVATION LAND USE TO COMMERCIAL HIGH INTENSITY LAND USE DESIGNATION; AND PROVIDING FOR AN EFFECTIVE DATE and

ORDINANCE NO. 29-2008 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 WEST OF INTERSTATE 95 AND SOUTH OF STATE ROAD 50 FROM ITS PRESENT TOURIST (T)

TO REGIONAL COMMERCIAL (RC) ZONING CLASSIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE the first time by title only.

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Old Business

Water Resources – Stormwater Utility Management Environmental Rate Consultant John Demico presented the revised stormwater business plan. He highlighted the business plan deliverables, business plan scenarios, top ranked scenarios, recommendation, rate scenarios, and offered to answer any questions. The recommendation for 2008/2009 fiscal year was to increase rates by 2.5% (automatic increase per ordinance), further evaluate top ranked scenarios, conduct outreach/education program. The recommendation for 2009/2010 fiscal year was to revise and update the business plan, select Scenario No. 3 and No. 4 for implementation. The recommendation for 1010/1011 was to implement the selected scenario.

Council discussed the plan and made a consensus for staff to move forward, as presented in revised stormwater business plan.

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New Business

Resolution of Necessity – Area IV Wellfield City Attorney Severs highlighted the report to council. The request was to adopt a resolution of necessity declaring the necessity to acquire property by eminent domain. The City of Titusville, on September 11, 2007 was issued a permit by the St. Johns River Water Management District and as a condition or requirement of said permit, certain properties were required to be obtained in order to implement the Conditional Use Permit. The City of Titusville made a written offer to purchase on May 29, 2008 to the Miami Corp tendering the sum of \$93,100 to acquire an interest in certain properties. The written offer to purchase was based upon an appraisal and the City believes the offer to be fair.

In order to maintain the time schedules, and conditions of the Conditional Use Permit, and since the City was not successful in resolving all legal matters with the Miami Corp, the City needed to proceed with acquiring the lands described in the resolution of necessity.

Motion:

Vice-Mayor Secor moved to approve Resolution No. 23-2008 authorizing the filing of eminent domain action, as recommended by staff. Member Tulley seconded the motion and the roll call was:

Member Johnson	yes
Member Tulley	yes
Vice-Mayor Secor	yes
Mayor Swank	yes

The motion carried.

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Petitions and Requests from the Public Present – Al Guterrez expressed concern of allowing the Council Chamber to be a campaign free zone.

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Mayor and Council Reports – Mayor Swank submitted his written report.

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City Manager's Report – City Manager Mark Ryan submitted his written report.

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The first action item was the approval of the revised City Council Chamber Guidelines. At a previous meeting City Council Meeting, staff presented an amendment to the City Council Chamber Guidelines to create a campaign free zone for those individuals addressing the City Council. At that meeting, Council requested a revision to the proposed guidelines establishing the entire City Council Chamber as a campaign free zone. At the Council's direction, staff developed a revision to the proposed amendment incorporating the change.

Motion: Vice-Mayor Secor moved to approve the revised Council Chamber Guidelines, as presented. Member Johnson seconded the motion and it carried unanimously.

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The next item was a request for a special meeting and budget workshop. The special City Council meeting would be held on July 29, 2008 at 5:30 p.m. for the purpose of receiving the proposed FY 2008/2009 Annual Operating Budget and setting the tentative millage rates as required by law. The budget workshop would be held on August 5, 2008, and if necessary, a follow-up workshop on August 7, 2008 to review the proposed FY 2008/2009 Annual Operating Budget. Both meetings would be scheduled for 5:30 p.m. Council gave their consensus to schedule both meetings, as presented.

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The last action item was an advisability to amend Section 18-11(3) of the Code of Ordinances. Planning and Growth Management Director Courtney Barker provided a memorandum outlining some challenges the city was experiencing within Code Enforcement relative to maintenance of pools, as required by Section 18-22(3) of the Code of Ordinances. There were also other opportunities outlined for improvements within this division.

Motion: Member Johnson moved to approve the advisability to amend Section 18-11(3) of the Code of Ordinances, as requested. Member Tulley seconded the motion and it carried unanimously.

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City Manager Ryan highlighted additional informational items as outlined in his report.

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City Attorney's Report – City Attorney Severs advised on the Titusville One Litigation He announced that the judge dismissed the action and that staff was pursuing collection of attorney fees.

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With there being no further business to discuss, the meeting adjourned at 9:02 p.m.

Ronald G. Swank, Mayor

ATTEST:

Wanda F. Wells, City Clerk