

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

February 21, 2024

Council Chambers

4:30 p.m.

Meeting called to order by Mayor Gunter at 4:31 p.m.

INVOCATION/MOMENT OF SILENCE – Councilmember Hayden

PLEDGE OF ALLEGIANCE – Councilmember Hayden

Roll Call: Mayor Gunter, Councilmembers Carr, Cosden, Hayden, Long, Sheppard, Steinke, and Welsh were present.

CHANGES TO AGENDA/ADOPTION OF AGENDA

Mayor Gunter asked if anyone had any changes to the Agenda. There were none.

Councilmember Hayden moved, seconded by Councilmember Cosden, to adopt the agenda, as presented.

Council polled as follows: Welsh, Carr, Cosden, Gunter, Hayden, Long, Sheppard, and Steinke voted “aye.” Eight “ayes.” Motion carried 8-0.

RECOGNITIONS/ACHIEVEMENTS

Community Recognition Award: Melissa Blaine

City Manager Ilczyszyn recognized Melissa Blaine who recently finished second in the 200 individual medley in the FHSAA Class 3A State Championships.

Presentation to City Employees for Years of Service By Mayor Gunter

Mayor Gunter recognized an employee for outstanding service and dedication to our City. He thanked him for being such a valuable member of our team. The employee had 34 years of service.

APPROVAL OF MINUTES

Regular Meeting - February 7, 2024

Councilmember Hayden moved, seconded by Councilmember Welsh, to approve the minutes for the February 7, 2024, Regular Meeting, as presented. Voice Poll: All “ayes.” Motion carried.

CITIZENS INPUT TIME

William Ulrich voiced opposition to changes at Jaycee Park, removal of Australian Pines, and mentioned two petitions currently being circulated for signatures.

Smoking Joe Phillips voiced concerns about meeting practices and procedures and opposition to the stipend.

Tara Jenner voiced concerns about the Pledge of Allegiance, right to address government for grievances, and proposed potential course of action on the stipend issue encouraging a new motion to repeal and recall the stipend.

Larry Gillis voiced concern about House Bill 601 and suggested Council object the HB noting that while it does not impact the City of Cape Coral, it does impact various cities.

Sally Flash voiced opposition to Jaycee Park developments and comparison to other local parks and beaches with no bars.

John Miehle voiced concern about fiber optic installation for traffic lights and inquired if a traffic roundabout was going in on Pelican and El Dorado with a signal.

Mayor Gunter requested for Staff to speak with the resident on the issue.

Bruce Smith voiced concern about the loss of potable water in the Northwest area using the mid-Hawthorne aquifer, UEP moving too slow, media article about Cape Coral sinking, water capacity, salinity and magnesium concerns, City should issue moratorium for additional well drilling permits in the North Cape.

Rose Thom voiced concerns about the stipend, noise/construction due to the car wash install on Santa Barbara Boulevard, and requested the City leave Jaycee Park as is.

Anthony Karp advocated for Jaycee Park to remain as is and invited Council to come speak with Friends of Jaycee Park.

Kathleen Lopez voiced opposition to changes on Jaycee Park.

Jay Higgins commended Staff on pothole repairs, inquired about Burnt Store Road completion from Van Buren to Charlotte County, requested update on the Parks GO Bond, inquired about upcoming assessments, and requested that Citizens have the ability to pull items from the Consent Agenda.

Rudy Budnick voiced concern about changes to Jaycee Park. He mentioned a petition being circulated, and a class on what it means to be a public servant.

David Kalish voiced concern about the stipend, Citizens Input complaint, removal of Budget and CRA Committees, and previous Council decisions.

Julia Ettari voiced concerns about vote inquiry, Citizens Input, and accountability.

Tom Shadrach voiced concern about Yacht Club permitting, demolition, funding, schedule, FEMA, and requested a standard item on Council agendas specific to the Yacht Club. He requested email responses from Council and the City Manager.

Councilmember Welsh informed the last speaker that Yacht Club Updates are available online as of January. He reached out to delegates in Tallahassee about HB601. He noted the Quarterly Update on the GO Bond will be presented at the COW on 2/28.

Councilmember Steinke addressed the Home Rule being challenged in a variety of ways, and the advocacy for municipalities and government. He inquired about the traffic control on Pelican and El Dorado.

City Manager Ilczyszyn explained that there were no plans for a traffic signal at Pelican and El Dorado. It is possible that our IT Dept and Lee County DOT were running fiber optic cables down Cape Coral Parkway as there is an interlocal agreement to help improve the speed and operation of traffic signals.

Councilmember Steinke addressed the concerns with the Mid-Hawthorne Aquifer. He explained Citizens Input was not meant to be a debate, and Council attempts to provide information on certain inquiries.

Councilmember Carr commented on the process of Citizens Input and invited anyone to meet with him on concerns. He explained his reason for not taking the stipend.

Councilmember Cosden explained she comments when she has something new or useful to provide citizens and responds to 99% of her emails.

Discussion held regarding vote inquiry.

Councilmember Sheppard commented that he is available at his office and open to in-person meetings and phone calls. He thanked the Citizens for speaking out on topics.

Mayor Gunter commented on the Burnt Store Road extension, noting there was a meeting last week with the Lee County MPO jointly with Charlotte County. It is a priority for both Counties and trying to push the project forward; FDOT was also in attendance. He explained that Citizens Input was not a two-way dialogue. He suggested that Citizens schedule a meeting or phone Council which should serve everyone better.

Further discussion held regarding vote inquiry.

BUSINESS

CONSENT AGENDA

- 1) Resolution 49-24 Approve Single Source with Moss Kelley, Inc., as the exclusive distributor in the State of Florida for Xylem, Boerger and Hydro International products, which are utilized at the Water Reclamation Facility to process wastewater into water that can be reused for a variety of purpose such as irrigation, for an estimated annual amount of \$130,000 for Fiscal Year 2024 through Fiscal Year 2026 for an estimated three fiscal year amount of \$390,000 based on annual appropriation; authorize the City Manager or Designee to execute the purchase orders and any related documents; Department: Utilities; Estimated annual amount \$130,000 (three fiscal year estimated amount: \$390,000-FY2024 \$130,000, FY2025 \$130,000 and FY2026 \$130,000); (Water and Sewer Fund)
- 2) Resolution 53-24 Approve Final Replat for Lots 12 through 16 of Florida Tropical Farms Subdivision. This is a replat which splits and combines lots 12 through 16 of Florida Tropical Farms Subdivision into 5 developable parcels. Lots 12 through 16 of Florida Tropical Farms Subdivision is located on the north side of Pine Island Rd between Santa Barbara Blvd and NE 2nd Pl. Refer to the attached location exhibit; Department: Development Services; Dollar Value: N/A; (Fund: N/A)
- 3) Resolution 54-24 Approve FEMA Grant Agreement No. H1042 Hazard Mitigation Grant Program Agreement Phase II for Weir 7 Improvements; Department: Utilities; FEMA Construction Grant Amount: \$635,911.12; (Grant Funding)
- 4) Resolution 55-24 Approval of, and authorization for the City Manager, or his designee, to execute License Agreements for the temporary use of private properties located at 312 El Dorado Parkway West and 521, 525, 531, 605, 5618, 5622 and 5628 Rose Garden Road, for additional event parking for participants and spectators attending the 22nd Annual Burrowing Owl Festival – Wildlife & Environmental Expo on February 24, 2024 at Rotary Park; Department: Public Works / Property Management Division; Dollar Value: N/A; (Fund: N/A)
- 5) Resolution 56-24 Approve recap of direction given by the Mayor and City Council to City Staff for Items presented at the Committee of the Whole on January 17, 2024; Department: City Clerk; Dollar Value: N/A; (Fund: N/A)
- 6) Resolution 57-24 Approve Cross Access Road and Multi-Use Path Cost Reimbursement Agreement with CJS CES CAPE VENTURES LLC and BASIL 4, LLC for the reimbursement of certain infrastructure improvement costs related to a cross-access roadway and multi-use path at an amount not to exceed \$425,546.66. The improvements will establish a critical link in the City's road network and enhance public safety; Office: City Manager's Office/Division of Economic & Business Development; Not to Exceed Dollar Value \$425,546.66; (Road Impact Fees)

- 7) Resolution 58-24 Approve applications for Community Development Block Grant - Disaster Recovery (CDBG-DR) through the Lee County Recovery and Resiliency Planning Program, including identifying the City's point of contacts; Department: Fire
- 8) Resolution 59-24 Award Bid #BCP2365MM, and corresponding contract, for Construction of Festival Park to Burke Construction Group, Inc. for the base bid amount of \$16,980,939.63 with a 5% City controlled contingency of \$849,046.98 for a project total of \$17,829,986.61; And authorize the City Manager or Designee to execute the contract, amendment, purchase orders and change orders; Office: City Manager's Office/Division: Capital Improvement Projects; Dollar Amount: \$17,829,986.61; (Governmental Capital Project Fund-funded by GO Bond and General Fund)
- 9) Resolution 60-24 Approve creation of four new classifications, the abolishment of 15 classifications, the elimination of two pay grades from the General Union step plan, the addition of one pay grade to the Non-Bargaining salary schedule, the increase in ranges for three Non-Bargaining pay grades, and the reallocation of certain classifications as a result of the General Union and Non-Bargaining Total Compensation Study; Department: All; Estimate Dollar Value: \$300,000; (All Funds)

Resolution 60-24 Approve Resolution of the City of Cape Coral, adding one pay grade to the non-bargaining salary schedule-grade order; increase the pay ranges for three non-bargaining pay grades; and providing for the reallocation of certain non-bargaining classifications
- 10) Resolution 61-24 Approve addition of four full-time equivalents (FTE) for the Bureau of Fire Prevention, three Fire Inspectors and one Fire Plans Examiner; Department: Fire; Estimated Dollar Value: \$631,825; (FSA, Fire Fees, and General Fund)
- 11) ADDENDUM: Resolution 65-24 Approve Resolution of the City of Cape Coral, nominating John Bashaw to serve as the appointed representative for the City of Cape Coral, Florida, on the Lee County Community Development Block Grant – Disaster Recovery Infrastructure and Planning Notice of Funding Availability Evaluation Committee.

Mayor Gunter asked if anyone had any items to pull.

City Manager Ilczyszyn explained 9(A)(9) Resolution 60-24 was modified to remove any reference to any positions covered by the Collective Bargaining Agreement with IUPAT. What will remain is the Non-Bargaining element under that Resolution for Council's consideration.

City Attorney Boksner recommended that this be pulled, and Council takes action on the remaining items on the Consent Agenda.

Mayor Gunter pulled Resolution 60-24 for further discussion. No other items were pulled.

Councilmember Cosden moved, seconded by Councilmember Hayden, to approve 9(A)(1), 9(A)(2), 9(A)(3), 9(A)(4), 9(A)(5), 9(A)(6), 9(A)(7), 9(A)(8), 9(A)(10), and 9(A)(11), as presented.

Council polled as follows: Welsh, Carr, Cosden, Gunter, Hayden, Long, Sheppard, and Steinke voted "aye." Eight "ayes." Motion carried 8-0.

City Manager Ilczyszyn explained that a letter was received from the IUPAT General Union and as a result, we removed any impact to the General Employees' Bargaining Unit positions. Only the Non-Bargaining element (positions and grades) was being advanced.

City Attorney Boksner recommended the wording for the motion: *approve Resolution 60-24 as it solely and exclusively pertains to the Non-Bargaining portion of that Resolution and all other aspects of it that pertain to the Union is excluded.*

Councilmember Carr moved, seconded by Councilmember Welsh, as outlined by the City Attorney to approve Resolution 60-24 solely for the purpose of approving the Non-Bargaining portion of the Resolution (adopting the City Attorney’s language as stated.)

Council polled as follows: Welsh, Carr, Cosden, Gunter, Hayden, Long, Sheppard, and Steinke voted “aye.” Eight “ayes.” Motion carried 8-0.

City Attorney Boksner noted that he would present a revised Resolution to the City Clerk tomorrow that would encapsulate the change. **There was no objection.**

APPOINTMENTS TO BOARDS / COMMITTEES / COMMISSIONS

None

UNFINISHED BUSINESS

Follow Up Items for Council

None

NEW BUSINESS

None

PERSONNEL ACTIONS

None

PETITIONS TO COUNCIL

None

FOLLOW UP ITEMS FROM CITY MANAGEMENT

None

ORDINANCES/RESOLUTIONS

Public Hearings - Quasi-Judicial Hearings

Resolution 50-24 (VAC23-000002*) Public Hearing

*Quasi-Judicial, All Persons Testifying Shall Be Sworn In

WHAT THE RESOLUTION ACCOMPLISHES:

A resolution of the City of Cape Coral, Florida, providing for the vacation of plat for a portion of the Cobalt Canal right-of-way adjacent to Lots 1 and 2, Block 146, Cape Coral Unit 4, Part 2; property located at 5302 Cobalt Court. (183.21 square feet)

Applicant: Robert Belza and Nella Belza

City Planning Staff Recommendation: Approval with conditions

Hearing Examiner Recommendation: Approval with conditions

City Clerk Brunns read the title of the Resolution.

City Attorney Boksner inquired if there were any ex-parte communications that the City Council needed to disclose as this would be the appropriate time to do so for Resolution 50-24. There were none.

City Clerk Brunns administered the oath.

Associate Planner Forde explained the following displayed slides:

- Resolution 50-24 VAC23-000002
- Applicant, Location, Request
- Site Location, 2022 Aerial Map
- Official Zoning Map
- Background
- Criteria in LDC, Section 3.4.5
- Consistency with the Comprehensive Plan

- Recommendation: Planning Staff and HEX recommended approval with conditions
- Correspondence: Prior to HEX, staff received two phone calls about the case. Prior to Council, Staff did not receive any correspondence.

Public Hearing opened.

No speakers

Public Hearing closed.

Councilmember Welsh moved, seconded by Councilmember Long, to approve Resolution 50-24, as presented.

Councilmember Carr inquired about the location of the 183 ft. portion.

Associate Planner Forde displayed the subject parcel and noted the marine improvement area would stay the same. The applicant's intent is to extend the property line for a pool.

Mayor Gunter explained the similar process of quit-claiming property and the new process endorsed by the City.

Council polled as follows: Welsh, Carr, Cosden, Gunter, Hayden, Long, Sheppard, and Steinke voted "aye." Eight "ayes." Motion carried 8-0.

Public Hearings - Legislative Hearings (Note: Input received as follows: 1. City Staff presentations are limited to five (5) minutes; 2. Applicant(s) presentations are limited to five (5) minutes; and 3. Resident input is limited to three (3) minutes per individual with a maximum of sixty (60) minutes total. All three are subject to the following statement: Unless otherwise extended by City Council.)

Ordinance 10-24 Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

The Ordinance authorizes and directs the City Manager or their designee to enter into a Permissive Use Agreement with the United States Army Reserve, 365th Engineer Company, for a portion of property owned by the City of Cape Coral, Florida, as described herein; property located at 2920 Burnt Store Road North, together with adjoining tracts of land to the south. (Brought forward by City Management)

City Clerk Bruns read the title of the Ordinance.

Property Broker Andrews displayed the location map and explained:

- City of Cape Coral owns undeveloped acreage tracts of land along the west side of Burnt Store Road, approximately one-half mile north of Kismet Parkway West.
- United States Army Reserve, 365th Engineer Company has requested the temporary use of the City's property for military training exercises.
- Reservists train monthly and anticipate utilizing the City's property on: February 24 and 25, March 23 and 24, May 18 and 19, and June 22 and 23.
- Agreement terminates on June 30, 2024.

Public Hearing opened.

No speakers.

Public Hearing closed.

Councilmember Steinke moved, seconded by Councilmember Welsh, to adopt Ordinance 10-24, as presented.

Councilmember Long inquired how many times this has been approved previously.

Property Broker Andrews noted it was a few years ago.

City Manager Ilczyszyn responded that there have been no complaints or issues.

Council polled as follows: Welsh, Carr, Cosden, Gunter, Hayden, Long, Sheppard, and Steinke voted “aye.” Eight “ayes.” Motion carried 8-0.

Ordinance 11-24 Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

The Ordinance approves an Agreement for the 2023/2024 Hurricane Legislative Appropriation Program between the City of Cape Coral, Florida and the State of Florida, Division of Emergency Management to provide funding for hurricane repairs and recovery due to Hurricane Ian and Hurricane Nicole and authorizes the City Manager or their designee to execute the Agreement and any related documents. (Brought forward by City Management)

City Clerk Bruns read the title of the Ordinance.

City Manager Ilczyszyn explained what this Ordinance would accomplish.

Public Hearing opened.

No speakers.

Public Hearing closed.

Councilmember Steinke moved, seconded by Councilmember Sheppard, to adopt Ordinance 11-24, as presented.

Council polled as follows: Welsh, Carr, Cosden, Gunter, Hayden, Long, Sheppard, and Steinke voted “aye.” Eight “ayes.” Motion carried 8-0.

Introductions

Ordinance 12-24 Set Public Hearing for March 6, 2024

WHAT THE ORDINANCE ACCOMPLISHES:

The Ordinance amends the City of Cape Coral, Florida Code of Ordinances, Chapter 2, Administration, Division 2, Utility Capital Expansion Fee, Section 2-24.3 Fee imposed and time of payment, which establishes the existing North 1 East Utility Expansion Area Fee (Legacy Rate) table; and updating the Utility Capital Expansion Fee tables for all other areas of the City that shall not be encapsulated within North 1 East Utility Expansion Fee Table; amending Section 2-24.6 Review of fee structure, which sets forth the statutory reference mandated within Section 163.31801 of the Florida Statutes. (Brought forward by City Management)

City Clerk Bruns read the title of the Ordinance.

The public hearing was scheduled for March 6, 2024, in Council Chambers.

REPORTS OF THE MAYOR AND COUNCIL MEMBERS

Councilmember Carr – Topics: Congratulated John Bashaw receiving our nomination to represent the City at the CDBG Recovery Grant Program. Looked forward to his input.

Councilmember Cosden – Topics: No report

Councilmember Hayden – Topics: No report

Councilmember Long – Topics: No report

Councilmember Sheppard – Topics: Thanked the volunteers that help the Police and Fire Departments, as well as other areas in the City.

Councilmember Steinke – Topics: Attended 2/8 Tourist Development Council meeting, kudos to our Department of Economic Development; 2/13 Governor’s Press Conference for Statewide Crackdown on Retail Theft; 2/14 COW; 2/21 Attended the Police Volunteer

Appreciation Luncheon, CCPD currently has 85 Volunteers, looking for more volunteers; Trying to set up a date for a CRA Workshop, two dates available, 2/29 and 3/1 meeting, the new CRA headquarters is prepared to have the workshop there.

Councilmember Cosden noted she had a conflict on 3/1 at 12 p.m.

Councilmember Steinke explained they could look for dates with more notice.

Councilmember Welsh – Topics: Asked for input about ordering City Council marketing materials for a parade or speaking engagement. Would work with Communications or the Office Manager.

Mayor Gunter suggested this be brought up for a discussion at a COW meeting.

Councilmember Welsh commented that there were teddy bear handouts at the Veteran's Parade provided by Dodge. Working on ideas for Council and CRA marketing tools.

Mayor Gunter had no issue with future discussion on this topic.

Councilmember Carr explained that some of the items might already exist in various departments in the City. Possibly funding could be shared and maybe personalize for City Council.

Councilmember Steinke commented to have accomplishments marketing tool to share during an event, remind everyone of what the City has to offer.

Discussion held regarding handouts at events.

Councilmember Welsh would work with Communications to see what is available with other departments and bring back for discussion at a COW.

Mayor Gunter – Topics:

- 2/13: Guest Speaker at the Spring Semester of Citizens Academy
- 2/13: Attended Governor DeSantis' Press Conference on retail theft penalties.
- 2/15: Attended the Fire Department Recognition Ceremony
- 2/16: Attended the MPO Joint Meeting with Charlotte/Punta Gorda MPO members
- 2/17: Presented a Proclamation at the Annual Saint Vincent Walk for the Poor at Saint Andrew's Church
- This morning: Attended CTAC meeting & Police Volunteer Luncheon

REPORTS OF THE CITY ATTORNEY AND CITY MANAGER

City Attorney Boksner: Provided an update on the Chiquita Lock.

City Manager Ilczyszyn announced:

- 2/23 at 10:00 a.m. Groundbreaking for Crystal Lake Park
- 3/8 from 9:00 a.m. until 12:00 p.m. - Vendor Forum
- 3/9 from 9:00 a.m. until 3:00 p.m. at 815 Nicholas Parkway in the Public Works Annex, City will host their First Annual Water Ways Science Festival, family friendly event that will include educational opportunities and games, focus on importance of Cape Coral's waterways, mangroves and plant giveaways, arts and crafts, laboratory tours of canal watches, food trucks

TIME AND PLACE OF FUTURE MEETINGS

A Committee of the Whole was scheduled for Wednesday, February 28, 2024, at 9:00 a.m. in Council Chambers.

MOTION TO ADJOURN

There being no further business, the meeting adjourned at 6:07 p.m.

Submitted by,

Kimberly Bruns, CMC
City Clerk