

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

**February 6, 2017**

**Council Chambers**

**4:30 p.m.**

Meeting called to order by Mayor Pro Tem Williams at 4:30 p.m.

Moment of Silence – Councilmember Cosden

Pledge of Allegiance – Alexander Lucas – Diplomat Elementary

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

**CHANGES TO AGENDA/ADOPTION OF AGENDA**

*Councilmember Burch moved, seconded by Councilmember Leon to approve the agenda, as presented.*

*Council polled as follows: Cosden, Erbrick, Leon, Stout, Williams, Burch, and Carioscia voted "aye." Seven "ayes." Motion carried 7-0.*

**RECOGNITIONS/ACHIEVEMENTS**

North RO Plant Received Plant Operations Excellence Award from FDEP - Presented by Jon Iglehart

Jon Iglehart recognized the achievement of the North RO Plant for receiving the Plant Operations Excellence Award from FDEP. Director Pearson called up all staff from the North RO Plant for a photo opportunity.

Councilmember Burch congratulated all of the North RO Plant staff and explained the accolades that the City has received and the official recognition from the FDEP.

**APPROVAL OF MINUTES**

None.

**BUSINESS**

**PUBLIC COMMENT - CONSENT AGENDA**

Tim Trimble requested an explanation in reference to Item B(1).

**CONSENT AGENDA**

Councilmember Cosden requested item 8(B)(1) be pulled for discussion from the Consent Agenda.

- (1) Resolution 13-17 Amend the contract with the City's electronic bill presentment and payment system provider to reflect the Firm's new business name to Factor Systems, Inc., dba Bill Trust, formerly Best Practice Systems, Inc., and authorize the City Manager or Designee to execute the contract; increase the estimated spending allocation, due to an increase in customer connection, in an estimated annual amount of \$63,000 not to exceed budgetary limits. The existing contract was secured through a competitive solicitation and the awarded unit price continue to be at a competitive level; Department: Financial Services; Annual Dollar Value: \$63,000; (Water & Sewer)

- (2) Resolution 16-17 Shared-Use Non-motorized Trail Network Agreement between the State of Florida, Department of Transportation and the City of Cape Coral; Department: Public Works; Dollar Value: N/A; FDOT Grant: \$1,778,100 (Fund: N/A)
- (3) Resolution 25-17 Approve Use of State Forfeiture Funds in compliance with F.S.S. 932.7055; Department: Police Department; Dollar Value: \$9,551; (Special Revenue Fund)
- (4) Resolution 26-17 Renewal of the Mutual Aid Agreement (MAA) Between the City of Cape Coral o/b/o the Cape Coral Police Department and the Charlotte County Sheriff's Office and authorizing the Chief of Police to execute all necessary documents; Department: Police Department; Dollar Value: N/A; (Fund: N/A)
- (5) Resolution 27-17 Acceptance of Permanent Utility and Drainage Easement at 1707 Cape Coral Parkway East (Block 363, Lots 1-7 & 24-30, Unit 7, Cape Coral Subdivision ~ Strap #08-45-24-C4-00363-0010) as required as part of the Downtowner Car Wash Site Plan Review (SP15-0044); Department: Financial Services / Real Estate; Dollar Value: N/A; (Fund: N/A)

***Councilmember Stout moved, seconded by Councilmember Carioscia to approve items 8(B)(2), 8(B)(3), 8(B)4, and 8(B)5 as presented.***

***Council polled as follows: Cosden, Erbrick, Leon, Stout, Williams, Burch, and Carioscia voted "aye." Seven "ayes." Motion carried 7-0.***

- (1) Resolution 13-17 Amend the contract with the City's electronic bill presentment and payment system provider to reflect the Firm's new business name to Factor Systems, Inc., dba Bill Trust, formerly Best Practice Systems, Inc., and authorize the City Manager or Designee to execute the contract; increase the estimated spending allocation, due to an increase in customer connection, in an estimated annual amount of \$63,000 not to exceed budgetary limits. The existing contract was secured through a competitive solicitation and the awarded unit price continue to be at a competitive level; Department: Financial Services; Annual Dollar Value: \$63,000; (Water & Sewer)

Councilmember Cosden requested staff to give a brief explanation of item 8(B)(1).

Customer and Field Services Manager Boyd discussed the E-Bill system; he stated the savings cost of the E-bill is the printed cost of 80 cents versus the e-bill cost of 29 cents.

***Councilmember Cosden moved, seconded by Councilmember Burch to approve item 8(B)(1), as presented.***

***Council polled as follows: Cosden, Erbrick, Leon, Stout, Williams, Burch, and Carioscia voted "aye." Seven "ayes." Motion carried 7-0.***

#### CITIZENS INPUT TIME

Lynne Rosko appeared to discuss the Charter School System conversations at recent meetings. She was in favor of the System and described it as a crown jewel of the City. She mentioned the civility pledge and that it applies to all of the members of the Council. She discussed the consultant Stantec to do a financial sustainability consulting services agreement. She recommended the Clerk of the Courts do the job at a lower cost. She discussed the Old Golf Course Property.

Tim Trimble discussed the cost of his electric bill versus the utility bill.

Dan Agostino appeared and read a statement from Dana Belcastro from A Affordable Lawn Care. The issue was the cost for her small business with her commercial small

business vehicle on her property. Inquiry was made as to overly forceful Code Enforcement Officers. Please help the people of Cape Coral.

Robert Stolz expressed concerns about the beaches in Cape Coral. His children have rashes on their skin after they leave the Yacht Club beach. He discussed the mangrove area at the end of Caloosa Parkway and the possible development of a lake there. Cities on the water have nice beaches around the world.

Resident (Juergen) requested to know if there is a group to better the roads for cyclists in Cape Coral.

Bruce Marvin requested the City stop selling fireworks in the City. He spoke in support of Ordinance 8-17 and commented on the plan to reintroduce the extended bar hours. The Commercial Vehicle parking issues need to be addressed. He appeared in support of Resolution 21-17 to expand the public comment time. He supports 5 minutes and 1 hour as it appears in Resolution 21-17.

Resident (Amanda), a 100% disabled veteran, would like resources to assist her. Her vehicle was vandalized in a public parking lot. She was asked to meet with the juveniles and the parents, was offered \$500, and an apology to go away. She opted not to, she asked for an advocate and was denied one. The juveniles, parents, and basketball coach were taken out of the room. The police officer returned with a large intimidating parent who yelled at her. When she tried to leave, the participants in the meeting were waiting for her outside. Her service dog trainer receives threatening calls stating she is trying to profit. She asked what her options were besides \$500 and an apology. She asked again for a representative to understand her situation based on her PTSD. She felt bullied. She has called the victims advocate and only recently received a return call. She requested assistance and has been contacted by the State Attorney. She can't get the parent to stop calling her service animals trainer. She inquired if there were any resources for disabled veterans. She appeared today in support of the Animal Resource Center, too.

Dolores Bertolini appeared in support of the City, as she volunteers with the Alvin Dubin Alzheimer's Center. She thanked Cape Coral and the Community Foundation for the successful program that aids the caregivers in our City.

Mayor Pro Tem Williams discussed the idea of a beach in the north at a mud flat with sandbars. It is enclosed by State preserve property; access could be an issue, too. We are looking at Crystal Lake as it is fresh water with plenty of room for picnic areas.

Councilmember Leon discussed the North beach which area needs to be a State initiative and the extreme costs after working with Jon Iglehart and the FDEP. He mentioned the Crystal Lake area for a future beach in conjunction with the Parks Master Plan. He discussed the police advocacy and requested the Police Department to provide a report.

Councilmember Burch addressed Lynn Rosko's comments about the Charter School system. Council needs to have a joint meeting with the Board to address what we want to do. He thanked Ms. Bertolini for her efforts with the Alvin Dubin Resource Center. In reference to the roads for biking request, please contact the Cape Coral Bike/Ped group. Councilmember Cosden mentioned that you can google the Cape Coral Bike/Ped group to determine the contact.

City Manager Szerlag addressed the Charter School comments. A vote was passed to have the City look at best practices and report back to Council what will make the Charter School system sustainable. Burton and Associates was hired because they helped us in the past with the Burton Model; real time trend lines can be created. This is not something that is available from the Clerk of the Courts to create the sustainability model.

#### PERSONNEL ACTIONS

None.

PETITIONS TO COUNCIL

None.

APPOINTMENTS TO BOARDS/COMMITTEES/COMMISSIONS

None.

ORDINANCES/RESOLUTIONS

PUBLIC HEARINGS

Ordinance 2-17 Final Public Hearing

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.

Housing Coordinator Yearsley explained what this Ordinance would accomplish. She discussed the power point which included the following slides:

- Ordinance 2-17 – Purpose and Background
- Ordinance 2-17 - Summary and Recommendation
- Definition of Disabled and Qualifying Entity

Public Hearing opened.

No speakers.

Public Hearing closed.

***Councilmember Leon moved, seconded by Councilmember Burch to adopt Ordinance 2-17.***

Councilmember Burch inquired as to this service based on a speaker during Citizen's Input.

Housing Coordinator Yearsley discussed the hypothetical process of a public hearing for external items such as a ramp.

***Council polled as follows: Cosden, Erbrick, Leon, Stout, Williams, Burch, and Carioscia voted "aye." Seven "ayes." Motion carried 7-0.***

Ordinance 3-17 Public Hearing for Transmittal

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 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.

Planning Team Coordinator Daltry explained what this Ordinance would accomplish. He discussed the power point titled Ordinance 3-17 (TXT 16-0001) CAC Revisions that included the following slides:

- Purpose
- Background
- Examples
- Proposed Change: Detached Properties
- Proposed Change: Removal of PDP
- Proposed Change: Development Parameters
- Table of CAC Development Parameters
- Conclusion
- P&Z Recommendation
- Proposed Change: Detached Properties - definition

Public Hearing opened.

Joe Mazurkiewicz spoke in favor of this amendment. This is an example of staff exercising a common sense resolution when developing large parcels.

Public Hearing closed.

***Councilmember Stout moved, seconded by Councilmember Carioscia to approve for transmittal Ordinance 3-17.***

Councilmember Burch inquired if this would affect the parking for the traffic congestion in a multi-family development.

Planning Team Coordinator Daltry responded that the traffic generation per unit of multi-family is fairly low in comparison to commercial, adding it was about neutral for impacts.

Councilmember Burch requested clarity about the larger the project the more impact this ordinance would have.

Planning Team Coordinator Daltry responded that this will only be for anything with the Commercial Activity Center Land Use and ultimately with Marketplace Residential Zoning.

Mayor Pro Tem Williams expressed his dissatisfaction in the removal of the PDP element. Be careful what we put where. The CAC and Marketplace were to keep the commercial growth low key, low impact next to a neighborhood.

Planning Team Coordinator Daltry clarified that any development with a CAC future land use classification must undertake a PDP process. Our removal of the PDP requirement would allow those properties where you do not have an interface with residential be able to develop through the normal site plan process. There is language in every non-residential district that says (maybe with the exception of the South Cape) any enlargement or establishment with a commercial use adjacent to a residential future land use must either go through the PDP process or through an enhanced buffering process; we are still retaining that.

***Council polled as follows: Cosden, Erbrick, Leon, Stout, Williams, Burch, and Carioscia voted "aye." Seven "ayes." Motion carried 7-0.***

Ordinance 7-17 Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance declaring a 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.

Property Broker Andrews explained what this Ordinance would accomplish. She discussed the purpose of the Ordinance and shared an aerial photo.

Public Hearing opened.

No speakers.

Public Hearing closed.

***Councilmember Burch moved, seconded by Councilmember Carioscia to adopt Ordinance 7-17.***

Councilmember Leon inquired if any properties come back to us because they did not build a seawall.

Property Broker Andrews discussed research in process where the seawalls have not been built. Councilmember Leon stated he will have follow up questions sent to Ms. Andrews this week.

***Council polled as follows: Cosden, Erbrick, Leon, Stout, Williams, Burch, and Carioscia voted "aye." Seven "ayes." Motion carried 7-0.***

Ordinance 8-17 Public Hearing

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.

City Manager Szerlag explained what this Ordinance would accomplish that will result in a 99-year lease for a much needed no-kill animal shelter on City property. Gloria Tate discussed the excitement of the project and thanked Council for their support in advance.

Public Hearing opened.

No speakers.

Public Hearing closed.

***Councilmember Burch moved, seconded by Councilmember Leon to adopt Ordinance 8-17.***

Councilmember Burch reiterated the need for the buffer zone discussed relative to the open space.

Councilmember Leon expressed appreciation to all involved in stepping up to the plate and getting this organized.

Councilmember Stout expressed her appreciation for this project. She inquired if the group was able to receive the funds that were collected for this purpose but are still with the Gulf Coast Humane Society.

Ms. Tate stated she was not able to answer that question at this time.

Mayor Pro Tem Williams expressed his appreciation.

***Council polled as follows: Cosden, Erbrick, Leon, Stout, Williams, Burch, and Carioscia voted "aye." Seven "ayes." Motion carried 7-0.***

#### Introductions

#### Resolution 20-17 (AP 16-0001\*) Set Public Hearing Date for March 6, 2017

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

#### WHAT THE RESOLUTION ACCOMPLISHES:

A resolution either approving or reversing the decision of the Board of Zoning Adjustment and Appeals that denied Resolution SE 1-2016, which concerned an amendment to Resolution 9-2000, which granted a special exception for a Rental Establishment, Group III (Automotive) use in a Pedestrian Commercial (C-1) zone; property is located at 2200 Santa Barbara Boulevard.

City Clerk van Deutekom read the title of the Resolution.

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

Planning Team Coordinator Struve stated he was available for any questions concerning this appeal case prior to the Public Hearing on March 6<sup>th</sup>.

### UNFINISHED BUSINESS

#### Water Quality

No discussion.

#### Legislative Issues - Update

City Manager Szerlag advised Council that after the meeting this evening he will be driving to Tallahassee with Director Pearson to address Water Quality Issues and Pre-Platted Cities with Legislators.

### NEW BUSINESS

#### Resolution 21-17 Amend Council Agenda Rules of Procedure to expand time frame for public comment. [This item was advanced by Councilmember Stout]

City Attorney Menendez explained what this Resolution would accomplish as it was advanced by Councilmember Stout based on the new meeting schedule that was approved for 2017. The modifications are Section A, meetings held and times and dates, and housekeeping issues that we are meeting in accordance with the approved calendar. As far as Council is concerned, Section Q - public comment opportunities current rules provide that the public who wish to speak on the Consent Agenda and Citizen's Input have 3 minutes for a total of 45 minutes. This resolution would increase it to 5 minutes per speaker for a total of 60 minutes for Consent Agenda and Citizen's Input.

Councilmember Stout discussed receipt of emails by Council on the newly approved Council meeting schedule. She received the suggestion of 5 minutes per speaker for a total of 60 minutes, and she felt it was reasonable.

Mayor Pro Tem Williams was in agreement with the 60-minute extension but not the 5 minutes per speaker.



Councilmember Leon was in agreement with the 5 minutes, or 4 to meet halfway. Council typically allows the group to continue speaking after the 45 minutes are up. He would be in favor of tweaking it.

Councilmember Carioscia was in support of the 60 minutes, but not to change it from 3 minutes to 5 minutes. He was in favor of allowing more speakers at 60 minutes.

Councilmember Erbrick suggested a trial basis until the hiatus versus changing the rules all together. She was fine with 60 minutes but keep it at 3 minutes. Some communities do just a public input meeting, with no business conducted, more like a Town Hall feel once a month with an alternating host.

Councilmember Burch clarified that this resolution has two subjects.

City Attorney Menendez clarified that there are two subjects, Consent Agenda and Citizen's input. Item A is housekeeping for the meetings.

Councilmember Cosden agreed to second the Town Hall idea that Councilmember Erbrick brought up. She was in favor of 60 minutes for 3 minutes each.

Councilmember Stout mentioned the majority is in favor of 3 minutes and a trial until the summer hiatus. She requested the process for a trial period.

City Attorney Menendez stated in the past, the Council has not changed the rules in writing, just procedurally as a trial. The rules would be changed after Council deemed the process was working. If it is not working, around hiatus, you could request to formally change it back. It could be adopted tonight and incorporate it with minor tweaks or temporarily suspend until hiatus. She recommended the changes for section A be made.

Discussion held in reference to Town Hall meetings monthly or quarterly.

***Councilmember Stout moved, seconded by Councilmember Leon to approve Resolution 21-17, as amended to change Consent Agenda Citizen's Input and Citizen's Input from 5 minutes to 3 minutes.***

Councilmember Leon discussed reviewing this at a COW meeting in June or July; he mentioned he was in favor of the Town Hall meeting.

Councilmember Erbrick will pursue the Town Hall meetings topic with Legal. She requested that Council place the Council Rules topic back on the calendar to review before the summer hiatus as to whether or not it is working.

***Council polled as follows: Cosden, Erbrick, Leon, Stout, Williams, Burch, and Carioscia voted "aye." Seven "ayes." Motion carried 7-0.***

## REPORTS OF THE MAYOR AND COUNCIL MEMBERS

Councilmember Cosden – Topics: Pre-legislative delegation luncheon last week and seminar by Florida League of Cities for Medical Marijuana. Joint Council and Charter School Board meeting on February 27<sup>th</sup>; Mayor Feichthaler has offered to moderate for free, and she was in favor of this. 15<sup>th</sup> Annual Burrowing Owl Festival upcoming at Rotary Park from 10 a.m. to 4 p.m. on February 25<sup>th</sup>.

Councilmember Erbrick – Topics: Pre-legislative luncheon, webinar for Medical Marijuana, would like a COW meeting about it soon, let Tallahassee know what we want or do not want, our voice will need to be heard; Re: Mr. Feichthaler, great idea for a neutral party; Bike Night this weekend.

Councilmember Leon – Topics: Re: Mr. Feichthaler, great idea for a neutral party; would like to have Council provide a certificate to board members when they leave, received second from Councilmember Erbrick, Gianna Pack can work on that.



Councilmember Stout – Topics: Pre-legislative delegation luncheon, discussed with Representative Caldwell who told her no carve outs – what about the Port Authority, they will just bring them in.

Councilmember Burch – Topics: Requested permission to go to Tallahassee March 19-March 22. He did not attend the pre-legislative delegation luncheon; he suggested that we try to do things for ourselves as opposed to others doing it for us.

Councilmember Carioscia – Topics: Appreciates Mr. Feichthaler mediating, but he does have 4 children attending the school and is friends with Mr. Stephenson, not in favor of that choice of mediator, please look elsewhere; Keep Lee County Beautiful group solicits people to adopt roads, beaches and highways, call for volunteer opportunities: [www.KLCB.org](http://www.KLCB.org) or 239-334-3488.

Mayor Pro Tem Williams – Topics: Keep Lee County Beautiful, discussed Trash Bash annual event; attended FDOT District 1 Chairman Symposium for MPO in Sarasota; finished up interviews for the Youth Council today. Mayor's Night Out will be February 22<sup>nd</sup> at 5 p.m. at the Chester Street Resource Center; Cape Coral Police Department Open House will be this Saturday, February 11<sup>th</sup> from 10 a.m. to 1 p.m. Tomorrow night is a Meet and Greet for the City Auditor position; it will be open to the public with a meeting the following day for the formal interviews and to do the selection. He questioned Council concerning dinner after the Meet and Greet with the candidates and their spouses. There is a reservation at the Animal House with a locked in rate not to exceed \$45 per meal (alcohol not included). He questioned Council about the options: does Council cover it or will we pay our own way and pay for the candidates. He noted the representatives from the recruiting firm and Human Resources will attend as well.

Councilmember Cosden added comments about the mediator topic brought up by Councilmember Carioscia. Regarding the dinner after the Meet and Greet, it should be paid for by the City.

Councilmember Stout – Keep Lee County Beautiful plantings, a project at Cape Coral High School. Regarding the dinner, the City should pick up the tab since it is a City function.

Councilmember Burch expressed concerns about potential Sunshine Violations with the dinner after the Meet and Greet; he will not be attending.

Councilmember Carioscia agreed with Councilmember Burch; he will not be attending and was not in favor of the City paying for it.

Councilmember Leon stated he was banned from the facility; he will not be attending. He was not in favor of the City picking up the tab. He agreed with Councilmembers Burch and Carioscia.

Councilmember Erbrick will not be attending the Meet and Greet; she was not in favor of the dinner based on perception.

Discussion held in reference to the Meet and Greet process and the upcoming Special Meeting for the City Auditor selection.

Mayor Sawicki – Excused.

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

City Manager – Topic: No report.

City Attorney – Topic: No report.

**TIME AND PLACE OF FUTURE MEETINGS**

A Special Meeting of the Cape Coral City Council was scheduled for Wednesday, February 8, 2017 at 1:00 p.m. in Council Chambers.

A Regular Meeting of the Cape Coral City Council was scheduled for Monday, February 13, 2017 at 4:30 p.m. in Council Chambers.

**MOTION TO ADJOURN**

There being no further business, the meeting adjourned at 6:43 p.m.

Submitted by,



Rebecca van Deutekom, MMC  
City Clerk