

**MINUTES FOR THE REGULAR MEETING OF THE  
CAPE CORAL CITY COUNCIL**

**January 23, 2017**

**Council Chambers**

**4:30 p.m.**

Meeting called to order by Mayor Sawicki at 4:30 p.m.

Moment of Silence – Councilmember Carioscia

Pledge of Allegiance – Frank “Tres” Cornelison, III - Diplomat Elementary

Roll Call: Mayor Sawicki, Council Members Burch, Carioscia, Cosden, Erbrick, Leon, Stout, and Williams were present.

**CHANGES TO AGENDA/ADOPTION OF AGENDA**

Mayor Sawicki requested City Auditor Discussion Item 10(C) be moved immediately after Citizen’s Input.

***Councilmember Burch moved, seconded by Councilmember Cosden to adopt the agenda, as amended.***

***Council polled as follows: Carioscia, Cosden, Erbrick, Leon, Sawicki, Stout, Williams, and Burch voted “aye.” Eight “ayes.” Motion carried 8-0.***

**RECOGNITIONS/ACHIEVEMENTS**

**SERVICE AWARDS**

5 Years  
Lisa Depatie/HR

10 Years  
Steven Hernden/Fire

**APPROVAL OF MINUTES**

Regular Meeting – January 9, 2017

***Councilmember Burch moved, seconded by Councilmember Stout to approve the minutes for the January 9, 2017 regular meeting as presented. Voice Poll: All “ayes.” Motion carried.***

**BUSINESS**

**PUBLIC COMMENT - CONSENT AGENDA**

Tony Adinolfi discussed Consent Agenda #2; he would like the Bimini Basin Project to be completed in harmony with the existing community that is the City Center with existing homes and a body of water. He expressed concerns that have been raised and would like to know where things stand in reference to these community concerns such as noise.

Dan Sheppard discussed Consent Agenda #2; he requested the job description and the HR skills that the person would be hired for.

## CONSENT AGENDA

Councilmember Burch pulled Consent Item B2 and B4, Councilmember Williams also pulled B3 and B4.

- 1) Resolution 7-17 Award ITB-UT17-02/KR Southwest Reverse Osmosis Water Treatment Plant Wellfield Communication and Controls Upgrade to Commerce Controls, (FLA), LLC. to furnish, deliver and install all materials, equipment, labor and incidentals required to upgrade the communication and controls for thirty three (33) remote raw water production wells associated with the Southwest Reverse Osmosis WTP as outlined in the bid documents, as the lowest responsive, responsible bidder, in the amount of \$691,224 with a 7.5% City controlled contingency of \$51,842 for a total of \$743,066 and authorize the City Manager or designee to execute the contract; Department: Utilities; Dollar Value: \$743,066; (Water and Sewer Fund)
- 5) Resolution 18-17 Utilities Agreement - On Site and Off Site Improvements for Water, Wastewater and Irrigation Facilities, Sandoval Phase IV

***Councilmember Stout moved, seconded by Councilmember Burch to approve items 8(B)(1) and (5), as presented.***

***Council polled as follows: Carioscia, Cosden, Erbrick, Leon, Sawicki, Stout, Williams, and Burch voted "aye." Eight "ayes." Motion carried 8-0.***

City Manager Szerlag introduced Kevin Crowder, Economic Director of RMA.

Mr. Crowder answered questions based on item B(2). He reviewed his background throughout the State of Florida.

- 2) Resolution 10-17 Award Proposal RFP-DCD16-73/GM for Bimini Basin Redevelopment Project Management, to Redevelopment Management Associates, LLC for a not to exceed contract amount of \$120,000 plus any City required additional services up to 15% (\$18,000) of the contract, and authorize the City Manager or Designee to execute the contract and any amendments; Department: Department of Community Development (DCD); Dollar Value: \$138,000; (General Fund)

Councilmember Burch mentioned his support of the Bimini Basin Project. His fears included the discussion from the residents' as to quality of life and its importance in relation to the project. Many of the calls he has received are about traffic; he stated that residents are in favor of the project but have concerns to be addressed.

Mayor Sawicki addressed the importance of the marketing campaign.

Councilmember Erbrick inquired with the City Manager as to whether or not we have a Memorandum of Understanding from major property owners.

City Manager Szerlag responded that he had discussions with staff and a few of the property owners three or four months ago. He stated they spoke about the possibility of this project coming to fruition, hiring a project manager, and the hope that the consultant would put together a good business model so that it would have a better return on investment. There was no letter of understanding from anyone but there are property owners who have expressed an interest in moving forward.

Councilmember Erbrick expressed her reservations about spending this money without any Memos of Understanding.

City Manager Szerlag inquired if RMA would have as their first task to reach out to the property owners for support.

Mr. Crowder responded in the affirmative and stated they would balance the community needs and the quality of life with the need for return on investment.

Councilmember Carioscia stated his support of the RMA to market it to the owners of the property.

Councilmember Leon inquired as to the other price submitted from the other submission and wondered why a Parks and Recreation staff member was not on the panel.

City Manager Szerlag responded that there was no particular reason that a Parks staff member was not included.

Assistant City Manager Ilczyszyn stated the other submittal did not have a price in their packet. He discussed the response from RMA vs. the other submittal.

***Councilmember Burch moved, seconded by Councilmember Stout to approve item 8(B)(2) as presented.***

***Council polled as follows: Carioscia, Cosden, Leon, Sawicki, Stout, Williams, and Burch voted "aye." Erbrick voted "nay." Seven "ayes." One "nay." Motion carried 7-1.***

- 3) Resolution 12-17 Award ITB-PD17-19/CH for the purchase of ammunition for the Police Department to Florida Bullet, Inc. (Bid Items 1, 2, 4, 5, 6, and 7); Dana Safety Supply, Inc.(Bid items 8, 9, and 11); GT Distributors, Inc. (Bid item 3), at the unit prices bid not to exceed budgetary limits, and authorize the City Manager, or designee, to sign the purchase orders; Department: Police Department; Dollar Value \$99,120; (General Fund)

Councilmember Williams discussed the spending on ammunition and questioned using outdated ammunition for training.

Chief of Police Newlan responded that the higher cost only comes around every 3 years, and they could not use outdated ammunition for training.

***Councilmember Williams moved, seconded by Councilmember Leon to approve item 8(B)(3) as presented.***

Discussion held in reference to mandatory training with instructors at Lee County area facilities and higher costs based on ranges.

***Council polled as follows: Carioscia, Cosden, Erbrick, Leon, Sawicki, Stout, Williams, and Burch voted "aye." Eight "ayes." Motion carried 8-0.***

- 4) Resolution 17-17 Approval of Contract for Purchase of Lots 36, 37 and 38, Block 573, Unit 12, Cape Coral Subdivision, 3607 Del Prado Boulevard South, for future access to Master Pump Station 200 for maintenance and repairs, for a purchase price of \$229,500 plus closing costs not to exceed \$500; Department: Financial Services / Real Estate; Dollar Value: \$230,000; (Water and Sewer Fund)

Councilmember Burch inquired in reference to the age of the appraisal. Property Broker Andrews stated the appraisal was from December 2016.

Councilmember Williams inquired if a barter was attempted. Ms. Andrews responded in the affirmative; an attempt was made but was unsuccessful.

Councilmember Williams inquired as to the need for access. Utilities Director Pearson discussed the need for the largest pump station in the entire city; explaining that 32 pump stations feed into this one station which is half of the waste water flow.

Discussion held in reference to upgrading the station.

***Councilmember Williams moved, seconded by Councilmember Leon to approve item 8(B)(4) as presented.***

***Council polled as follows: Carioscia, Cosden, Erbrick, Leon, Sawicki, Stout, Williams, and Burch voted "aye." Eight "ayes." Motion carried 8-0.***

#### CITIZENS INPUT TIME

Carl Veaux appeared today on several environmental concerns. He read an email he was in possession of in reference to making the Old Golf Course property into a park. He reminded Council that there were two initiatives to buy green lands: Amendment One passed with 73% and the 20/20 was 84% of the vote. Save our Recreation petition with thousands of signatures will be supplied in the future. Doctors and dentists in town were given an opportunity to buy into the golf course. If there are two burrowing owls on a nest during nesting season, it should be considered a rearing stance for the owls. Right now we have to prove their eggs and chicks; that is difficult and would like it changed. He was not in favor of a 7-Eleven in the Country Club/Veterans area. If the burrowing owl is going to be our symbol, it will need to be on our ballot.

Dan Sheppard discussed the Bimini Basin project not having agreements with property owners. He heard that the City owns over 1,000 residential lots and 70 homes in Cape Coral; that would be lots of tax money we are without. Why are we not selling now? Buy low and sell high. He would like his community infrastructure completed. He has heard that the City will be sued over the Matlacha annex. Are we going to spend money on this investment that was not in the City? It appears we are in the investment, real estate, and land flipping business. Medians south of Chiquita need to be addressed.

Councilmember Cosden requested the City Manager respond to the ownership of how many parcels we own. City Manager Szerlag requested that Property Broker Andrews respond.

Property Broker Andrews stated that the City does not own 70 homes. She stated we have about 1,500 parcels, that include City buildings and parks. She stated she was working with a land plan, currently with the 491 purchase from April, 2012. We are using that for trade sites and working with two large property owners to see if their properties fall in line with our parks, road improvements, and drainage improvements for a trade.

City Manager stated that once a year we can update our map that are allocated for storm sewer projects, water and sewer projects, parks, and advise Council of that number, as well as parcels that we are willing to trade.

Councilmember Williams would like the properties not identified in these projects to be declared as surplus properties such as the smaller lots.

City Manager Szerlag stated we could make this map part of our Master Economic Development Plan as an addendum that will be updated periodically along with the other maps for infrastructure, zoning, and land use.

#### UNFINISHED BUSINESS

##### **Discussion and selection of finalists for the City Auditor Position**

Mayor Sawicki turned the meeting over to W.D. Higginbotham. Mr. Higginbotham gave a summary of the recruitment process.

Mayor Sawicki requested whether Council would like three or five candidates selected.

Councilmember Burch stated he would prefer three; he mentioned J. Bradley Simmons from Palm Coast, which is pre-platted.

Councilmember Leon – three

Councilmember Stout – three

Councilmember Erbrick – three

Councilmember Williams stated he would be happy to rely on the top three picks from the panel.

Mayor Sawicki went over the information on some of the candidates and how the panel eliminated some candidates. She mentioned the panel preferred candidates were Andrea Butola, J. Bradley Simmons, and T. Paul Tomoser. She noted those were her preferences as well.

Councilmember Leon requested a clarification of the process.

Mr. Higginbotham explained that after three candidates are selected tonight, he would work with an agency to complete the background work. This takes up to two weeks. Next, all three candidates can come to Cape Coral. He recommended a Community Meet and Greet the 2<sup>nd</sup> week of February with staff, public, and Council to include finger food. The next day all three candidates could be interviewed by Council and then by the end of the day the selection of the next City Auditor could be accomplished.

Council was polled and selected three candidates be brought forward.

Councilmember Cosden recommended Simmons, Butola, and Tomoser.

Councilmember Burch recommended Simmons, Butola, and Tomoser.

Councilmember Carioscia recommended Butola, Henry, and Simmons.

Councilmember Williams recommended Butola, Simmons, and Tomoser.

Mayor Sawicki recommended Butola, Simmons, and Tomoser.

Councilmember Stout recommended Butola, Simmons, and Tomoser.

Councilmember Leon recommended Butola Simmons, and Tomoser.

Councilmember Erbrick recommended Henry, Simmons, and Tomoser.

City Clerk van Deutekom tallied the recommendations: Butola - 8; Henry - 2; Simmons - 8, and Tomoser - 6. The top three are Butola, Simmons, and Tomoser.

***Councilmember Carioscia moved, seconded by Councilmember Leon to select three candidates for interviews by Council for City Auditor: Andrea R. Butola, J. Bradley Simmons, and T. Paul Tomoser.***

***Council polled as follows: Carioscia, Cosden, Erbrick, Leon, Sawicki, Stout, Williams, and Burch voted "aye." Eight "ayes." Motion carried 8-0.***

#### PERSONNEL ACTIONS

None.

#### PETITIONS TO COUNCIL

None.

#### APPOINTMENTS TO BOARDS/COMMITTEES/COMMISSIONS

Municipal General Employees' Pension Trust Fund Board of Trustees - 1 Vacancy

City Clerk van Deutekom stated there was one vacancy on the board due to a term expiration. The new term will expire 10/31/2020. Two applications were received from Robert Keppler and Frank Perry. The vacancy was advertised in the Breeze on 11/30/2016 and 12/16/2016, on the City's website, and Facebook.

Robert Keppler – present  
Frank Perry – present

City Clerk van Deutekom tallied the participants as follows with a 4/4 decision.

Carioscia/Perry; Cosden/Perry; Erbrick/Keppler; Leon/Perry; Sawicki/Keppler; Stout/Perry; Williams/Keppler; Burch/Keppler.

City Clerk van Deutekom stated there were 4 for Keppler and 4 for Perry.

Carioscia/Perry; Cosden/Perry; Erbrick/Keppler; Leon/Perry; Sawicki/Keppler; Stout/Perry; Williams/Keppler; Burch/Perry.

Second round tallied resulted in a 5/3 decision with the majority in favor of Frank Perry.

***Councilmember Leon moved, seconded by Councilmember Stout to appoint Frank Perry to the Municipal General Employees' Pension Trust Fund Board of Trustees.***

***Council polled as follows: Carioscia, Cosden, Erbrick, Leon, Sawicki, Stout, Williams, and Burch voted "aye." Eight "ayes." Motion carried 8-0.***

***Council recessed at 5:55 p.m. and reconvened at 6:10 p.m.***

## ORDINANCES/RESOLUTIONS

### PUBLIC HEARINGS

Ordinance 4-17 Public Hearing [This item was advanced by Councilmember Cosden]  
WHAT THE ORDINANCE ACCOMPLISHES:

The ordinance amends the Code of Ordinances, Chapter 2, Administration, Article III, Personnel Rules and Regulations, to prohibit discrimination on the basis of sexual orientation, gender identity, and gender expression.

City Clerk van Deutekom read the title of the Ordinance.

Councilmember Cosden explained what this Ordinance would accomplish and explained the memo she sent to Council.

Public Hearing opened.

Arlene Goldberg, LGBT activist, was present to express her support of the approval of this Ordinance.

Bruce Marvin discussed his Charter Review Commission service in 2014-2015 that addressed City Charter Section 10.02 regarding discrimination in City positions. Ordinance 25-15 had 6 Councilmembers' approval to go forth with a referendum which passed with over 65%. He expressed his support of the approval of this Ordinance.

***Councilmember Burch arrived to the dais after the recess at 6:16 p.m.***

Dr. Abbe Forman discussed the Cape Coral Breeze editorial concerning the current anti-discrimination law and whether discrimination actually exists in Cape Coral. There is no Federal law protecting the LGBT community; there is discrimination in Cape Coral. Who

does a resident turn to if they had a problem since there are no laws? To make progress in this community, she would like the Council to consider the approval of this Ordinance.

Irene Keppler was present to express her support of the approval of this Ordinance and stated that approving this Ordinance will send a helpful message to our youth.

Lee Waller was present to express his support of the approval of this Ordinance.

Jason Beckman was present to express his support of the approval of this Ordinance.

Public Hearing closed.

***Councilmember Cosden moved, seconded by Councilmember Carioscia to adopt Ordinance 4-17.***

Mayor Sawicki expressed her support for the approval of this Ordinance.

Councilmember Erbrick requested that the City Attorney address the purpose of the Ordinance.

City Attorney Menendez stated that this is being brought forward to our City of Cape Coral internal personnel.

Councilmember Erbrick expressed support for this Ordinance because it is internal, and it marries up with what the Charter Review Commission accomplished.

Councilmember Cosden discussed results of a poll that she took with employees that are part of the LGBT community.

Councilmember Burch stated this is an administrative correction for our employee code.

Councilmember Leon encouraged the public to bring forward any discrimination they should experience.

Councilmember Stout stated she was in favor of this Ordinance.

***Council polled as follows: Carioscia, Cosden, Erbrick, Leon, Sawicki, Stout, Williams, and Burch voted "aye." Eight "ayes." Motion carried 8-0.***

Ordinance 5-17 (PDP 16-0001)\*

Final Public Hearing

\*Quasi-Judicial, All Persons Testifying Must be Sworn In

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance approving a Planned Development Project entitled "Circle K", approving rezoning the subject property from Professional Office (P-1) to Pedestrian Commercial (C-1); approving a special exception to allow an Automotive Service Station, Limited use in a Pedestrian Commercial (C-1) zone; granting a deviation for relief from a setback requirement; granting a deviation for relief from the minimum required separation distance for a driveway on a minor arterial street; property is located at 819 SE 26th Street.

Hearing Examiner Recommendation: The Hearing Examiner recommended approval with all staff conditions following a public hearing held on November 1, 2016.

City Management Recommendation: Recommends approval of this project.

City Clerk van Deutekom read the title of the Ordinance.

City Clerk van Deutekom administered the oath.

Planning Team Coordinator Struve presented a power point titled Circle K PDP 16-0001, with the following slides:

- Ordinance 5-17 PDP16-0001 Circle K
- PDP 16-0001: Owner; Authorized Rep; Project; Location; Area
- Map of the site location
- Project Details
- Development Plan
- Building and Fuel Canopy Elevations
- Rezone Request: P-1 to C-1
- Analysis (LUDR, Sections 2.7.7 and 8.7.3)
- Special Exception
- Analysis (LUDR, Sections 2.7.7 and 8.8.5a-d)
- LUDR Deviation
- Analysis (LUDR, Section 4.2.4.K)
- EDS Deviation
- Project Recommendations

Planning Team Coordinator Struve added that four residents spoke against the project at the November 1<sup>st</sup> meeting. 26 emails and letters were received; 25 of them were opposed, and one was in support.

Public hearing opened.

Neale Montgomery, Esquire, a partner at Pavese Law Firm, appeared on behalf of the applicant. Ms. Montgomery presented a power point presentation titled Circle K Stores, Inc., Veterans Memorial Pkwy & Country Club Blvd., with the following slides:

- Subject Location
- Current State
- Proposal

Mark Sullivan, P.E., a civil engineer with Florida Engineering and Environmental Services, Inc., presented the following slide:

- Site Plan Details

Ryan Plate, Real Estate Manager with Circle K Stores, presented the following slides:

- Traffic Analysis
- Conditions of Approval: Signage; AirVac relocation; Restricted Deliveries; RedBox; Propane; Lighting
- Light Trespass and Night View
- Aerial Night Rendering
- About Circle K Stores Inc.
- Store Front Rendering
- Store Interior
- Project Recommendation; Correspondence
- Future Land Use Classification Map

Mr. Plate offered for consideration by Council that Circle K can donate a chain link or stalling measure to stop walking traffic from the Circle K and the baseball field on at least 3 sides.

Jeff Maddy discussed his opposition to the Ordinance based on current and future traffic problems.

Robert Ferry discussed his opposition to the Ordinance based on traffic and liability and security of the church property. He acknowledged Circle K's offer to add fencing.

Laurie House Wilcox questioned Council in reference to their knowledge of traffic problems. She is concerned about values of her home and the decrease in safety. This is an inconvenience to the residents.



Debra Parenteau discussed her opposition to the Ordinance based on it being zoned residential in the past, then the change to business. She was also concerned with the reduction of property values and traffic. She discussed the use of dynamite in the area when they built Veteran's Boulevard and the damage that occurred to her home as a result.

Bill Kerth mentioned his opposition to the Ordinance based on traffic concerns.

Robert Carlson discussed his opposition to the Ordinance based on noise, traffic, and the decrease of property values.

Frederick Dickens discussed his opposition to the Ordinance based on traffic concerns.

David Lawrence discussed his opposition to the Ordinance based on statements already given this evening and future traffic concerns.

Caron Cosden discussed her opposition to the Ordinance. She was in favor of the offer by Circle K to mitigate some concerns by putting a fence on the Church property. She requested that Council make the fence a condition if they are going to approve the Ordinance.

Resident (Maria) discussed her opposition to the Ordinance based on research when purchasing her property as a part of a residential neighborhood and traffic concerns.

Cheryl Musselman discussed her opposition to the Ordinance based on traffic concerns.

Dick Jones discussed his opposition to the Ordinance based on traffic concerns and property value depreciation.

Kathy Gable discussed her opposition to the Ordinance based on safety of children at the baseball field and traffic concerns.

Mayor Sawicki confirmed that all the speakers this evening on this topic were sworn in.

Doris Ferry discussed her opposition to the Ordinance based on traffic concerns.

Ed Minazzi discussed his opposition to the Ordinance.

Public Hearing closed.

***Councilmember Stout moved, seconded by Councilmember Carioscia to adopt Ordinance 5-17.***

Councilmember Carioscia inquired how much revenue this gas station would make for the City. He also questioned if there were any plans for the island or lane changes for the vehicles exiting east to go northbound.

Finance Director Bateman responded that revenues for the City of Cape Coral would be from gasoline tax and real estate taxes.

Traffic Engineer Corbett explained that a full access median opening would remain at this time at Country Club and SE 26<sup>th</sup> with no changes planned. He stated there would be a dedicated right turn lane from Country Club and an extension of the northbound left turn lane from Country Club on to SE 26<sup>th</sup>.

Councilmember Leon would like a dedicated left hand turn lane in the future and closing the turn at the islands. The City should monitor traffic improvements as needed. He stated that he would be in favor with staff recommendations and the offer to the church from Circle K to build the fence.

Councilmember Stout discussed the residents' opposition and looking at the vote for the City as a whole. She stated that she would be in favor of the fence for the church.

Councilmember Williams expressed appreciation to the speakers this evening. He inquired about a berm removal. Planning Team Coordinator Struve responded that the review was completed with City Staff and County staff in regards to storm water issues, in the reshaping of that berm and it included a third agency, the SFWMD, to make sure the existing will not be lost or diminished.

Councilmember Williams explained why he could not support this Ordinance, noting that we did not need to fill up the City with low paying jobs.

Councilmember Burch discussed the rezoning from P-1 to C-1. He stated he cannot support this Ordinance.

Councilmember Cosden discussed her opposition to this Ordinance based on the traffic concerns. She would like a sidewalk between the park and the gas station to alleviate a lot of the concerns by the church and the neighbors.

Mayor Sawicki requested that the DCD Director explain the purpose of the Hearing Examiner.

Director Cautero discussed the purpose of the Hearing Examiner. Council selected a Hearing Examiner based on a recommendation from the Zucker Report. It allows for more cases to be heard and takes the emotion out of the public hearing process. The Hearing Examiner reviews the written record to make sure the criteria and standards are met.

Discussion held in reference to the acceptable use of the property in question and the purpose of the Hearing Examiner.

City Clerk van Deutekom requested the motion be clarified.

***Councilmember Stout amended her motion, seconded by Councilmember Carioscia to adopt Ordinance 5-17, to include City Staff recommendations, everything agreed to by staff and by the Hearing Examiner.***

City Attorney Menendez questioned Mr. Struve that all of staff's recommendations have already been incorporated into the PDP development order before you. Planning Team Coordinator Struve responded in the affirmative.

City Manager Szerlag requested that Transportation Engineer Corbett confirm that after hearing testimony this evening, he still held the same position.

Traffic Engineer Corbett stated there was capacity on Country Club to facilitate all the movements proposed by this development. The dedicated right turn lane in conjunction with the right in only supported the approval for the deviation to the engineering design standards for driveway spacing. The circulation appears to be adequate including the east to northbound left turn from 26<sup>th</sup> on to Country Club, and there is adequate capacity as well as adequate sight distance at the intersection. The report provided by the applicant is adequate and provides a good analysis of the project. The sidewalk suggested by Councilmember Cosden would be a great idea to connect the site to the parking lot of the ball field and would reduce the opportunity for pedestrians to be walking within the right of way on SE 26<sup>th</sup>.

Councilmember Cosden asked if that would be added to the motion.

Discussion held regarding adding the fence.

***Councilmember Stout amended her motion, seconded by Councilmember Carioscia to adopt Ordinance 5-17, to include City Staff recommendations, everything agreed to by staff and the hearing examiner AND the addition of the sidewalk from the property to the ballfield.***

***Council polled as follows: Carioscia, Erbrick, Leon, Sawicki, and Stout voted "aye." Cosden, Williams, and Burch voted "nay." Five "ayes." Three "nays." Motion carried 5-3.***

Ordinance 6-17 Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance approving a Lease Agreement between the City of Cape Coral and SalusCare, Inc., for the lease of property owned by the City of Cape Coral located at 1105 Cultural Park Boulevard for the continuing operation of a substance abuse treatment facility and counseling center.

City Clerk van Deutekom read the title of the Ordinance.

Business Manager Fernandez discussed the purpose of Ordinance 6-17 including the terms of the renewal. Since the introduction, financial information has been provided as requested by Council and information on the number of patients served at the Cape Coral location. Today, a request was made by a Councilmember as to the continuation of the reports on services and patients served at that location. SalusCare has agreed to continue to provide it on a regular basis. Should Council wish to include that in the lease, you could request that provision be added by the Attorney's Office.

Stacey Cook-Hawk, President/CEO of SalusCare, provided a brief overview of what SalusCare provides and discussed the renovations. She introduced Keri Riedel in the event Council had questions.

Public Hearing opened.

No speakers.

Public Hearing closed.

***Councilmember Burch moved, seconded by Councilmember Leon to adopt Ordinance 6-17, as presented.***

Councilmember Burch confirmed with Stacey Cook-Hawk that SalusCare can provide annual reports. Ms. Cook-Hawk replied in the affirmative.

Discussion held regarding that care will remain for the benefit of residents in Cape Coral.

***Council polled as follows: Carioscia, Cosden, Erbrick, Leon, Sawicki, Stout, Williams, and Burch voted "aye." Eight "ayes." Motion carried 8-0.***

Introductions

Ordinance 2-17 Set Public Hearing date for February 6, 2017

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending Article VIII, Administration, of the City of Cape Coral Land Use and Development Regulations, creating Section 8.14, Reasonable Accommodation Procedures, to implement a procedure for reasonable accommodation with respect to Zoning and Land Use Regulations, Ordinances, rules and policies for persons with disabilities; providing severability and an effective date.

P&Z recommendation: At the January 4, 2017 meeting, the Planning and Zoning Commission/Local Planning Agency voted (7-0) to recommend approval of Ordinance 2-17. There was one speaker during public hearing.

City Management Recommendation: Recommends approval of the requested amendment.

City Clerk van Deutekom read the title of the Ordinance.

The public hearing was scheduled for February 6, 2017 in Council Chambers.

Councilmember Leon left the dais at 8:53 p.m.

Housing Team Coordinator Yearsley discussed the purpose and background as well as providing a summary and recommendation and was available for questions.

Councilmember Burch requested staff define disabled individuals and qualifying entity, find out what those are, and what was the basis for the definition.

Ordinance 3-17 Set Public Hearing date for February 6, 2017

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the Future Land Use Element of the City of Cape Coral Comprehensive Plan to provide for greater development flexibility within the Commercial Activity Center (CAC) Future Land Use Classification. (See attached memorandum from DCD to CM for additional explanation.)

P&Z recommendation: At the January 4, 2017 meeting, the Planning and Zoning Commission/Local Planning Agency voted (5-1 with 1 abstention) to recommend approval of Ordinance 3-17. There were no speakers during public hearing.

City Management Recommendation: Recommends approval of the requested amendment.

City Clerk van Deutekom read the title of the Ordinance.

Councilmember Leon returned to the dais at 8:57 p.m.

The public hearing was scheduled for February 6, 2017 in Council Chambers.

Planning Team Coordinator Daltry stated a presentation would be made at the public hearing and he was available for questions.

Councilmember Burch requested staff to supply in reference to the P&Z recommendation which was 5-1 with abstention to please determine who, what, and why and distribute to Council.

Ordinance 7-17 Set Public Hearing date for February 6, 2017

WHAT THE ORDINANCE ACCOMPLISHES

An ordinance declaring a 1,175 square foot triangular shaped parcel of property being a part of Highlander Canal right-of-way as unusable municipal surplus real property and deeding it to the property owner, subject to public utility, drainage, roadway, and bridge maintenance easements, and subject to the grantee constructing a seawall upon said property within 12 months of deed conveyance; property is located at 1935 SW 8<sup>th</sup> Court.

City Clerk van Deutekom read the title of the Ordinance.

The public hearing was scheduled for February 6, 2017 in Council Chambers.

Property Broker Andrews stated a presentation would be made at the public hearing and was available for questions.

ADDENDUM: Ordinance 8-17 Set Public Hearing Date for February 6, 2017

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance authorizing and directing the City Manager to enter into an Animal Shelter Ground Lease and Purchase Agreement with Cape Coral Animal Shelter Corporation, a not-for-profit corporation, for the lease of property owned by the City of Cape Coral

located at 325 SW 2nd Avenue for the operation of an animal shelter and adoption facility.

City Clerk van Deutekom read the title of the Ordinance.

The public hearing was scheduled for February 6, 2017 in Council Chambers.

City Manager Szerlag stated this has been in the works for about one year. A presentation would be made at the public hearing.

Councilmember Burch requested the City Manager provide an explanation in reference to the bullet points on the memo stating that the rezoning and PDP caused the City to bear cost.

## **UNFINISHED BUSINESS**

### **Water Quality**

A Water Quality back-up memo was provided to Council with the discharges and flow.

### **Legislative Issues – Update**

City Manager Szerlag thanked Council regarding the Resolution approved at the last meeting to have a carve out on proposed legislation for a County-wide fire district. He expressed thanks to Joe Mazurkiewicz and the actuary, Doug Lozan, from Foster and Foster who presented at the delegation.

Fire Chief Cochran also expressed appreciation to Representative Eagle and Lizbeth Benacquisto.

Councilmember Burch gave thanks to Dane Eagle and Lizbeth Benacquisto for the work they did on this.

### **Discussion and selection of finalists for the City Auditor position** **Item moved to directly after Citizen's Input**

## **NEW BUSINESS**

ADDENDUM: Resolution 19-17 Trust for Public Lands; Department: Parks and Recreation; Dollar Value: \$11,000; (Fund: TBD)

Parks and Recreation Director Pohlman discussed the purpose of this Resolution. Now that the Master Plan has been adopted there is a funding question. Research for the referendum needs to be done if Council chose to do one. He stated Pegeen Hanrahan of Trust for Public Lands was present to answer any questions.

Councilmember Stout inquired if the \$11,000 will give us a good feeling of what the vote will turn out in November. Director Pohlman responded in the affirmative.

Councilmember Leon requested that we just put it on the referendum to see if it passes.

Director Pohlman explained that we might be shooting for the whole .43 millage, and they might find it not palatable for our community.

Councilmember Leon would like this done ourselves and break it up for 10 years in phases.

City Manager Szerlag stated he wanted to know whether or not the Council would like to work with the Trust for Public Lands. This recommendation came from a stakeholder to utilize them.

Councilmember Leon stated if this passes, how many people are polled?

Pegeen Hanrahan, Trust for Public Lands, stated it would be between 300 to 500. She stated we would work with staff to understand all options: should it be a bond or direct property taxes, and what are the priorities of the citizens as identified in the Master Plan. Private dollars are raised to run the campaign.

Councilmember Leon stated he was not in favor of the Resolution. He requested that the voters be polled.

Mayor Sawicki explained why she was in favor of this Resolution.

Councilmember Stout inquired if there would be a campaign to have this passed and what the cost would be.

Ms. Hanrahan stated they work with local leadership and mentioned the counties they worked with successfully. She stated they provided technical support driven by local people. She stated they discouraged local governments from spending public dollars on campaigns; they worked with local businesses to hold fund raisers.

Councilmember Stout stated she was in favor of the Resolution to determine if there is an appetite for any taxation.

***Councilmember Carioscia moved, seconded by Councilmember Williams to approve Resolution 19-17.***

***Council polled as follows: Carioscia, Cosden, Sawicki, Stout, and Williams voted "aye." Erbrick, Leon, and Burch voted "nay." Five "ayes." Three "nays." Motion carried 5-3.***

ADDENDUM: Bryant Miller and Olive Invoices - Mayor Pro Tem Williams

Mayor Pro Tem Williams discussed if money is required to bring forth ordinances and how will that be. He questioned if this could be discussed at a future COW meeting. He would like a consensus to take this out of the Council budget under Books, Publications, and Memberships to pay the \$3,000 owed.

***Councilmember Williams moved, seconded by Councilmember Stout to pay the \$3,000 to Bryant Miller and Olive invoices from the Council Budget.***

City Manager Szerlag addressed the question about putting this on Monday's COW meeting and mentioned the items already on that agenda.

Discussion held regarding putting the \$10,000 for future work completing the request to research and prepare legal opinions on extended bar hours on a future meeting.

Councilmember Leon inquired of the ordinances and motions that are passed how many were initiated by staff and how many by Council.

City Manager Szerlag responded that approximately 98% of all ordinances and resolutions are City management-initiated.

Councilmember Leon inquired with the 2%, how much has Council paid for?

Director Bateman responded that if not in the budget, the department that brought it forward pays for the legal fee.

Mayor Sawicki stated that of the legal fees from FY15/FY16, none were paid by City Council.

Councilmember Leon requested that this be paid by the City Manager's budget. The memo incorrectly stated there is \$10,000 more to be spent on this issue. The timeline was June, 2016. There was a 7-0 vote for approval to move forward with researching and developing an Ordinance to come back to another COW meeting for discussion. In the research, working with the City Attorney in December and the City Manager, he stated he would have a meeting with the Attorneys, then staff, and Council would come together for discussion. There was a memo with five different ways to pay for the extended hours. He stated an Ordinance needs to be written up after a phone call to Mr. Roe for confirmation. At that point there could be a meeting of the Committee of the Whole. He stated tonight if there is a majority of Council, we could move forward with bringing back the Ordinance.

Councilmember Burch stated the Extended Bar Hours has been voted down two times. He was opposed to the 4:00 a.m. topic and paying the bills.

Discussion held in reference to Legal Services in the budget and what it encumbers.

Mayor Sawicki requested the tracking of Legal Services/accountability of outside services. Where are the checks and balances and who budgets for outside counsel? She questioned at what point do we bring back looking at an alternate revenue source as a policy decision.

City Manager Szerlag explained the protocol for paying Legal Services that are not currently in the budget. It was a Council-initiated bill, so it was forwarded to Council. Do two head nods allow for funds to be expended? This may be better to readdress at a later date. The current topic may be better for future discussion, too. He stated he spoke to Chris Roe on Friday, and \$10,000 was a suitable estimate that should more than cover future costs.

Councilmember Erbrick discussed the need to pay the bill. If every time Council wants to do something it falls on Council budget, a budget amendment needs to be done and add an item for the City Attorney.

***Council polled as follows: Carioscia, Cosden, Erbrick, Stout, Williams, and Burch voted "aye." Leon and Sawicki voted "nay." Six "ayes." Two "nays." Motion carried 6-2.***

## **REPORTS OF THE MAYOR AND COUNCIL MEMBERS**

Councilmember Carioscia – Topic: No Report.

Councilmember Cosden – Topic: Live Chat Internet Town Hall Meeting on Tuesday, January 31, 2017 from 5:00 p.m. to 6:30 p.m.

Councilmember Erbrick – Topics: Cape Coral Police Department held a recognition ceremony to cover Acts of Valor and recognized individuals that had recently retired and the Clerk's Office can do Pet Licenses now.

Councilmember Leon – Topic: Washington, D.C. visit - attended the inauguration with around 100 students from High Schools and Colleges.

Councilmember Stout – Topics: Attended both CCIM Real Estate Outlook Conference and the MPO last Friday.

Councilmember Williams – Topics: Attended the CCCIA Awards Ceremony; the delegation presentation along with the City Manager and the Fire Chief and made the Fire District Presentation and attended the Cape Coral Police Department recognition ceremony.

Councilmember Burch – Topic: No Report.

Mayor Sawicki – Topics: Edison Festival of Lights Grand Parade, Saturday, February 18<sup>th</sup> with vehicles furnished for the Council; Tami Holliday, Regional Director for U.S. Senator Bill Nelson will hold a meeting with area residents on Tuesday, January 31<sup>st</sup> from 10:30 a.m. and 1:30 p.m. at the Southwest Florida Military Museum; U.S. Conference of Mayors last week; COPS Grant commended Shannon Northorp; and Mayor's Night Out at the Chester Street Resource Center on Tuesday night from 5:00 p.m. to 7:00 p.m.

#### REPORTS OF THE CITY ATTORNEY AND CITY MANAGER

City Attorney – Topic: No Report.

City Manager – Topic: No Report.

#### TIME AND PLACE OF FUTURE MEETINGS

A Committee of the Whole meeting was scheduled for Monday, January 30, 2017 at 4:30 p.m. in Council Chambers.

#### MOTION TO ADJOURN

There being no further business, the meeting adjourned at 9:56 p.m.

Submitted by,

*for*   
Rebecca van Deutekom, MMC  
City Clerk