

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

**June 4, 2018**

**Council Chambers**

**4:30 p.m.**

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

Invocation/Moment of Silence – Mayor Coviello

Pledge of Allegiance – Alexandra Souto - Trafalgar Elementary

Roll Call: Mayor Coviello, Council Members Carioscia, Cosden, Gunter, Nelson, Stokes, Stout, and Williams were present.

**CHANGES TO AGENDA/ADOPTION OF AGENDA**

***Councilmember Carioscia moved, seconded by Councilmember Williams to adopt the agenda, as presented.***

***Council polled as follows: Coviello, Gunter, Nelson, Stokes, Stout, Williams, Carioscia, and Cosden voted "aye." All "ayes." Motion carried 8-0.***

**RECOGNITIONS/ACHIEVEMENTS**

Recognition of Receipt of the Volunteer Agency Service Award - Presented to the  
Cape Coral Community Response Team

Fire Chief Lamb recognized the Cape Coral Community Response Team for the Volunteer Agency Service Award.

**APPROVAL OF MINUTES**

Regular Meeting – May 7, 2018

***Councilmember Carioscia moved, seconded by Councilmember Gunter to approve the minutes for the May 7, 2018 regular meeting as presented. Voice Poll: All "ayes." Motion carried.***

Regular Meeting – May 14, 2018

***Councilmember Stokes moved, seconded by Councilmember Stout to approve the minutes for the May 14, 2018 regular meeting as presented. Voice Poll: All "ayes." Motion carried.***

**BUSINESS**

**PUBLIC COMMENT - CONSENT AGENDA**

John Brock appeared to express support for the Charter School system item. Please assert yourself as a stakeholder, support the Charter School authority, and set the record straight. He requested a unanimous vote to support the Charter School system.

Rachel Holloway appeared to discuss the need to keep the D&D Bait and Tackle shop open. She read various comments compiled in support of the shop remaining open and functioning on the property.

### CONSENT AGENDA

Councilmember Stout pulled item 8(B)(8).

Councilmember Cosden pulled item 8(B)(9).

- 1) Resolution 67-18 Approval of the Continuance of the Existence and Functions of the Golf Course Advisory Board, Transportation Advisory Commission, and the Cape Coral Youth Council; Department: City Clerk; Dollar Value: N/A; (Fund: N/A)
- 2) Resolution 93-18 Approve the single source purchase with Trinova Inc., for the purchase and service of Ultrasonic transmitters & sensor set, parts, preventative maintenance, troubleshooting, repairs, chemical pumps, system parts, level indicators or flow meters, and remote terminal units (RTU's) from Endress + Hauser Inc., Telog Instruments, Inc. and Prominent Fluid Controls, Inc. for the Utilities Department for Fiscal Year 2018 and Fiscal Year 2019, not to exceed budgetary limits and authorize the City Manager or Designee to execute the purchase orders and Single Source. Trinova is the only authorized representative for Endress +Hauser (E+H), Prominent Fluid Control Inc and Telog Instruments Inc. products and is the only authorized service repair and warranty organization in the State of Florida; Department: Utilities; Combined Total Dollar Amount: \$354,762; (Water & Sewer Fund–FY2018 \$177,381 and FY2019 \$177,381).
- 3) Resolution 95-18 Award ITB-PW18-43/AP, for the Purchase of Aggregate Materials, to the following contractors: Florida Dirt Source, LLC.; Grippo Pavement Maintenance, Inc.; and Stan Weeks and Associates, Inc., as the lowest responsive, responsible bidder for their respective awarded items, at the unit price bid, for an estimated annual dollar value of \$100,000 not to exceed budgetary limits and authorize the City Manager or Designee to execute the contracts, amendments, and any future renewals; Departments: Public Works; Estimated Annual Dollar Value: \$100,000; (Stormwater Fund)
- 4) Resolution 96-18 Award Bid # ITB-CW18-18/GL, for Citywide Pest Control Services, to Hulett Environmental Services Inc., as the lowest responsive responsible bidder to provide Pest Control Services for the City of Cape Coral and Charter School Facilities at the unit prices bid for an estimated annual amount of \$18,000 annually, City cost is \$13,188 (74%) and the Charter School is \$4,608 (26%) respectively, not to exceed budgetary limits and authorize the City Manager or Designee to execute the contract, amendments, and any future renewals. The term of the contract is for five (5) years with three (3) additional one (1) year renewal periods – the term of the contract dollar value, if monies appropriated in the subsequent fiscal years, is a total of \$90,000; Department: Public Works; Estimated Annual Dollar Value: \$18,000; {total contract \$90,000}; (General Fund)
- 5) Resolution 108-18 Award Bid #UT18-57/MC to Shrieve Chemical, as the lowest responsive, responsible, bidder for the purchase of Sulfuric Acid, at the unit price

- 6) Resolution 116-18: Memorandum of Understanding Between the City of Cape Coral and Faith Presbyterian Church for a First Responder Shelter Base; Department: Fire; Dollar Value: N/A; (Fund: N/A)
- 7) Resolution 124-18 Approval of reduction of wastewater charges and fees at the City-owned Sunsplash Waterpark, resulting from an engineering analysis of the excess water usage, and authorizing the reimbursement of excess payments from 2014; Department: City Manager; Dollar Value: \$236,735; (Unrestricted reserves of Water and Sewer Fund)
- 8) Resolution 128-18 Approve the recommendations presented at the May 22nd Committee of the Whole meeting to determine best practices for the Charter Schools to assure competitive sustainability
- 9) Resolution 129-18 Approve D&D Boat Ramp Conceptual Site Plan Option 1A/1B (Phased) with P3 Restaurant / Bait Shop and authorization for the City Manager to execute all associated grants, permits, designs, and construction contracts.

***Councilmember Stout moved, seconded by Councilmember Gunter to approve items 8(B)(1), 8(B)(2), 8(B)(3), 8(B)(4), 8(B)(5), 8(B)(6), and 8(B)(7), as presented.***

***Council polled as follows: Coviello, Gunter, Nelson, Stokes, Stout, Williams, Carioscia, and Cosden voted "aye." All "ayes." Motion carried 8-0.***

Resolution 128-18 Approve the recommendations presented at the May 22nd Committee of the Whole meeting to determine best practices for the Charter Schools to assure competitive sustainability

City Manager Szerlag presented a summary of the general direction about the analyzation of best practices for the Charter School.

- If approved, over the next 6 months, City Staff will track personnel and operating costs associated with the Charter Schools, relative to Financial Services, City Clerk, Fleet, Facilities, ITS, and Human Resources.
- Additionally, Fleet and Facilities costs for operation and maintenance and capital, if necessary, will be funded by the Charter Schools.
- Staff will also determine the costs of development of shared athletic fields and facilities, for example, Oasis Sports Park.
- We'll take a look to ensure that the Charter Schools follow applicable and allowable City policies and procedures.
- We will also track Charter School administrative costs for how they currently operate.
- We will compare measurable costs to the costs that could be provided, not only by the City of Cape Coral, but also by the private sector.
- We will also address capital to be more competitive amongst other schools.
- We will ask the Lee County School District to provide costs for managing human services, recordkeeping, and possible other areas such as ITS.
- We will determine the appropriate fund balance priorities moving forward for the Charter Schools and Fleet and Facilities Services currently provided by the Charter Schools to be consolidated beginning July 2018.
- In addition to the best practices analysis, we are recommending that City Council waive the 2018 chargeback for services in the amount of \$311,000 from the Charter Schools. That will provide the Charter Schools the ability to fund other

August to have \$6,000,000 in reserves. These are healthy reserves. She was not willing to make the commitment based on wants versus needs. She requested that Council live by what was promised unless there was an extraordinary concern. She was not in favor of this resolution based on that item.

Councilmember Cosden inquired about the reserves.

Finance Director Bateman responded that \$6,000,000 would cover about three months' reserves.

Mayor Coviello inquired about the services provided.

Director Bateman responded the charges are based on \$55 per student from previous years, now the cost is about \$75 per student.

Discussion held in reference to shortages if no adjustments are made such as cutting personnel, salaries, Chromebooks, etc.

Councilmember Stout added Bill 7069 would have allowed capital to be funded to the Charter Schools from the School Districts. It was now in appeals court, and they have requested an expedited decision or go directly to the Supreme Court.

Discussion held regarding the shortages and the future.

Superintendent Collins explained the biggest budget cut would be for teachers. A short cut is taken not to take a planning period break and receive a stipend in its place. Outdated labs need to be revamped in order to compete with other schools. The school cannot attract and retain students for the great programs that the other area schools offer.

Councilmember Carioscia stated if we look at a 3-year budget for the Charter School after the \$1.7M is added, where will we be?

Superintendent Collins responded it would help pay staff for raises and pay parity.

Director Bateman explained each year is about \$1.7M in the hole. They are losing students at the high school.

Councilmember Carioscia inquired if attracting more students at the high school, does it raise our debt?

Superintendent Collins responded it brings in more money short-term, but long-term once you get to the point where we are full such as in the elementary schools, there is no more room to expand and limited to what your income is. Operations and personnel always go up. It will keep us steady for a while, but it is not a long-term solution.

Councilmember Gunter reviewed the appeal, and the addition of \$1.5M a year.

Superintendent Collins explained this is PICO funding, and hoped that it will remain at that level.

Director Bateman explained legislation could change if it is appropriated, but is currently written that you should get \$1.5M.

Councilmember Nelson recommended the next six-month analysis as it would be pivotal to determine the future of the schools. The \$311,000 is important to enhance the schools and stabilize the turnover. She was in support of the Resolution as it is presented.

Councilmember Stout explained the \$1.7M is not a one-time infusion. It is capital dollars from the Lee County School District that by law they have to share with the Charter Schools. PICO funds are a different type of funding. Should the law prevail and the school district not have to provide funding, we need to work with the Lee County School District to be added to their schedule to cover the capital funding. We do not need to take from the General Fund.

Discussion held in reference to the feasibility study to look at the cost for the next six months.

Mayor Coviello was in support of the \$311,000 not being paid.

Councilmember Gunter inquired if the \$311,000 was just for one year?

City Manager Szerlag responded in the affirmative. After six months, it will be brought back to Council on what we think is needed for a competitively sustainable Charter School system.

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

***Council polled as follows: Coviello, Gunter, Nelson, Stokes, Williams, Carioscia, and Cosden voted "aye." Stout voted "nay." Seven "ayes." One "nay." Motion carried 7-1.***

Resolution 129-18 Approve D&D Boat Ramp Conceptual Site Plan Option 1A/1B (Phased) with P3 Restaurant / Bait Shop and authorization for the City Manager to execute all associated grants, permits, designs, and construction contracts.

City Manager Szerlag discussed the consensus received at the previous Committee of the Whole (COW) meeting with Conceptual Site Plan – Option 1A (P3 on Bait Shop Parcel plus \$3.3 million, 44 Boat Trailer Spaces) phased in. The resolution is in compliance of the general direction given at the COW. If approved, he would solicit an RFP for a restaurant; if they want a bait shop, the existing owners can be approached.

Public Works Director Clinghan discussed the following:

1. Option 1A, B phasing in
2. Also approving the WCIND grant for \$222,000 with matching funds for improvements on the west side
3. Approving the grant for the FPIP grant for \$67,500 plus an additional \$12,500 to design the concept 1A, 1B. When that is designed and permitted, we will find out how much of the grant money we will receive.
4. The City Manager mentioned to give him permission to move forward with the P3 with the restaurant, marine field facility, and somehow maintaining the D&D tackle business.

Councilmember Cosden would be in favor of this item as to not lose the grant but will

Councilmember Gunter stated he was in favor of the resolution and expressed his reasons.

***Councilmember Carioscia moved, seconded by Councilmember Stout to approve item 8(B)(9), as presented.***

***Council polled as follows: Coviello, Gunter, Nelson, Stokes, Stout, Carioscia, and Cosden voted "aye." Williams voted "nay." Seven "ayes." One "nay." Motion carried 7-1.***

### CITIZENS INPUT TIME

Tim Trimble appeared to discuss the Charter School.

Yolanda Olsen appeared in reference to upgrade the recreational use of the Bimini Basin. She was in favor of the Bimini Mooring Fields initiative. She went over the email she sent to Council in the past two weeks: improved water testing protocols should include salt water stations test for bacteria, stations 511 and 510 should test on a weekly basis for the next six months. Public Works need more data points. The cost would be about \$1,200. Test results should be input to the DEP watershed information network correctly. Test results should be available to the public on a monthly basis. Source testing at 510 and 511 should occur for the next three months to determine the sources of the bacteria. Public Works should complete the storm draining and propose a remediation plan. Clean the storm drains or make them bigger, move forward now before a Forbes magazine editor comes along and decides to make recreational water quality in their ten best places to retire.

Lynne Rosko appeared to discuss the code violations at homes in Cape Coral. Update the Ordinance and fine the residents. The properties are becoming rooming houses. Take charge by tightening up the ordinances on codes and infractions and what has to be done. She also discussed the eagle ordinances which bring a lot of notoriety to the Cape.

Gary Eldridge appeared to discuss the successes in the City. He discussed the Bimini Basin Cardboard Boat Regatta cancellation. He was disappointed when he learned the status of that situation as the NRC (New Residents Club) spent over 3,500 hours of labor building their boat. He would like an update on the abandoned boats and the cost to fix the piping and cleaning up of the water. Who pays for the cost? What is the current level of the E. coli in the water? Who was responsible to check the water? Was there a reprimand? He discussed the paid leave of absence for the Assistant City Manager and the outside counsel investigation.

Jerry Owens appeared to invite the Cape Coral Emergency Management event on Thursday night for the Hurricane Seminar hosted by the City of Cape Coral in Council Chambers. Information will be available half an hour before the start of the event at a table set up outside of Chambers.

Lou Navarra discussed the video on proposals of vacation rental meetings in the past. Please revisit the policy and adopt a new resolution like Fort Myers Beach. There are no provisions to police these locations like a hotel. He was concerned about tenants, pedophiles, etc. Please come up with a new proposal. He explained a situation regarding the rejection of his service dog at City Hall. Captain Sizemore addressed

Jay Sheldrake appeared to discuss the Eagle Ordinance. In Cape Coral there have been 10 nests since 2007. He reviewed the City's website and mentioned under the mission statement at the values, it contains a statement about being stewards of environmental needs of our citizens. Behind that statement is two nesting eagles.

Bridget Nawrocki questioned when did you discover the water quality in Bimini Basin? In the past, a university school was paid thousands of dollars to design. Why would you pay this to come up with a plan with the poor water quality?

Mark Greenburg appeared to discuss boating in the City. He was part of a Cardboard Boat Regatta team. He referred to the Bimini Basin as a sewer. People come here to boat. Test the water, look at the science, know what you are fixing. The test data is not accurate.

Dan Sheppard reviewed the Four Freedoms Beach decision years ago. He said then that the water would not be suitable for swimming. After the beach opened, signs were put up for no swimming. He reviewed cleaning up the water and the neighborhood. He has complained about 4 and 5 plexes with rooftops caved in. For 6 years, they had not been written up. One building was torn down, the other had  $\frac{3}{4}$  of the roof removed. It is a 4 plex with one unit left, and someone is living there. He requested Council investigate. Build the magnet first. He also discussed the trash problem. It is not all the trash company's fault. Where he lives there are duplexes and there is not a week where the landlords kick people out, drag out the entire content of the unit, and leave it for weeks. He saw 6 or 7 on his way here.

Jay Lagace appeared to discuss the Eagle Ordinance. He read an excerpt from the National Bald Eagle guidelines. He expressed concern with the current City guidelines and the death of eaglets this year. The eagles and the wildlife in Cape Coral are a huge draw for 95% of buyers. This change could have an adverse impact on the eagles.

Carl Veaux, President of Cape Coral Friends of Wildlife, appeared to discuss water quality. The Federal Government is to blame. The Lake Okeechobee water needs to be put South.

Mayor Coviello expressed the disappointment with the cancelation of the Cardboard Boat Regatta.

Director Clinghan explained the high level of bacteria. They were directed by the City Manager to look at the water quality and sampled to find patterns and trends. Utilities looked to see if there was a sanitary sewer impact. The Police Department removed boats that were potentially discharging waste water, and Public Works identified a culvert full of sediment. This is being cleaned out which will help with the water quality. He explained having the culvert blocked, they are determining if the high levels are from humans or naturally occurring.

Mayor Coviello inquired if the testing timeline was being updated to keep on top of the problem.

Director Clinghan stated samples were being taken every two weeks.

Environmental Resources Manager Robert reviewed the sample schedule and the

Mayor Coviello requested an addition to the agenda, testing on what is being added to the Water Quality Update every couple of weeks. He discussed the CRA project for the Four Freedoms Beach with a cost of \$40,000.

Councilmember Gunter reviewed the water quality as a major issue and concern for everyone. At the next Council meeting, he would like an up to date account of what was found.

Director Pearson responded with an explanation that Resolution 114-18 was approved by City Council on May 14<sup>th</sup>. This approved the waiver of the procurement process to contract with Ric-Man Construction to clear the culvert between Rubicon Canal and Bimini Basin. It included a contingency in case they found something underwater. This work will begin in the next few weeks. A water quality sampling map has been created, taking samples at strategic areas for analysis of data. We also look at what happens once the culvert is cleared. A study was done for Billy Creek in Lee County, and the DNA test for the Enterococci bacteria was from birds, dogs, and non-human. They mentioned that dog excrement can cause the Enterococci bacteria as it is four times higher than human. All lift stations have been checked, as well as all the sewer lines in that area, and no anomalies have been found for leakage. It is a very large drainage basin, anything from dogs, animals, birds, cats can wash off of the lawns into the canal. They are trying to track down and trace the source. This appears to be a non-source point which is difficult to locate.

Councilmember Gunter expressed how critical identification of the problem is to be able to correct the problem. He looked into the issue about the resident in the 4 plex. Director Cautero is working with City policies to correct that. This policy will come back in the future.

Councilmember Nelson inquired about City education for the water quality as to what not to put in the water.

Director Clinghan reviewed the fertilizer program, pollution from dogs and cats, and the natural occurrences from birds.

Councilmember Nelson requested that a plan be put together and show Council the literature.

Director Clinghan responded that it could be on a COW and in a memo form to start.

Councilmember Stokes inquired as to the fecal level from Lake Okeechobee vs. Bimini.

Councilmember Cosden stated she would send the five other items for a follow up memo at the next meeting.

City Manager Szerlag explained the work being done with the City of Fort Myers in an attempt to have an agreement. One would be that the Fort Myers South Wastewater Treatment Plant would be upgraded. Once that occurs, there would be an agreement between Fort Myers and Cape Coral so that there would no longer be any dumping of effluent into the Caloosahatchee from Fort Myers. Instead, we would purchase the improved wastewater that would be suitable for irrigation standards for our residents. He was confident that an agreement will be coming shortly with Fort Myers and bring back to Council.



**APPOINTMENTS TO BOARDS / COMMITTEES / COMMISSIONS**

Councilmember Williams stated that Council will be appointing two junior seats from students from North Fort Myers High School and Ida S. Baker High School.

**Youth Council – 2 Vacancies****Applicants:**

Sasha Gorbanovski – North Fort Myers High School  
Donovan Souppa – North Fort Myers High School

Daniel Mikell – Ida S. Baker High School  
Lisa Nguyen – Ida S. Baker High School

City Clerk van Deutekom asked the Council to give their preferences.

City Clerk van Deutekom compiled a tally for applicants Sasha Gorbanovski and Donovan Souppa of North Fort Myers High School.

**North Fort Myers High School**

Coviello – Gorbanovski  
Gunter – Gorbanovski  
Nelson – Gorbanovski  
Stokes – Gorbanovski  
Stout – Gorbanovski  
Williams – Gorbanovski  
Carioscia – Gorbanovski  
Cosden – Souppa

The results were as follows: 7 for Gorbanovski, and 1 for Souppa.

***Councilmember Cosden moved, seconded by Councilmember Stout to appoint Sasha Gorbanovski to the Youth Council as North Fort Myers High School Rising Junior member.***

***Council polled as follows: Coviello, Gunter, Nelson, Stokes, Stout, Williams, Carioscia, and Cosden voted “aye.” All “ayes.” Motion carried 8-0.***

City Clerk van Deutekom compiled a tally for applicants Daniel Mikell and Lisa Nguyen of Ida S. Baker High School.

**Ida S. Baker High School**

Coviello – Mikell  
Gunter – Nguyen  
Nelson – Nguyen  
Stokes – Nguyen  
Stout – Mikell  
Williams – Nguyen  
Carioscia – Mikell  
Cosden – Nguyen

The results were as follows: 3 for Mikell, and 5 for Nguyen.

***Councilmember Williams moved, seconded by Councilmember Stokes to***

Mayor Coviello requested Council to move up Item 11(A) on the agenda based on the students present today in the audience. Council agreed to the agenda change.

Park Project at Oasis Elementary School - Janet Altini, Oasis Elementary

Ms. Janet Altini and her 4<sup>th</sup> Grade Class at Oasis Elementary discussed their Park Project at Oasis Elementary School. She noted that the project approval is needed based on the improvement to a city property. The cost will be covered from donations and grants. They presented the following slides:

- Oasis Elementary Eco-Friendly Park
- Hurricane Irma, Rebuilt, Eco-Friendly, Survey
- Music, Self-Expression, Fitness, An Extension of Our Interests
- Music, Self-Expression, Fitness, An Extension of Our Interests
- Native Floridians, Discover, Attract, Butterflies
- Learn, Have Fun, Enhance, Extending the Classroom
- Thank You
- Oasis Elementary/Middle Conceptual Outdoor Learning Plan

Councilmember Gunter expressed his support for the item.

Councilmember Cosden commended the students for their project.

Councilmember Nelson expressed 100% support for their project.

Councilmember Stokes expressed appreciation for the class presentation.

Councilmember Stout commended the students.

Councilmember Williams commended the presentation from the students.

***Councilmember Carioscia moved, seconded by Councilmember Gunter to approve the improvement to the Charter School property.***

***Council polled as follows: Coviello, Gunter, Nelson, Stokes, Stout, Williams, Carioscia, and Cosden voted "aye." All "ayes." Motion carried 8-0.***

## ORDINANCES/RESOLUTIONS

### PUBLIC HEARINGS

Ordinance 32-18 Public Hearing (Continued from 5/14 Regular Meeting)

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending Cape Coral Code of Ordinances, Chapter 23, Protected Species, Article I, Bald Eagle Protection, to amend definitions; to reduce the size of the Eagle Nest Management Zone; to provide that any development, other than a single-family home or duplex within an Eagle Nest Management Zone shall require the submission of an Eagle Nest Management Plan; to reduce the distance from an active eagle nest prohibiting any development to occur during nesting period; to provide for removal of nest trees if authorized by federal permits; to update the Monitoring Protocol to the current United States Fish and Wildlife Service Bald Eagle Monitoring Guidelines dated September 2007. (Applicant: Brought forward by City Management)

Mike Meyers, Senior Ecologist with Passarella & Associates, appeared to discuss the former decline of the eagle populations due to DDT use in the 50's and 60's. He reviewed statistics in Florida showing the increase in nests. From 2002 to 2006 the US Fish and Wildlife submitted the monitoring report with no disturbance or nest abandonment. Monitoring nest activities beyond 660 feet was determined no longer warranted. It was his belief that this would be the same findings here in Cape Coral. Preparation of a management plan on eagles from October to May can be very costly. He displayed a slide titled Aerial with Bald Eagle Buffers and Acreages Seven Islands Bald Eagle Nest.

Councilmember Williams inquired about the mitigation of the nest shown regarding the UEP.

Utilities Extension Manager Higginson explained we are out of eagle nesting season and can begin construction in that area.

Discussion held in reference to a time limit for the public hearing to five minutes for speakers.

***Council agreed to limit the time for public speakers to five minutes.***

Public Hearing opened.

Howard Wolfer appeared in opposition of the Ordinance.

Alessia Leathers appeared in opposition of the Ordinance. She supplied a chart that showed in the top ten of populated cities, our City has the largest population of Urban Eagles.

Carl Veaux appeared in opposition of the Ordinance. He reviewed the issuance of a permit to build a house which resulted in the deaths of the three eaglets. He suggested looking to Home Rule when it comes to legal issues.

Edmund Jackson appeared in opposition of the Ordinance. He was in favor of protecting and preserving our wildlife. This is about the birds, community, and representation of ourselves as a City and a Nation.

Cheryl Anderson appeared to provide additional information and address questions brought up by Joe Mazurkiewicz. She noted that in the 2007 National Bald Eagle Guidelines, Page 3 paragraph 4, are guidelines, not law. The guidelines are recommendations. The actual law is the Bald and Golden Eagle Protection which was enacted in 1940. She stated the law says we cannot disturb bald eagles. She read the definition of disturbance.

Joan Heery appeared in opposition of the Ordinance.

Isabel Firth read a statement from Lori Haus that was in opposition of the Ordinance.

Jim Collier appeared in opposition of the Ordinance. He explained the need for proper timing of development. The criterion was based on compromise. Sound specific data would need to be available for change.

Jim Weider appeared to ask about the new data requested of staff. He completed

Pascha Donaldson provided a history of the topic. She appeared in opposition of the Ordinance.

Bill Johnson, Executive Director and CEO, CCCIA, appeared in favor of the approval of Ordinance 32-18.

Chris Weider reviewed the list of cities slide previously shown explaining the Eagle population in the State of Florida's largest population cities.

Director Cautionero provided an explanation of the statistics provided.

Public Hearing closed.

***Councilmember Stout moved, seconded by Councilmember Carioscia to adopt Ordinance 32-18, as presented.***

Councilmember Stout reviewed the statistics supplied. She was impressed by the legal opinion given by Assistant City Attorney Bartos. She does not want to put the City in legal consequence. She also does not want the City forced to spend money to do a study for every property where someone wants to build that falls into that 87 acres. She reviewed a nest near the A-1 Shelter that was inhabited by Eagles after they began construction, the plan cost the builder an additional \$32,045.

Councilmember Stokes reviewed the importance of protecting the eagle nests that we have in our City.

Councilmember Carioscia explained the importance of protecting the eagle nests in our City.

Mayor Coviello reviewed the importance of the nests and included the existing hunting grounds for the Eagles. He stated he was not in favor changing the Ordinance.

Councilmember Williams was not in agreement with the distance impact. We should be concentrating on fixing the water quality and food source.

***Council polled as follows: Stout voted "aye." Coviello, Gunter, Nelson, Stokes, Williams, Carioscia, and Cosden voted "nay." 1 "aye." 7 "nays." Motion failed 1-7.***

#### Ordinance 9-18 Public Hearing

##### WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Code of Ordinances, Chapter 8, Fire Prevention and Emergency Management, Article II, Fire Prevention, by amending Section 8-10, City of Cape Coral Fire Prevention and Protection Code Adopted; Amendments to Fire Codes, to be consistent with the current edition of the National Fire Codes; Establishing Section 8-14, Burn Ban Implementation Procedures, providing procedures to ban open burning when extreme dry conditions warrant a ban; by amending Article IV, Emergency Management, to provide for the declaration of a state of local emergency in preparation for or response to an emergency or disaster; to prohibit the sale of beer in the Alcoholic Beverage Prohibition; to amend Removal of Debris to include conditions affecting public health and safety; amending termination provisions. (Applicant: Brought forward by City Management)

- 2. Adds the Addition of a Burn Ban
- 3. Updates the Emergency Management Ordinance
- Alcohol Prohibition
- Recommendation: Approval of Ordinance 9-18

Public Hearing opened.

No speakers.

Public Hearing closed.

***Councilmember Williams moved, seconded by Councilmember Gunter to adopt Ordinance 9-18, as presented.***

Councilmember Carioscia requested a clarification on the sale of alcohol during an emergency.

Chief of Police Newlan addressed the need to keep people in their homes and the importance when a curfew is levied.

Fire Emergency Management Division Manager Spearo stated the Governor has full authority to declare a State of Emergency, and he can do the prohibition across the State geared toward managing civil unrest.

Chief of Police Newlan explained other cities have the same language we are discussing tonight: Fort Myers, Fort Myers Beach, Naples, and Sarasota.

Councilmember Cosden inquired about the significant change to the power of the City Manager.

Fire Chief Lamb explained they approached the City Manager with that request after looking at the best practices for 60 municipalities.

Discussion held in reference to keeping people off the roads.

Councilmember Nelson inquired if there were statistics for impaired issues and disorderly conduct during Hurricane Irma.

Chief of Police Newlan explained there were no issues he could recall, the data would need to be confirmed, this is for public safety.

Fire Chief Lamb explained the diuretic affects experienced with beer and the need to stay hydrated during an emergency.

Discussion held regarding the fire pits listed under the burn ban.

Both Councilmembers Carioscia and Stokes requested clarification on the burn ban item.

Fire Marshal Raborn explained that recreational propane was allowed, just not anything to do with the burning of wood. This would be a commercial pit used for cooking or for heating.

provide regulations for parking commercial vehicles and trailers on certain public streets posted with signs. (Applicant: Brought forward by Councilmember Gunter.)

City Clerk van Deutekom read the title of the Ordinance.

Chief of Police Newlan explained what the Ordinance would accomplish. He discussed the power point presentation which included the following slides:

- Regulations of On-Street Trailer Parking
- What the Ordinance Accomplishes...
- On-Street Trailer Parking Prohibition
- Penalties
- Questions

Chief of Police Newlan explained that trailers can be parked on a temporary to offload and load. The previous ordinance explained parking on a property when construction is taking place.

Public Hearing opened.

Julie Ferguson, Chamber of Commerce, explained the pros and cons of the Ordinance 34-18 which does not allow for adequate time for service vehicles to be parked in these locations while services are being provided to residents or businesses. It should provide for an extended window of time as necessary for the service required to the owner or tenant, whether or not a permit is required for that service. It should remove the language "commercial vehicle" from the ordinance as the definition is too broad. It could potentially place the owner of the vehicle in violation for serving as a patron to businesses in these locations. The Chamber of Commerce recommended (as approved by a majority vote of the Chamber of Commerce of the Cape Coral Board of Directors on May 31, 2018) the following changes be made to Ordinance 34-18 prior to adoption:

- Parking of commercial vehicles and trailers prohibited unless providing services to associated properties or properties with an active building permit

Mayor Coviello inquired if the Ordinance, as written, restricts service vehicles from parking.

Chief of Police Newlan stated the only clarification is for commercial vehicles. He added it used to prohibit vehicles over 10,000 lbs. or more. That was changed to soften the language to allow vehicles that could be parked there to include 10,000 lbs.

City Attorney Menendez responded in the affirmative, commercial vehicles are defined by weight and ability to carry passengers. Pure service vehicles are allowed to be parked in the City parking lots. If the concern is for the service vehicles, that would be beyond the scope of this Ordinance. These restrictions are dealing with on street parking.

Mayor Coviello inquired if Council should table this and change the wording.

City Attorney Menendez explained this takes your current regulations with tweaks to loosen up and allow more commercial vehicles to be parked.

Discussion held in reference to the trailer's definitions.

Discussion held about looking at the particular issue at a later date.

City Attorney Menendez explained if it is voted down, the existing stays in place, the trailer definition is substantially similar to the one now about parking lots. You would have it on fewer streets, but the prohibition is there. The reason it is not in effect is not having the signs up. If they put up the signs, it triggers the issue for the already identified streets.

Councilmember Stokes was in favor of tabling the item for tweaking.

City Attorney Menendez explained that the Ordinance either passes or not tonight. The changes could occur by starting over as you cannot have substantial changes to an Ordinance while it is in the public hearing mainstream.

Councilmember Gunter expressed concerns about the trailers moving from the parking lots to the street. If this Ordinance does not pass, does that issue still exist?

Chief of Police Newlan reiterated that the signs must be posted in order to be able to enforce it.

Public Hearing closed.

***Councilmember Williams moved, seconded by Councilmember Cosden to adopt Ordinance 34-18, as presented.***

***Council polled as follows: Williams and Cosden voted "aye." Coviello, Gunter, Nelson, Stokes, Stout, and Carioscia voted "nay." Two "ayes." Six "nays." Motion failed 2-6.***

#### Ordinance 37-18 Public Hearing

##### WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance authorizing the Mayor to grant to Lee County Electric Cooperative, Inc., a perpetual easement for a right-of-way to be used for the construction, operation and maintenance of one or more overhead and underground electric distribution lines across property owned by the City that is in the area of the Fire Station #11 project, located at 1038 Burnt Store Road North. (Applicant: Brought forward by City Management)

City Clerk van Deutekom read the title of the Ordinance.

Property Broker Andrews explained what the Ordinance would accomplish. This allows LCEC to provide a service line to Fire Station #11. She displayed a slide to demonstrate the location.

Public Hearing opened.

No speakers.

Public Hearing closed.

***Councilmember Williams moved, seconded by Councilmember Carioscia to adopt Ordinance 37-18 as presented***

A resolution approving a Uniform Collection Agreement between the City of Cape Coral and the Office of the Lee County Tax Collector for use of the statutory uniform methodology of collection for certain non-ad valorem special assessments for North 2 Wastewater, Potable Water, Irrigation, Capital Facility Expansion Charge Water, Capital Facility Expansion Charge Wastewater, and Capital Facility Expansion Charge Irrigation. (Applicant: Brought forward by City Management.)

City Clerk van Deutekom read the title of the Resolution.

Finance Director Bateman explained what the Resolution would accomplish.

Public Hearing opened.

No speakers.

Public Hearing closed.

***Councilmember Stokes moved, seconded by Councilmember Williams to approve Resolution 94-18, as presented.***

***Council polled as follows: Coviello, Gunter, Nelson, Stokes, Stout, Williams, Carioscia, and Cosden voted "aye." All "ayes." Motion carried 8-0.***

**Resolution 123-18 1st Public Hearing Adopting the Program Year 2018-2019 Community Development Block Grant Action Plan - The second public hearing will be scheduled on July 23, 2018**

**WHAT THE RESOLUTION ACCOMPLISHES:**

A resolution adopting the 2018-2019 One-Year Action Plan for the Community Development Block Grant (CDBG) Entitlement Program, authorizing and directing the City Manager to prepare and submit the One-Year Action Plan for the 2018-2019 fiscal year, to the United States Department of Housing and Urban Development (HUD); authorizing the City Manager or his designee to accept and execute the Grant Agreement for the 2018-2019 CDBG program when received from HUD; authorizing the City Manager or his designee to accept and execute Grant Agreements with subrecipients. (Applicant: Brought forward by City Management.)

City Clerk van Deutekom read the title of the Resolution.

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

- Resolution 123-18
- Resolution 77-17
- Community Development Block Grant (CDBG) Entitlement Program
- Allocation Funding Requirements
- Public Facilities/Housing Categories CAB Recommendations Post Allocation
- Economic Development Category Request and CAB Recommendations Post Allocation
- Public Services Request and CAB Recommendations Post Allocation
- Administrative and Planning Allocations
- Citizen's Advisory Board for CDBG
- Action Plan Timeline



Councilmember Stokes commended staff for their efforts working with the community groups.

## INTRODUCTIONS

### Ordinance 25-18 (LU 17-0010) Set Public Hearing Date for July 23, 2018

#### WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the Future Land Use Map from Commercial/Professional (CP) to Multi-Family Residential (MF) Land Use for property located at 236 NE 16th Place. (Applicant: Francesca Nappi, Trustee)

Planning and Zoning recommendation: At their May 16, 2018 Special Meeting, the Planning & Zoning Commission voted unanimously to recommend approval.

City Manager Recommendation: City Management recommends approval.

City Clerk van Deutekom read the title of the Ordinance.

The public hearing was scheduled for July 23, 2018 in Council Chambers.

Principal Planner Boyko stated he would have a presentation at the public hearing and was available for any questions.

### Ordinance 38-18 Set Public Hearing Date for June 18, 2018

#### WHAT THE ORDINANCE ACCOMPLISHES:

An Ordinance ordering and calling for a bond referendum election to be held on November 6, 2018 in the City of Cape Coral, Florida to determine if the qualified electors residing in the City approve the issuance by the City of General Obligation Bonds which shall mature not later than fifteen (15) years from their date of issuance in an aggregate principal amount not exceeding \$60,000,000 payable from ad valorem taxes levied in amounts sufficient to pay debt service on such bonds on all taxable property within the City to finance costs relating to the acquisition, construction and equipping of various parks, natural areas, recreational and athletic facilities; trails, boating, fishing and swimming facilities, and wildlife habitat and shoreline protection improvements; providing severability and an effective date.

City Clerk van Deutekom read the title of the Ordinance.

The public hearing was scheduled for June 18, 2018 in Council Chambers.

Councilmember Stokes inquired about the process for this item.

City Manager Szerlag explained the task of the Parks Master Plan Stakeholders Group, that capital projects will not exceed \$60 million, not to include maintenance and operating. This is cost estimated at \$3 million and change per year. As to personnel, we do not have a specific plan yet to be able to determine the needs. The philosophy in Cape Coral is that we give priority to public safety, structure and maintenance, then Quality of Life. The GO (General Obligation) Bond is not something we need, but will enhance quality of life and community identity.

### Ordinance 39-18 Set Public Hearing for Transmittal Date for June 18, 2018

#### WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Comprehensive Plan by amending Policy 1.15 of the Future Land Use Element to establish the Seven Islands Sub-District Land Use Classification. (Applicant: City of Cape Coral)

Planning Team Coordinator Daltry stated he will have a full presentation at the public hearing on June 18<sup>th</sup> and was available for any questions.

Ordinance 40-18 (LU 18-0002) Set Public Hearing for Transmittal Date for June 18, 2018

**WHAT THE ORDINANCE ACCOMPLISHES:**

An ordinance amending the City of Cape Coral Comprehensive Plan by amending the Future Land Use Map to designate a parcel of land classified as Mixed Use (MX) Land Use as comprising the Seven Islands Sub-District. (Applicant: City of Cape Coral)

Planning & Zoning Recommendation: This recommendation will be added after the Planning and Zoning Commission public hearing on 6/6/2018.

City Management Recommendation: City Management recommends approval.

City Clerk van Deutekom read the title of the Ordinance.

The public hearing was scheduled for June 18, 2018 in Council Chambers.

Planning Team Coordinator Daltry stated he will have a full presentation at the public hearing on June 18<sup>th</sup> and was available for any questions.

Ordinance 41-18 Set Public Hearing Date for June 18, 2018

**WHAT THE ORDINANCE ACCOMPLISHES:**

An ordinance amending the City of Cape Coral Code of Ordinances, Chapter 10, "Land, Waterway Use Restrictions," by establishing Article V, "Mooring Fields"; providing for General Conditions, Bimini Basin Mooring Field Rules, Responsibilities of Tenants for All Mooring Fields, Amenities and Services for All Mooring Fields, Leasing Requirements for All Mooring Fields, Speed Limits, Severe Storm or Hurricane Plans for All Mooring Fields, Plans for Future Expansion for all Mooring Fields, and Managed Mooring Areas. (Applicant: Brought forward by City Management.)

City Clerk van Deutekom read the title of the Ordinance.

The public hearing was scheduled for June 18, 2018 in Council Chambers.

Planning Team Coordinator Daltry stated he will have a full presentation at the public hearing on June 18<sup>th</sup> and was available for any questions.

**UNFINISHED BUSINESS**

**Water Quality – Update**

Public Works Director Clinghan reviewed the memo provided to Council and gave the most current update on Lake Okeechobee.

**Follow Up Items Requested by Council**

None

**NEW BUSINESS**

Commercial Recycling - Youth Council Recommendation to Council- Carsyn Baxter

Youth Council Chair Carsyn Baxter and Vice Chair Alicia Bernau appeared to discuss

- A Greener Cape Coral

Councilmember Williams explained the discussions at Youth Council meetings. This is specific to new businesses. He requested a second to pursue the topic for a future ordinance.

Councilmember Stout gave the second.

Councilmember Nelson requested research on how the City would benefit. How do we differ with revenues, tipping fees, and hauling fees? If Waste Pro continues to provide that infrastructure, how do we benefit?

Park Project at Oasis Elementary School - Janet Altini, Oasis Elementary  
**– Moved Directly before Ordinances/Resolution**

### REPORTS OF THE MAYOR AND COUNCIL MEMBERS

Councilmember Gunter – Topics: Attended Do the Right Thing Awards; MPO Meeting on 5/18; Graduation for Oasis High School on 5/19; Metro Diner Ribbon Cutting event on 5/22; Public Works Appreciation Day on 5/23; Fire Department ceremony and recognition awards on 5/24; upcoming CRA meeting tomorrow at 3:00; P&Z Commission meeting on Wednesday; Budget Review Committee meeting; CCCIA Networking event on 6/14; and guest speaking event for Sail and Power Squadron event.

Councilmember Nelson – Topics: Attended Public Works Appreciation Luncheon; Cape Coral Fire Department Awards; offered condolences to both the Camelo Family and to the family of the worker at the UEP location; and Waste Pro ride along upcoming.

Councilmember Stokes – Topics: Attended Golf Course Advisory Board; Do the Right Thing Luncheon; Metro Diner Ribbon Cutting event; CCFD awards; condolences to Camelo Family; Oasis High School Graduation; Memorial Day at Coral Ridge; and regarding the SW FL Military Museum requested he write a letter of support to obtain more Federal and State grants, welcomed the rest of Council to reach out to them and offer to do the same thing to help pay off their building.

Councilmember Stout – Topics: Will attend CCPD Promotional ceremony on Wednesday and will attend services for the Camelo family.

Councilmember Williams – Topics: Attended SWFL League of Cities monthly meeting; Youth Council meeting; Memorial Day service at Coral Ridge; and will attend FL League of Cities meeting this weekend (Thursday through Saturday) in Tampa; (no cost to Council).

Councilmember Carioscia – Topics: Expressed condolences to the Camelo family.

Councilmember Cosden – Topics: Attended Oasis High Graduation; Metro Diner Ribbon Cutting; Do the Right Thing Scholarship Luncheon, Memorial Day Coral Ridge Ceremony; Eco Park for Iraqi Monument ceremony; Charlotte Harbor National Estuary Program Meeting; Special Populations Guardian Angels Fundraiser Fashion show; upcoming on Thursday will attend the Orlando MPO Advisory Council Meeting, she is the Lee County MPO representative to the Governing Board for the state MPO; (paid for by the MPO); and mentioned the Military Banners program on Cape Coral Parkway.

Appreciation Day; CCFD recognition Ceremony on 5/24, on 5/28 issued proclamations at both Coral Ridge and Iraqi Memorial Day services; upcoming on 6/6 the Miracles at Hammond Stadium have declared it Cape Coral Night and he will be throwing the first pitch; on 6/7 he will be traveling to Boston for US Conference of Mayors, and on Thursday will attend the CCCIA networking event

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

City Attorney – Topic: None

City Manager – Topic: Fire Chief Lamb provided details for the funeral for the Camelo family, all are invited, the viewing will be Wednesday night, followed by the service on Thursday at St. Andrew Church. Chief Lamb expressed gratitude toward the Funeral Home for the generosity and discussed receiving support from all over Florida. He requested that those attending RSVP; that all are welcome to attend. They are expecting up to 1,000 attendees and in lieu of flowers, please donate to the Go Fund Me account for their children.

### **TIME AND PLACE OF FUTURE MEETINGS**

CANCELED - A Regular Meeting of the Cape Coral City Council was scheduled for Monday, June 11, 2018 at 4:30 p.m. in Council Chambers.

CANCELED - A Committee of the Whole Meeting was scheduled for Monday, June 18, 2018 at 4:30 p.m. in Council Chambers.

A Special Meeting of the Cape Coral City Council was scheduled for Monday, June 18, 2018 at 4:30 p.m. in Council Chambers.

### **MOTION TO ADJOURN**

There being no further business, the meeting adjourned at 9:14 p.m.

Submitted by,



Rebecca van Deutekom, MMC  
City Clerk