

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

May 13, 2019

Council Chambers

4:30 p.m.

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

Invocation/Moment of Silence – Tribute to a Soldier – Mayor Coviello (for Councilmember Williams)

Pledge of Allegiance – National Anthem - Emily Sansone, Oasis High School

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

CHANGES TO AGENDA/ADOPTION OF AGENDA

Councilmember Stokes moved, seconded by Councilmember Gunter, to adopt the agenda, as presented.

Council polled as follows: Cosden, Coviello, Gunter, Nelson, Stokes, Stout, and Carioscia voted "aye." Seven "ayes." Motion carried 7-0.

RECOGNITIONS/ACHIEVEMENTS

Recognition of Citizen's Academy Graduates - Presented by Maureen Buice, Public Information Officer, City Manager's Office

Public Information Officer Buice explained the purpose of the Citizen's Academy which was created in 2008 and has over 300 residents who have graduated from this program. She recognized the 17 recent Citizen's Academy Graduates.

Mr. Gillis, one of the Graduates, noted the class appreciated the detailed explanations from each department and all agencies who presented.

Ms. Buice announced the next session of the Citizen's Academy will begin in June. Anyone interested should email citizensacademy@capecoral.net or call 311 for more information.

Mayor Coviello requested that she explore an abbreviated program for the Cape Coral Youth Council. Ms. Buice responded in the affirmative.

APPROVAL OF MINUTES

None.

BUSINESS

PUBLIC COMMENT - CONSENT AGENDA

Tim Trimble appeared to discuss the properties that the City is purchasing including alleys and driveways to not be deemed as surplus. He voiced his support for the Resolution on Breast Feeding. He also discussed his concern about chemicals in the water at the RO Water Plant to protect the pumps and the City system.

Jeff Lockhart appeared to discuss his support for the Resolution on Breast Feeding. He noted he was a recent graduate of the Citizens Police Academy.

Kevin Kirkwood is with the Florida Department of Health in Lee County but tonight appeared on behalf of the Breastfeeding Coalition of Lee County. He voiced his support for the Resolution on Breastfeeding.

Carol Lawrence, Lee Health Registered Nurse and member of the Breastfeeding Coalition of Lee County, thanked Council for bringing forward the Resolution on Breastfeeding. She discussed the benefits of human milk.

Wanda Rodriguez, Lactation Consultant, appeared to discuss her support for the Resolution on Breastfeeding.

Dennis Winchester, Northwest Cape resident, questioned the SUN Trail easements. He inquired about the 15-foot easement. What goes in there? What has to be moved? When he looked at the drawing for the easements, it now looks like it will be 20 feet. There is a six-foot buffer between the edge of the road, a 12-foot trail, and then another two-foot buffer. Are we extending the City easement to 20 feet versus the 15 feet?

CONSENT AGENDA

- 1) Resolution 76-19 Award ITB-PW19-51/CV for the Purchase and Delivery of Gasoline and Diesel Fuel to Palmdale Oil Company, Inc, as the lowest responsive responsible bidder, at the fixed markup price stated on the bid, for an estimated amount of \$2,000,000 not to exceed budgetary limit; And authorize the City Manager or Designee to execute the contract and all renewals; Department: Public Works; Estimated Annual Dollar Value \$2,000,000; (Internal Service Fund)
- 2) Resolution 79-19 Approve Staff Cost Proposal (SCP) SCP JE-08 with Johnson Engineering, Inc. for Professional Engineering Services to complete the Cape Coral Southeast Quadrant Dredge Management Master Plan (DMMP) update for a Not-to-Exceed (NTE) amount of \$200,000 and authorize the City Manager or designee to execute the agreement; Department: Public Works; Dollar Value \$200,000; (Stormwater funds)
- 3) Resolution 82-19 A resolution recognizing the importance of breastfeeding in accordance with Florida state laws and statutes. (Brought forward by Councilmember Cosden)
- 4) Resolution 89-19 Approve the piggyback of Lee County Solicitation RFP180313KLC Athletic Turf Maintenance and Reconstruction with JSM Services, Inc., for the purchase and installation of athletic TifTuf Bermuda sod for the Multi Sports Complex and Pelican Soccer Complex at the estimated cost of \$87,490 not to exceed budgetary limits in accordance with the City of Cape Coral Code of Ordinances Chapter 2, Article VII, Division 1, Section 2-144(f) Purchases of Goods or Services from Contracts Awarded by other Governmental or Not-for-Profit Entities by Competitive Bid or Request for Proposal; and authorize the City Manager or Designee to execute the purchase order; Department: Parks & Recreation; Estimated Dollar Value: \$87,490; (General Fund)
- 5) Resolution 98-19 Approval of Contract for Purchase of Lots 9 and 10, Block 2156, Unit 32, Cape Coral Subdivision, 1116 Kismet Parkway East, Cape Coral, for the Lake Meade Park Expansion project for the purchase price of \$11,000 plus costs not to exceed \$1,500; Department: Financial Services / Real Estate Division; Dollar Value: \$12,500; (Parks Capital Project/GO Bond Fund) Note: Trade offer rejected by Seller.
- 6) Resolution 99-19 Approval of Contract for Purchase of Lots 31 and 32, Block 3013, Unit 43, Cape Coral Subdivision, 1130 NW 25th Terrace, Cape Coral, for the Festival Park project for the purchase price of \$11,000 plus closing costs not to exceed \$1,500; Department: Financial Services / Real Estate Division; Dollar

Value: \$12,500; (Parks Capital Project/GO Bond Fund) Note: Trade offer rejected by Seller.

- 7) Resolution 100-19 Approval of Contract for Purchase of 1239 NW 25th Street, Cape Coral, an improved property located on Lots 65 and 66, Block 3013, Unit 43, Cape Coral Subdivision, for the Festival Park project for the purchase price of \$150,000 plus closing costs not to exceed \$2,700; Department: Financial Services / Real Estate Division; Dollar Value: \$152,700; (Parks Capital Project/GO Bond Fund) Note: Trade offer rejected by Seller.
- 8) Resolution 101-19 Approval of Seller's counter offer to purchase Lots 9 and 10, Block 3021, Unit 43, Cape Coral Subdivision, 1240 NW 26th Street, Cape Coral, for the Festival Park project for the purchase price of \$13,000 plus closing costs not to exceed \$1,500; Department: Financial Services / Real Estate Division; Dollar Value: \$14,500; (Parks Capital Project/GO Bond Fund) Note: Trade offer rejected by Seller.
- 9) Resolution 102-19 Shared-Use Non-motorized (SUN) Trail Network Agreement between the State of Florida Department of Transportation (FDOT) and the City of Cape Coral; SUN Trail Construction Phase 1 (Burnt Store Road to Nelson Road); Department: Public Works; Dollar Value: N/A; FDOT Grant: \$5,297,641; (Fund: N/A)

Councilmember Stout moved, seconded by Councilmember Cosden, to approve items 8(B)(1), 8(B)(2), 8(B)(3), 8(B)(4), 8(B)(5), 8(B)(6), 8(B)(7), 8(B)(8), and 8(B)(9), as presented.

Council polled as follows: Cosden, Coviello, Gunter, Nelson, Stokes, Stout, and Carioscia voted "aye." Seven "ayes." Motion carried 7-0.

Mayor Coviello requested that staff address the question posed by the resident on the SUN Trail easement.

Public Works Permitting and Planning Manager Zambrano stated there would be a full presentation next Monday at the Committee of the Whole meeting. She stated SUN Trail will be built within the existing right-of-way and were not expanding the easements.

CITIZENS INPUT TIME

Michael Richter, Chief Operating Officer of Ecological Laboratories, appeared to discuss the China trip. He stated Ecological Laboratories would be bringing their own team at their own expense. Four people will be representing their company. He explained the importance of bringing the Mayor's Assistant.

Abby Richter, Human Resources Director of Ecological Laboratories, distributed information to the Councilmembers and explained the contents of that folder. She introduced several members of the firm and discussed the importance of the China trip. She voiced her support to include the Mayor's Assistant on this trip.

Joanne Killion provided an update on the progress of the Sister City program. Lee Health will be sending one of their directors to talk about a workable health program for our Sister Cities. The Vice Secretary General has contacted the Bureau of Education to talk to her about exploring a program for high school students in both cities. A real estate person talked to her about the Seven Islands project and considered financing the project. The Dragon Boat Racing was held in Sarasota last Saturday which many people attended, and she would like to invite this program into our City next year. A Sister City program would bring in new money, create more jobs, and add more customers to our local businesses. She discussed the protocol of taking this trip to consider signing a MOU. Preparation is being done. She noted they received an official letter of invitation. It is very important diplomacy-wise.

Bob Renshaw appeared to discuss his support for the trip to China. He noted how important it was for economic development in our City.

MaryAnne Sweeney appeared to discuss her support for the trip to China. She discussed how our City is the perfect place to have foreigners come and spend their money and invest it. Then our citizens would have less taxes to pay. \$17,000 can parlay into millions. We have to give a little to get a lot.

Trond Schou, President of Nor Tec High Performance Boats, appeared to discuss the importance of going to China. He noted his firm was part of the agenda with the recent China delegation visit.

Jason Maughan from Sanibel appeared to discuss his support for the trip to China. He thanked the Mayor and Council for doing this and noted how our whole County would benefit from this trip.

Missi Lastra, Director of the Southwest Florida Military Museum and Library, appeared with Nick Napolitano, Air Force Veteran and one of the Founders of the Military Museum in Cape Coral. She addressed Resolution 107-19 to approve the temporary waiver of installation fees required in the South Cape. She requested a temporary waiver of all the fees so that they can partner to get banners up and down Cape Coral Parkway sponsored by local businesses. This would enable us to have as much visibility as possible to the inaugural Memorial Day Parade that is being supported by the City of Cape Coral and put on by the Southwest Florida Military Museum and Library.

Chuck Warren, Air Force Veteran and Funeral Director at Coral Ridge Funeral Home and Cemetery, appeared to discuss the Memorial Day Remembrance to pay tribute to the heroism of our fallen veterans. This year the ceremonies will include the Gold Star Families, Harney Point VFW Post 8463, American Legion Post 90, Oasis High School Army Junior ROTC, Boy Scout Troop 8463, Cub Scout Pack 82, and others. There will be a flyover by World War II era Douglas DC-3 from the Lee County Mosquito Control District, as well as a Motorcycle Ride-in by the American Legion Riders and Patriot Guard. Cape Coral Fire Department, Cape Coral Police Department, and Lee County Sheriff's Office will also participate. He invited Council and the public to join them on the 38th Annual Memorial Day Service on Monday, May 27, 2019, at 10:00 a.m. Flyers were available for anyone interested.

Andrew Gerke appeared to discuss the importance of the China trip and requested that Council have more time to review the addition of the second City and any additional fees.

Carl Veaux stated he was a veteran and thanked Council for the video shown at the beginning of this meeting. He discussed House Bill 4301 for Sirenita Vista Park Environmental Center that was waiting for the Governor's signature. He encouraged Council to call the Governor to support this bill. He also discussed his support for the Gopher Tortoise Ordinance.

Councilmember Stout addressed the trip to China. She noted that she lived in two foreign countries, and if we did not reciprocate, it would be seen as a snub to the Chinese. The economic piece adds tremendously to this trip. She discussed the return on investment. She has received emails from residents supporting this trip. She explained why it would be advantageous for the Mayor's Assistant to go on this trip.

Councilmember Stout moved, seconded by Councilmember Carioscia, to adopt the (China) trip planned for the end of May and not to exceed \$17,000.

Councilmember Cosden stated she would have liked to have seen this added to the agenda at the beginning of the meeting or even prior to the meeting. She supported the China trip and the need to reciprocate. She supported the trip in the way it was approved by Council previously and not the way it was presented last week.

Mayor Coviello stated we originally spoke about sending seven or eight people. Seven people would have cost \$23,800. Eight people would have cost \$27,200. The cost went down when we went to five people. Secondly, from a business perspective, it is all about leveraging your contacts. He noted the Economic Development Manager has a proven track record of doing business in China. He explained the advantages of having administrative support. It would be disingenuous to not go to China.

Councilmember Gunter noted it was decided at the last meeting to table this topic to a later time. He was not against going to China; he was not in support of the personnel chosen. He discussed the projects that our Economic Development Manager was involved with in the City of Tacoma. He also noted that he reviewed Council Rules and Procedures. He understood that a vote cannot be held on a topic unless it is brought up at the beginning of the meeting, and it is added to the agenda with a majority vote. He inquired of the City Attorney for confirmation that it was correct.

City Attorney Menendez confirmed that the Council Rules do provide for any change to the agenda is supposed to happen at the beginning of the meeting and to be voted on by the City Council. This is not a matter that would be available for reconsideration since no vote was taken on Resolution 96-19 at the last meeting. If Council wants to consider something tonight, they can do that. Input has been received on this in the past because the Resolution was on the agenda last week. The Statute that requires that there be an opportunity for Public Input at some time during the decision-making process, not necessarily at the meeting where the ultimate vote is taken, would have been adhered to. If there is an opportunity to schedule this in the interest of transparency and closer conformity with the Council Rules, it would be preferable to place this on an agenda. She asked that the motion be clarified. ***Is the intent to approve this trip as it was described in Resolution 96-19 with the composition that was stated there, with the funds as stated there, coming from the Economic Development Incentive Fund, and with the locations being Baise and Chengdu as described there?*** A Resolution is not a requirement to approve the trip.

Councilmember Stout stated it was her intention that it be the five that were announced by the Mayor, rather than the increased cost of having seven to eight people go, and additionally it changed from just Sister City to also another City for economic development reasons.

City Attorney Menendez recalled there were five identified in Resolution 96-19: Mayor, Economic Development Manager, Pearl, Joanne Killion, and the DCD Director. It also identified the two cities: Baise and Chengdu. The other issue was that the \$17,000 was identified as coming from the Economic Development Incentive Fund.

Councilmember Stout stated as long as the elements she has addressed are included. She wants to have this trip happen since it has already been scheduled for the end of May. It was important to move forward tonight.

City Attorney Menendez asked for clarification if the trip was to include those five identified individuals at an amount not to exceed the \$17,000.

Councilmember Stout responded in the affirmative.

Councilmember Gunter stated he would have preferred that it was included as an agenda item. If it was time sensitive, a vote should have been taken last week.

Mayor Coviello stated it was somewhat time sensitive, noting how a week delay could have increased the airfares. The itinerary has been set up to leave on May 31st. Now is the time they were expecting us. Now is the time they have put the agenda together.

Councilmember Nelson discussed postponing the vote for transparency and having more time to review. She was not comfortable making this decision right now. She was

in full support of going to China, but this was too quick and wanted it on the next meeting agenda, possibly adding this topic to the COW meeting.

Mayor Coviello stated discussion on this trip has been going on for months, and the details just emerged within the last few weeks. The China delegation was in Cape Coral months ago, and it was time to reciprocate. He mentioned the businesses that were interested in going forward which would remove some tax burden off of the residents.

Councilmember Stokes stated having the business people here tonight who expressed their desires has helped him think about the positives of this trip. He understood the transparency of this topic. He noted the time sensitivity was leaning him towards supporting this, as well as the commercial development aspect. If we were to approve this, could we put out a little more information between now and the trip?

City Manager Szerlag explained the discussions he had with the Economic Development Manager regarding his contacts in China and how Mr. Noguera was successful in securing some development in Tacoma. He discussed creating an environment of investment locally, nationally, and internationally to enhance our commercial industrial tax base. He could have Mr. Noguera provide an update during the week. He stated from his perspective what was positive was that the Chinese have already worked with Mr. Noguera, and they want to work with him again.

Councilmember Gunter entertained the idea of having a special meeting prior to the next COW meeting.

City Manager Szerlag noted the COW meeting was scheduled for May 20th where there was only one item on the agenda, the bus bench issue. If Council desired a special meeting for the topic of the China trip, that can certainly happen.

City Attorney Menendez suggested a special meeting could be held right before the COW meeting.

Mayor Coviello stated he was not in favor of that at this point. We made a conscious decision when we authorized \$10,000 for the Chinese delegation to come here. We're asking for \$17,000, not a lot in the scheme of economic development. There are no guarantees with that investment, but the potential for our City can be tremendously big.

Councilmember Cosden stated if this dies tonight, she did not consider the issue dead.

Mayor Coviello noted that he has a personal schedule that he needs to adhere to. He set time aside to go to China for over a week starting on May 31st. There are over a dozen local businesses that are interested in going there. When the China delegation came here, it was a very successful venture. He questioned what the hold-up was.

Councilmember Cosden stated she was not prepared to vote tonight. It was not voted on last week, and it was not on the agenda. She explained her "no" vote did not mean she did not want to go to China. It meant that she did not support this process that is being done right now. Council approved months ago who was going. Her issue was how it suddenly changed last week.

Councilmember Stout stated it was not unusual for a motion to come forward at a Council meeting.

Council polled as follows: Carioscia, Coviello, Stokes, and Stout voted "aye." Cosden, Gunter, and Nelson voted "nay." Four "ayes." Three "nays." Motion carried 4-3.

PERSONNEL ACTIONS

Resolution 95-19 Approve and Ratify Collective Bargaining Agreement with Firefighters Local 2424, Supervisory and Rank and File Bargaining Units

City Clerk Bruns read the title of the Resolution.

City Manager Szerlag appeared at the podium along with Human Resources Director Sonogo. He stated a very good contract was negotiated with the International Association of Firefighters, IAFF, Local 2424. On May 9th, bargaining members voted in favor of ratifying the Collective Bargaining Agreement that was included in the meeting package, effective October 1, 2018 through September 30, 2021. The economic centerpiece of that agreement is wages and payroll which will not exceed his authorized limit of 3% per year or an accumulated three-year total of 9.27%. He recommended that Mayor and Council ratify this agreement. He discussed the interest-based approach to settling labor contracts. He thanked the entire team that consisted of the bargaining unit union, as well as management.

Councilmember Stokes moved, seconded by Councilmember Carioscia, to approve Resolution 95-19, as presented.

Council polled as follows: Cosden, Coviello, Gunter, Nelson, Stokes, Stout, and Carioscia voted "aye." Seven "ayes." Motion carried 7-0.

Resolution 97-19 Approve the Fire Department to Add Six Additional Full Time Equivalents (Firefighters); Dollar Amount: \$464,430; (General Fund)

City Clerk Bruns read the title of the Resolution.

Fire Chief Lamb stated this was a follow-up from the COW meeting and was available for any questions.

Councilmember Stout moved, seconded by Councilmember Carioscia, to approve Resolution 97-19, as presented.

Council polled as follows: Cosden, Coviello, Gunter, Nelson, Stokes, Stout, and Carioscia voted "aye." Seven "ayes." Motion carried 7-0.

PETITIONS TO COUNCIL

None.

APPOINTMENTS TO BOARDS / COMMITTEES / COMMISSIONS

None.

ORDINANCES/RESOLUTIONS

PUBLIC HEARINGS

Resolution 80-19 (VP 19-0004*) Public Hearing

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

WHAT THE RESOLUTION ACCOMPLISHES:

A resolution providing for the vacation of plat for a portion of Lafayette Canal and Malibu Basin rights-of-way and the underlying public utility and drainage easements located adjacent to Lots 23-25, Block 29, Unit 1, Part 2, Cape Coral Subdivision; providing for the vacation of plat for public utility and drainage easements associated with Lots 23-25, Block 29, Unit 1, Part 2, Cape Coral Subdivision; property is located at 5362 Malibu Court. (Applicant: Michael and Carolyn Mitch)

Hearing Examiner Recommendation: The Hearing Examiner recommends that City Council approve the application for the requested vacations, subject to the conditions as set forth in Recommendation 5-2019.

City Management Recommendation: City Management recommends approval subject to the conditions that appear in Resolution 80-19.

City Clerk Bruns read the title of the Resolution and administered the oath.

Planning Team Coordinator Struve explained the purpose of the Resolution. He displayed the following slides:

- Resolution 80-19, VP 19-0004
- VP 19-0004, owners, rep, request, location
- Aerial Map of Site
- Current Zoning Map
- Background
- Vacate Canal ROW and Underlying Easements
- Analysis (LUDR, Section 8.11)
- Vacate Existing Six-Foot Wide Platted Easement
- Analysis (LUDR, Section 8.11)
- Recommendations
- Correspondence – One informational phone call

Public Hearing opened.

No speakers.

Public Hearing closed.

Councilmember Cosden moved, seconded by Councilmember Nelson, to approve Resolution 80-19, as presented.

Council polled as follows: Cosden, Coviello, Gunter, Nelson, Stokes, Stout, and Carioscia voted "aye." Seven "ayes." Motion carried 7-0.

Ordinance 22-19 First Public Hearing (After 5:00 p.m.); Set Second and Final Public Hearing for June 3, 2019

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Land Use and Development Regulations, Article II, District Regulations, Section 2.7, District Regulations, Subsection .15, South Cape Downtown District (SC), by eliminating the South Cape Redevelopment Incentive Program (SCRIP), amending the maximum floor area ratio, maximum residential density, and maximum building height in the South Cape Downtown District, establishing regulations to allow certain architectural elements in City easements and rights-of-way in the South Cape Downtown District, and establishing regulations to allow outdoor dining on public rights-of-way and City-owned parking lots in the South Cape Downtown District.

NOTE: Ordinance 22-19 is a City-initiated change to Section 2.7.15, Land Use and Development Regulations (South Cape Downtown Zoning District). The changes will increase the maximum density to 75 units per acre, increase the maximum Floor Area Ratio to 4.0, and increase the maximum height to 160'. This will allow more design flexibility in downtown Cape Coral to encourage economic development. With these changes the South Cape Redevelopment Incentive Program (SCRIP) regulations are no longer needed. This change also permits architectural improvements such as colonnades and balconies to project into public easements and rights-of-way. Regulations for outdoor dining are also included. (Applicant: Brought forward by City Management.)

P&Z Recommendation: At their May 1, 2019 Regular Meeting, the Planning and Zoning Commission/Local Planning Agency voted unanimously to recommend approval of Ordinance 22-19.

City Management Recommendation: City Management recommends approval.

City Clerk Bruns read the title of the Ordinance and announced the Second and Final Public Hearing would be on June 3, 2019.

City Clerk Brunns administered the oath.

Planning Team Coordinator Daltry explained the purpose of the Ordinance. He displayed the following slides:

- Ordinance 22-19
- Purpose
- No correspondence received

Public Hearing opened.

No speakers.

Public Hearing closed.

Ordinance 23-19 Public Hearing for Transmittal.

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.

NOTE: Ordinance 23-19 changes Policy 1.15 of the Future Land Use (Comprehensive Plan) by removing affordable housing density doubling language and reducing Commercial Activity Center residential densities from 25 to 16 units/acre per direction received in the February Council public hearings. In addition, Downtown Mixed residential densities are proposed to be increased from 75 to 125 units/acre per City Manager direction (Applicant: Brought forward by City Management.)

P&Z Recommendation: At their May 1, 2019 Regular Meeting, the Planning and Zoning Commission/Local Planning Agency voted unanimously to recommend approval of Ordinance 23-19.

City Management Recommendation: City Management recommends approval.

City Clerk Brunns read the title of the Ordinance.

Planning Team Coordinator Daltry explained the purpose of the Ordinance. He displayed the following slides:

- Ordinance 23-19, TXT 19-0001
- Purpose
- Specifics
- No correspondence received
- The Planning and Zoning Commission voted unanimously to recommend approval for **transmittal** of this Ordinance at their May 1, 2019 meeting.

Public Hearing opened.

No speakers.

Public Hearing closed.

Councilmember Gunter moved, seconded by Councilmember Nelson, to adopt Ordinance 23-19, as presented.

City Clerk Brunns requested confirmation that the motion was to approve for transmittal.

Motion maker and second agreed.

Council polled as follows: Cosden, Coviello, Gunter, Nelson, Stokes, Stout, and Carioscia voted "aye." Seven "ayes." Motion carried 7-0.

INTRODUCTIONS

Resolution 88-19 (VP 19-0005*) Set Public Hearing Date for June 10, 2019

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

WHAT THE RESOLUTION ACCOMPLISHES:

A resolution providing for the vacation of plat for public utility and drainage easements underlying a previously vacated alley located between Lots 26-31 and Lots 42-47, Block 1484, Cape Coral Unit 17; providing for the vacation of plat for public utility and drainage easements along the east side of Lots 26-31 and the west side of Lots 42-47, Block 1484, Cape Coral Unit 17; property located at 112 Del Prado Boulevard North. (Applicant: Floriland Real Estate Investments, LLC)

Hearing Examiner Recommendation: The Hearing Examiner recommends that City Council approve the application for the requested vacations, subject to the conditions set forth in HEX Recommendation Order 6-2019.

City Management Recommendation: City Management recommends approval of both vacation requests with conditions. Conditions of approval recommended by staff mirror the conditions of approval recommended by the Hearing Examiner for this case.

City Clerk Bruns read the title of the Resolution.

The public hearing was scheduled for June 10, 2019 in Council Chambers.

Resolution 106-19 (AP 19-0001*) Set Public Hearing Date for June 10, 2019

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

WHAT THE RESOLUTION ACCOMPLISHES:

A resolution either affirming or reversing the decision of the Hearing Examiner rendered on January 18, 2019, in DE HEX Order 1-2019, that denied a deviation of nine (9) feet from the minimum side setback requirement of twelve (12) feet for marine improvements that extend more than six (6) feet into a waterway to allow a side setback of three (3) feet for expansion of an existing dock in a Single-Family Residential (R-1B) zone; property located at 2523 SE 23rd Place. (Applicant: Donald C. Frick)

City Clerk Bruns read the title of the Resolution.

The public hearing was scheduled for June 10, 2019 in Council Chambers.

Ordinance 20-19 Set Public Hearing Date for June 10, 2019

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Code of Ordinances, Chapter 23, "Protected Species," Article II, "Burrowing Owl Protection," by renaming Article II to read "Burrowing Owl and Gopher Tortoise Protection," and to include protections for gopher tortoises located in the city. (Applicant: Brought forward by Councilmember Carioscia)

City Clerk Bruns read the title of the Ordinance.

The public hearing was scheduled for June 10, 2019 in Council Chambers.

Ordinance 21-19 Set Public Hearing Date for June 10, 2019

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Code of Ordinances, Chapter 6, "Contractors and Construction Regulation Board," Article I, "General Provisions," Section 6-10.1, pertaining to disciplinary proceedings for contractor violations in the City. (Applicant: Brought forward by City Management.)

City Clerk Bruns read the title of the Ordinance.

The public hearing was scheduled for June 10, 2019 in Council Chambers.

Ordinance 26-19 Set Public Hearing Date for June 3, 2019

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance approving and granting to South Florida Water Management District a perpetual Conservation Easement upon property owned by the City located in the area of the Academic Village; authorizing and directing the Mayor to execute the Deed of

Conservation Easement - Passive Recreational Uses. (Applicant: Brought forward by City Management.)

City Clerk Bruns read the title of the Ordinance.

The public hearing was scheduled for June 3, 2019 in Council Chambers.

Ordinance 27-19 Set Public Hearing Date for June 3, 2019

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance authorizing the City Manager to exchange municipal surplus property described as Lots 27 and 28, Block 5162, Unit 83, Cape Coral Subdivision, for real property described as Lot 25, Block 5162, Unit 83, Cape Coral Subdivision; authorizing the conveyance of surplus real property described herein pursuant to Section 2-155 of the City of Cape Coral Code of ordinances; authorizing and directing the Mayor and Clerk to execute a deed conveying the aforementioned surplus real property. (Applicant: Brought forward by City Management.)

City Clerk Bruns read the title of the Ordinance.

The public hearing was scheduled for June 3, 2019 in Council Chambers.

Ordinance 28-19 (VP 18-0007*) Set Public Hearing Date for June 10, 2019

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

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance providing for the release of the right-of-way easement reserved by the City within Ordinance 56-02; authorizing the Mayor to execute a Release of said easement; providing for the vacation of plat for a portion of Rose Canal right-of-way and the underlying public utility and drainage easements located adjacent to Lot 23, Block 4944, Unit 74, Cape Coral Subdivision, as more particularly described herein; providing for the vacation of plat for public utility and drainage easements associated with Lot 23, Block 4944, Unit 74, Cape Coral Subdivision, as more particularly described herein; property located at 4033 Oasis Boulevard. (Applicants: Keith D. Finkelstein and Elizabeth A. Macguidwin)

Hearing Examiner Recommendation: The Hearing Examiner recommends that City Council approve the application for the requested vacations and release, subject to the conditions set forth in VP HEX Recommendation 3-2019.

City Management Recommendation: City Management recommends approval.

City Clerk Bruns read the title of the Ordinance.

The public hearing was scheduled for June 10, 2019 in Council Chambers.

Ordinance 30-19 Set Public Hearing Date for June 3, 2019

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Code of Ordinances, Chapter 12 1/2, "Parks and Recreation," Article I, "Regulations," Section 12 1/2-2, "Definitions," and Section 12 1/2-4, "Rules and Regulations," to regulate commercial activity in City parks. (Applicant: Brought forward by City Management.)

City Clerk Bruns read the title of the Ordinance.

The public hearing was scheduled for June 3, 2019 in Council Chambers.

UNFINISHED BUSINESS

WATER QUALITY – UPDATE

Public Works Director Clinghan provided the latest information on the Lake Okeechobee Level and Release Information. He noted detailed information was included online.

FOLLOW UP ITEMS REQUESTED BY COUNCIL

None.

NEW BUSINESS

Resolution 87-19 Amend City Council Rules of Procedure - Brought forward by Councilmember Cosden

City Clerk Bruns read the title of the Resolution.

Councilmember Cosden moved, seconded by Councilmember Stokes, to approve Resolution 87-19, as presented.

Councilmember Stokes stated he liked this Resolution; however, there was one area of concern. It was at the end of the document where it states that a Councilmember shall not use this time to report or address issues or actions that have no relevance to City business. Council does handle City business. He did not know who would rule on that. He wanted to strike that sentence out but was in favor of the rest of the Ordinance.

Councilmember Stout stated she had problems with this because the rules that we operate under are already quite liberal. She was not in favor of changing what we presently do and questioned if it would impact our Charter. She would not support this.

Councilmember Cosden stated she has worked on this for the past two years. She had a second from Council to work on this, but it may have been the previous Council. She worked on this with the City Attorney's Office, and it did not affect the Charter.

City Attorney Menendez stated she was not sure what section Councilmember Stout was referring to and whether it had any impact on the Charter. She suspected it was about Councilmembers participating electronically.

Councilmember Stout responded in the affirmative.

City Attorney Menendez stated it did not affect the Charter. The part about the absences was still included, but it was moved from the back to the second part of section C(1). Section C(2) is the current language regarding absences which is in compliance with the Charter. If that is the only part that is of concern, Councilmember Stokes would support it except for the second sentence in the provision regarding reports. She noted that Councilmember Stout would like to see the deletion of C(1). She stated telephone participation at meetings has occurred in the past. Currently, Council handles it on a case by case basis. Council is the judge whether or not the requesting Councilmember who is requesting to participate electronically or by telephone as to whether it is good cause for that approval. Section C(1) has attempted to provide some guidance for that decision-making process.

Councilmember Stokes stated the part of the Ordinance that he liked was the remote. He stated he has only missed one regular Council meeting when he was in Tallahassee with the Chamber of Commerce trip for water quality issues. He would have liked to have participated that evening from Tallahassee.

City Attorney Menendez stated there are no provisions of the Rules before you that would violate the Charter. She stated the part on absences has already been covered in this document, having moved it from Section W to Section C. She explained how there has to be a physical quorum present at the meeting.

Councilmember Stokes asked the motion maker if she was agreeable to striking that one sentence.

Councilmember Cosden stated she wanted to hear more input from Council about that sentence.

Mayor Coviello stated he supported Councilmember Stokes' request to strike that sentence. He questioned why something of this nature could not be done on a case by case basis.

City Attorney Menendez stated Council has been handling absences on a case by case basis.

Mayor Coviello inquired if a request that was made weeks before for a Councilmember to participate remotely could have been approved by Council.

City Attorney Menendez responded in the affirmative and noted that is the way it has been done by Council.

Mayor Coviello questioned the definition of "good cause."

City Attorney Menendez stated Council as a whole determines "good cause." She explained if a Councilmember knows they are having surgery and know the date ahead of time, they may inform Council and ask if they had any objection to participation by phone. The City Clerk would be directed by Council to make sure she had the electronic means for the Councilmember's participation.

Councilmember Stokes stated he recalled when he mentioned he would not be present at the Council meeting due to being in Tallahassee, there was a comment that they don't really like to participate remotely.

City Attorney Menendez stated the Attorney General, as well as Council, finds that it is very important that people attend whenever possible. She explained the examples between being out of town on City business versus being at an out of town sporting event, as well as being out of town for your other employer. The Council is the judge for what is "good cause." Participation by phone does not have to be for the entire meeting; it can be for only a certain portion, if requested.

Mayor Coviello noted there is no limit as to the number of times within a year that a Councilmember can use the phone option.

City Attorney Menendez confirmed that comment.

Mayor Coviello stated this would be a perfect item for a COW meeting.

Councilmember Nelson inquired if there were any other elected bodies that allow this type of calling in.

City Attorney Menendez responded in the affirmative. Our City Council allows it too on a case by case basis. The provisions in here are similar to, but not identical, the City of Naples.

Councilmember Nelson stated she liked the case by case and recommended keeping that since she liked the flexibility. She wanted to have the option to weigh in. She was in favor of the edits, except that she recommended keeping the case by case flexibility.

Mayor Coviello questioned striking C(1) and doing it on a case by case basis.

Councilmember Cosden clarified that it is a case by case basis because it states that Council has to approve every request. It adds protection to Council by saying that you have to ask at least two business days prior. Adding a limit annually was a good idea.

Mayor Coviello stated he did not have a problem with this if it is something that comes to Council sooner than the meeting that the Councilmember will not be present at. A lot of staff time goes into the arranging the connection.

Councilmember Cosden questioned changing the language from instead of at least two business days prior to ask at the previous regular meeting.

Mayor Coviello stated he would support that. There should be a limit of no more than three times yearly.

Councilmember Stout inquired if the County Commission allows call ins.

City Attorney Menendez stated she did not think that anyone allows it carte blanche. The general rule, as has been described, is the judgement of the body as to whether or not there has been good cause shown. The Attorney General encourages that it not be taken lightly. There should be scrutiny given of the reason why to make sure that it is good cause. She discussed early notification. Language can be added if Council desired in the event that a member has already exercised this privilege three times, regardless of the reason, it would be grounds for Council to deny it.

Councilmember Gunter agreed with Mayor Coviello regarding having this topic on a COW meeting. He was not in favor of it as written. He like the limit of three meetings. This needed more clarity, and this would be an excellent opportunity to put this on the next COW meeting.

Councilmember Stokes agreed with Councilmember Gunter. He noted that Councilmember Williams was not present today and did not have a chance to weigh in. He inquired if this could be on the COW meeting next week.

Councilmember Cosden questioned moving this topic for discussion at the COW meeting with a vote at the next regular meeting.

Councilmember Stokes responded in the affirmative.

Mayor Coviello stated some of the details should be ironed out and come up with something that everyone is comfortable with.

Councilmember Stokes stated he wanted it on the record that he supported Councilmember Cosden having her baby and staying on Council.

Mayor Coviello requested the City Manager to add this topic to the next COW meeting.

City Manager Szerlag responded in the affirmative. He asked Council if the material can be submitted by Friday.

Mayor Coviello responded in the affirmative.

Motion maker withdrew her motion. Second agreed.

City Attorney Menendez stated she understood that the item that was going to be on the agenda was going to be a discussion concerning the rules that have been brought forward in this Resolution.

Mayor Coviello responded in the affirmative.

City Manager Szerlag stated it could include any additional comments from Councilmember Cosden.

Mayor Coviello asked Councilmember Cosden if she wanted to work out some of the details with the City Attorney's Office and then bring it to the COW meeting.

Councilmember Cosden stated it should be left as is. There were some questions that were left unanswered as far as the policy of the County Commission which could be included in the backup.

Mayor Coviello responded in the affirmative.

City Manager Szerlag stated that was the reason for having the documents by Friday.

Councilmember Nelson left the meeting at 6:30 p.m.

Resolution 107-19 Approve temporary waiver of installation fees required in the South Cape Banner Program

City Clerk Bruns read the title of the Resolution.

Councilmember Stokes moved, seconded by Councilmember Gunter, to approve Resolution 107-19, as presented.

Mayor Coviello noted that it was mentioned that the Public Works Department can absorb up to \$5,000 to install the banners.

CRA Coordinator Hall stated it would not exceed \$5,000.

City Attorney Menendez confirmed the Resolution indicates up to \$5,000.

City Manager Szerlag stated he wanted to give preferred treatment to military organizations for the banner program, but he was advised by the City Attorney's Office that a risk may exist that could be subject to a constitutional challenge if he waives fees for veteran organizations, but not other organizations. He wanted to get a sense if we waive the fees up to a year, how many organizations would come and ask for a banner program. He noted they would come back to Council again to see if we should continue to waive it or start charging something.

Council polled as follows: Cosden, Coviello, Gunter, Stokes, Stout, and Carioscia voted "aye." Six "ayes." Motion carried 6-0.

REPORTS OF THE MAYOR AND COUNCIL MEMBERS

Councilmember Cosden – Topics: She discussed her plans for maternity leave. The baby is due on July 18th. Hiatus ends on July 22nd. She will probably not be coming back after hiatus. She planned to take 2-3 weeks off completely. She hoped to call in remotely for another 2-3 more weeks. She noted it would all depend on what happens with our rules. She added she may be out completely for 4-6 weeks. She would like to be able to participate at that time since it will be budget season. She planned to be back in the office fully by six weeks after the baby's birth. She stated there is a trip to San Antonio for the Annual Meeting of the National League of Cities in November that she will probably not be taking. Since she was the Representative, she asked if anyone else was interested in going November 20-23. She stated a decision was not needed tonight, but it would be a good idea for other Councilmembers to think about it.

City Attorney Menendez clarified the comment made by Councilmember Cosden regarding how it is depending on what happens with the rules as far as her participation by phone. She reiterated how Council has been dealing with this on a case by case basis.

Councilmember Cosden clarified her concern was the proposed three-limit meeting issue.

Mayor Coviello stated this may be an exception in the proposed Ordinance. He noted that she should be able to call in remotely and to vote.

Councilmember Gunter – Topics: Attended the Lee County Law Enforcement Memorial Service; Cape Coral Police Department's Dementia Care Decal Ceremony; and Council for Progress meeting.

Councilmember Nelson – Topics: Left meeting early

Councilmember Stokes – Topics: Glad to hear that our City Management and our Fire Union came to an agreement; National Police Week.

Councilmember Stout – Topics: Great-grand baby boy born at 4:00 a.m. today.

Councilmember Williams – Topics: Excused

Councilmember Carioscia – Topics: No Report

Mayor Coviello – Topics: Attended New Resident Club as Guest Speaker; Closed Door Roundtable Meeting with Congressman Rooney and Governor DeSantis regarding water quality; Sanibel-Captiva Conservation Foundation on the Caloosahatchee Oxbow and Riverlore Cruise. Will need to speak to Utilities Director Pearson regarding the reuse water that needs to be checked periodically, could be a potential contamination to the canals. Attended the Citizen's Academy Mock Council Meeting. Will be attending Senator Benacquisto's post-session luncheon; over \$3 million in grants were received for the interconnect pipeline between Fort Myers and Cape Coral. Received \$650,000 for the Sirenia Vista Educational Nature Park; Received \$500,000 for our Gun Range for our Police Department. The Governor needs to sign off on the budget. Also attended the Lighthouse Awards. Will be at Graduation on May 17th. Will also be a Guest Speaker at Do the Right Thing coming up next week.

REPORTS OF THE CITY ATTORNEY AND CITY MANAGER

City Attorney: Topics: No Report.

City Manager: Topics: No Report

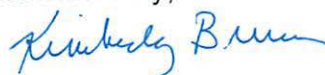
TIME AND PLACE OF FUTURE MEETINGS

A Committee of the Whole Meeting was scheduled for Monday, May 20, 2019 at 4:30 p.m. in Council Chambers.

MOTION TO ADJOURN

There being no further business, the meeting adjourned at 6:48 p.m.

Submitted by,



Kimberly Bruns, CMC
City Clerk