

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

February 10, 2020

Council Chambers

4:30 p.m.

Meeting called to order by Mayor Coviello at 4:32 p.m.

Invocation/Moment of Silence – Councilmember Gunter

Pledge of Allegiance – Dylan Murphey – Caloosa Elementary

Roll Call: Mayor Coviello, Councilmembers Carioscia, Cosden, Gunter, Nelson, Stout, and Welsh were present. Councilmember Williams was excused.

CHANGES TO AGENDA/ADOPTION OF AGENDA

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

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

RECOGNITIONS/ACHIEVEMENTS

Recognition to Charles Raborn, Fire Marshal, the 2019 Fire Marshal of the Year, Awarded by the Florida Fire Chiefs' Association - Presented by Fire Chief Ryan Lamb

Fire Chief Lamb presented the 2019 Fire Marshal of the Year Award by the Florida Fire Chiefs' Association to Fire Marshal Charles Raborn. This is in recognition for increasing the Quality of Life for our citizens by delivering programs and services that foster a safe community. The Department was awarded a FEMA incentive of \$196,000 for hearing-impaired smoke detectors of which 524 have been installed in local homes.

Recognition to Mathew Marshall, Fire Battalion Chief, the 2019 Hazmat Responder of the Year, Awarded by the Florida Fire Chiefs' Association - Presented by Fire Chief Ryan Lamb

Fire Chief Lamb presented the 2019 Hazmat Responder of the Year Award by the Florida Fire Chiefs' Association to Fire Battalion Chief Matthew Marshall. This is in recognition for increasing the Quality of Life for our citizens by delivering programs and services that foster a safe community.

World Waterpark Association Executive Board Award Recognition - Presented by Parks and Recreation Director Kerry Runyon

Parks and Recreation Director Runyon recognized Sun Splash Manager Sandra Greiner for receiving a 2019 Executive Board Award from the World Waterpark Association (WWA). This is an award presented annually to individuals or organizations for special accomplishment in the water leisure industry that have contributed to industry knowledge and expertise for the benefit of the WWA membership. Ms. Greiner is the only individual to be honored with an Executive Board Award this year.

APPROVAL OF MINUTES

None.

BUSINESS

PUBLIC COMMENT - CONSENT AGENDA

Joe Kilraine expressed his appreciation for the progress on the Police Training station, advancement of Fire Station #12, and renewal of two Charter School Contracts with Oasis Elementary and Christa McAuliffe Elementary.

Joyce Easton inquired about item #9, Resolution 43-20. Do we know how much additional revenue was generated for the sale of the beer, wine, and wine smoothies at Sun Splash?

Utilities Director Pearson discussed the \$2M grant from the South Florida Water Management District for the Fort Myers/Cape Coral Reuse River Crossing Project. The total grant amount has reached \$6.3M in the grants for this project, and last week the engineering was kicked off. He introduced Chauncey Goss, Board Chairman of the South Florida Water Management District.

Mayor Coviello stated that Mr. Goss was appointed by Governor DeSantis.

Chauncey Goss provided an update on the water assessment. He stated that the District was a 16 counties agency from Orlando to the Keys, and the City of Cape Coral is the largest in Southwest Florida. In the last 21 years, the District has completed 27 projects with the City with an average annual expenditure of \$1M. There are four items that are done at the Water Management District which include flood control, water supply, environmental restoration and preservation, and the Everglades restoration. The alternative water supply project checks off two of the boxes to make the water cleaner.

City Manager Szerlag stated that this was a large grant for the City of Cape Coral. He provided an update on the plan development and the irrigation supply between Fort Myers and City of Cape Coral. He thanked all the parties involved.

Mayor Coviello inquired if this would play a factor in fresh-water canal levels.

City Manager Szerlag responded in the affirmative.

CONSENT AGENDA

- (1) Resolution 27-20 Award ITB-PW20-9/APS Major Road Resurfacing FY2020 to Ajax Paving Industries of Florida, LLC of North Venice, FL, for the asphalt resurfacing of two major roadways totaling approximately 4 lane miles and other related work as the lowest responsive, responsible bidder, in the amount of \$1,583,760 with a 10% city controlled contingency of \$158,376 for a total of \$1,742,136 and authorize the City Manager or Designee to execute the contract, renewals, amendments, purchase orders and change orders. Department: Public Works Dollar Value: \$1,742,136 (Transportation-Local Road Resurfacing Fund \$1,575,785/W&S \$166,351).
- (2) Resolution 28-20 Approve the Waiver of the Procurement Procedures for the Security Measures Capital Purchases identified for City Hall and authorize the City Manager or Designee to execute the contract, amendment, renewals, purchase orders and any other related documents; Department: Police Department; Estimated Dollar Value: \$300,000; (Government Services)
- (3) Resolution 31-20 Approve the Agreement, CON-PW19-69-II/MM, with Wright Construction Inc. to provide Construction Manager at Risk Services for Fire Station #2 Phase 2, for the total Guaranteed Maximum Price (GMP) of \$4,048,488; approve the use of unassigned reserves, if needed; and authorize the City Manager or Designee to execute the agreement and any amendments within budgetary limits; Department: Fire Department; Dollar Value \$4,048,488; (Capital Project Fund: Fire Station 2 Construction Fund/FSA)
- (4) Resolution 33-20 Acceptance of Permanent Utility Easement in a portion of 1975 SW Pine Island Road (Strap #16-44-23-C3-00007.0000), to provide access to and maintenance of future City utility facilities to be installed at this location, as conditioned in site plan review SP19-0025 – StorQuest Storage Facility

Department: Financial Services / Real Estate Division; Dollar Value: N/A; (Fund: N/A)

- (5) Resolution 34-20 Acceptance of Public Ingress & Egress Easement in a portion of 2710 Skyline Boulevard (Strap #34-44-23-C2-03168.0070), to provide access to the alley right of way, as conditioned in site plan review SP19-0047 – SAFStor 3-Story Self-Storage Building; Department: Financial Services / Real Estate Division; Dollar Value: N/A; (Fund: N/A)
- (6) Resolution 36-20 Approve the use of ALS Impact Fee unassigned Reserves, in the amount of \$35,489, to complete the funding for the purchase of two (2) LP15 Advanced Life Support (ALS) cardiac monitors from Stryker Medical at a total estimated total dollar value of \$89,267; Department: Fire; Estimated Dollar value \$89,267; (\$53,778 FY20 ALS Impact Fee Fund; \$35,489 ALS Impact Fee-unassigned Fund Balance)
- (7) Resolution 37-20 Funding approval for the Design phase of Fire Station #12 in FY2020 – estimated \$1,065,952; Department: Fire; Dollar Value: \$1,065,952; (unassigned reserves)
- (8) Resolution 38-20 Approval to utilize Police Impact Fee Reserves in a not to exceed amount of \$100,000 for Police Training Facility proposed Construction Manager at Risk (CMAR) Phase I and authorize the City Manager to execute the related budget transfer documents; Department: Police Department; Dollar Value: \$100,000; (Unassigned Police Impact Fee Reserves)
- (9) Resolution 43-20 Approval to continue to allow Sun Splash Family Waterpark to sell beer, wine, and wine smoothies to generate additional revenue to the Park; Department: Parks and Recreation; Estimated Dollar Value \$2,000; (Special Revenue Fund)
- (10) Resolution 44-20 Approval of Interlocal Agreement Addendum between Lee County and City of Cape Coral to allow sharing of spare fiber strands to reduce cost and prevent unnecessary roadway construction; Department: ITS; Dollar Value: N/A; (Fund: N/A)
- (11) Resolution 45-20 Approve Use of State Forfeiture Funds in compliance with F.S.S. 932.7055; Department: Police; Dollar Value: \$40,132
- (12) Resolution 46-20 Approval of Stipulated Final Judgment for the eminent domain case of City of Cape Coral v. Tina Gerson, et al., being Case Number 19-CA-007612 to resolve the acquisition of Crystal Lake Parcel #CL-002 (aka Lots 5 and 6, Block 5477, Cape Coral Unit 90 – 3700 NW 46th Place) for a total land settlement of \$112,000, plus statutory attorney fees of \$5,280 and expert costs of \$200, for a total settlement cost of \$117,480; Department: Financial Services / Real Estate Division; Dollar Value: \$117,480; (Parks Capital Project/GO Bond Fund)
- (13) Resolution 47-20 FDEP Alternative Water Supply Grant for Project #LSC-300 Reclaimed Water Expansion: Cape Coral and Fort Myers Reuse Interconnect Project Grant Awarded to City of Cape Coral; Department: Utilities; Grant Dollar Value: \$2,000,000
- (14) Resolution 49-20 Request to Renew Charter School North Contract (Christa McAuliffe Elementary)
- (15) Resolution 50-20 Request to Renew Charter School South Contract (Oasis Elementary)

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

Councilmember Nelson moved, seconded by Councilmember Stout, 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), 8(B)(10), 8(B)(11), 8(B)(12), 8(B)(13), 8(B)(14), and 8(B)(15), as presented.

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

Councilmember Cosden pulled item 8(B)(9) to address the Citizen's question about the revenues of the alcoholic beverages at Sun Splash. She pointed out that there was backup material attached to the Agenda. It was reported that there was \$55,900 in total sales minus expenses which equaled to \$37,900. She requested confirmation from the Parks and Recreation Director on the figures.

Parks and Recreation Director Runyon responded in the affirmative.

Councilmember Cosden voiced that she pulled the item as she would be voting No, and she did not support the item.

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

Council polled as follows: Gunter, Nelson, Stout, Carioscia, and Coviello voted "aye." Welsh and Cosden voted "nay." Five "ayes." Two "nays." Motion carried 5-2.

CITIZENS INPUT TIME

Lynne Rosko inquired about the pending active investigations listed on the Agenda and wanted to know why the item was listed last instead of in the beginning. She also wanted to know the update on the visit to China and the final cost and expenses for the past visit. She discussed Chinese infiltration and Sister-City Programs.

Christopher Specht appeared to discuss the burrowing owls living in Bernice Braden Park near the Chamber of Commerce building. He displayed a video pointing his recommendation to create a comprehensive system that integrates the burrowing owl into our parks and neighborhoods. He requested that Council discuss this item and make a motion to direct staff not to disturb or remove the burrowing owls living in the area.

Kevin Black appeared to discuss the two rowing clubs in Tropicana Park and reported that there were more than 1,200 signatures on a petition. He requested an update on the park design and plans.

Louis Navarra appeared to discuss the Cape Coral Police Department and proper performance of duty. He displayed a few items (transcript and Statewide Law Enforcement Recommendations) on the overhead projector. He suggested that an independent analysis be conducted for the CCPD and that certain items be banned.

Ann Preston appeared to discuss her economic hardship, and she requested assistance.

Richard Osman appeared in support of the designs and plans of Saratoga Lake and has used the kayak services available.

Joyce Easton inquired about the active investigation, and she wanted to know if it included the Business Manager's contract. She also inquired why that contract was made retroactive.

Yolanda Olsen, Officer of the Southwest Cape Coral Action Committee, appeared to discuss the Cape Coral Owl Burrow Take History ending in December 2019, Sands Neighborhood Park Save the Owls History, starter burrows, and Passarella Survey hired by AECOM in September 2019.

Don Apking, Cape Coral Southwest Action Committee, appeared to discuss the designs of Sands Park. He displayed a picture of the park and opined that the owls should not be relocated, people could build around them. He discussed the legacy of the owls in the City's history.

Pascha Donaldson appeared in support of the burrowing owls. She displayed a document "Meet Your Neighbors" (lighted picture of owls). She discussed the opposition of the site collapsing and disagreements of the land takings. She requested a compromise for the owls and City events.

Councilmember Nelson responded to Ms. Preston's comment and provided Chief of Police Newlan the contact information to Lee County Human and Veteran Services so that they could assist her with resources to find a safe place for her and her cat.

Chief of Police Newlan stated that he communicated with Ms. Preston and would work on assisting her with finding a safe place to stay.

Councilmember Nelson requested more information regarding the burrowing owls and cost or fine if the owls get hurt when the burrows are collapsed.

City Manager Szerlag discussed that he received a burrowing owl update by staff prior to the start of this meeting. He requested that staff provide the update to City Council.

Senior Public Works Manager Ilczyszyn discussed the FWC relocation permit requirements and process. The City must follow all the steps listed in the permit. He discussed the alternative options with the buffer.

City Manager Szerlag inquired about the criminal penalties if the City violates the requirements.

Manager Ilczyszyn discussed the penalties, possibility of criminal charges, and possible jail time if found guilty.

City Manager Szerlag requested the information in writing, and he would share it with Council, Pascha Donaldson, and anyone else interested in the information once received. He discussed that there was a request not to do anything until July. He recommended that the City wait until the nesting season was over to then execute the permit or maybe wait until late June.

Mayor Coviello inquired if all of this was based on the fact of obtaining the permit to collapse the burrow and try to relocate the owls.

Manager Ilczyszyn stated that staff decided to get the permit in order to be protected from fines and penalties and the accusation of harassment or take. Hosting an event in the immediate vicinity of this burrow would be considered harassment.

Councilmember Welsh discussed the scenario of collapsing the burrows and reopening the burrows after the event.

Manager Ilczyszyn responded that the burrows would need to be opened at another location per the permit requirements.

Councilmember Welsh inquired about the event layout and removing the VIP tent.

Councilmember Stout inquired if the event could be moved to the other side of the bridge.

Parks and Recreation Director Runyon responded that the other area was much smaller and used for spectators. She discussed the area's flooding issues and the adjustments that would be needed. She informed Council that the event was not just one day, but at least one week prior of preparations and a couple of days after the event.

Councilmember Cosden requested information on cases that have been prosecuted for taking a burrowing owl.

Manager Ilczyszyn responded that he would get the City Attorney's Office involved to provide the information.

Mayor Coviello stated nothing would happen until July.

Manager Ilczyszyn responded that within 48 hours of doing any take, activities on the site have to occur. If we were to execute it tomorrow, pay the fee, and start it, activity would be needed on the site by Thursday. Staff recommended to wait until July.

Councilmember Gunter requested an update on Tropicana Park with the Rowing Club and if there were any alternative locations determined for them. He stated that the Kayak Club was dissolving its business, therefore, no longer an option. He inquired if staff was able to review the recommendation of the two parcels next to Tropicana Park.

City Manager Szerlag responded that the plan was to have a decision on relocating or collapsing the burrow by February 15th, but upon further investigation, we thought it would be best to do it months from now. As to Tropicana Park, he indicated that he met with John Bashaw, President of the Northwest Neighborhood Association regarding the Kayak and Rowing Clubs. He suggested having a stakeholder group discuss the commonalties of interest, facilitate a response, and provide where the interest lies of all the parties. The meeting with the parties would be around February 19th. In lieu of Tropicana Park, Seven Islands could be considered a possible alternative. There was an issue with a current RFP. He requested his EDO Manager conduct a mini proforma of the estimated development of the parcel. The answer would be provided in the next couple of weeks.

Councilmember Gunter responded that within the next two to four weeks there would be a better understanding of the direction.

Director Runyon stated that the lease agreements with the Rowing Club were still being worked on with Real Estate. When the agreements are ready, staff will present to Council.

Councilmember Gunter opined that the location needed to be decided first.

City Manager Szerlag stated that the preference would be to first determine site and then the elements to the lease agreement terms.

Mayor Coviello addressed the questions regarding the China visit. He discussed the intentions and initial reasoning was to promote economic development and job creation in our City. He stated that based on recent developments, the relationship with China has been placed on hold. He requested a response about the retroactive contract and happenings of the contract.

City Manager Szerlag explained that the Business Manager contract saves on expenses. He recalled that Mr. Murphy requested changes to the contract which he would not agree to. So, the Business Manager went without a contract under the same terms and conditions. There were no changes in pay or benefits when he renewed the contract when it expired.

Assistant City Manager Barron responded in the affirmative. The contract had expired, but he still continued to work for the City. Since there was no break in his employment, it was appropriate to have the contract be retroactive to cover that period of time that he was still working for the City. The terms of the contract did not change from the prior one that had been signed.

Councilmember Stout inquired about the savings as compared to the former and current Business Manager.

Assistant City Manager Barron responded that the annual salary savings was approximately \$15,000 to \$20,000. The prior employee had benefits associated with the position as well. This position now has no benefits.

Mayor Coviello pointed out that the contract stated that it should not be renewed after the stated date on the prior contract.

City Manager Szerlag provided his contract as an example of an extended period of contract negotiations.

Councilmember Carioscia voiced that the City Manager was the person in charge of the City employee contracts per the Charter. Council should be working on other matters. The hiring, firing, suspending, and promoting should be left to the City Manager per the Charter.

Councilmember Cosden inquired about the savings in the salary for the new contract versus the previous Business Manager, especially when it is compared in terms of hours.

City Manager Szerlag stated he would research that and provide the information to Council. There is also a savings in terms of not having any pension liability.

PERSONNEL ACTIONS

None.

PETITIONS TO COUNCIL

None.

APPOINTMENTS TO BOARDS / COMMITTEES / COMMISSIONS

Planning & Zoning Commission - 2 Members and 2 Alternate Vacancies

City Clerk Brunns announced there were four vacancies, two for members and two for alternates. There were five applicants.

Interviews

John Bashaw – current alternate - present

William Gilbert – present

Keith Long – present

Robert O'Connor – current alternate – present

Tab Orbaker – present

Councilmember Stout moved, seconded by Councilmember Carioscia, to appoint John Bashaw and Robert O'Connor as members to the Planning and Zoning Commission (Term expiration of 2/28/2023).

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

City Clerk Brunns polled Council for their choice for the two alternate members:

Gunter – Gilbert and Long; Nelson – Gilbert and Long; Stout – Gilbert and Long; Welsh – Gilbert and Long; Carioscia – Gilbert and Long; Cosden – Gilbert and Long; Coviello – Gilbert and Long

City Clerk Brunns stated there were seven for Gilbert and seven for Long.

Mayor Coviello noted since Mr. Gilbert is on another committee, is there anything special to be considered?

City Clerk Brunns stated a 2/3 majority vote would be required.

Councilmember Nelson moved, seconded by Councilmember Gunter, to approve William Gilbert and Keith Long as the alternates to the Planning and Zoning Commission (Term expiration of 2/28/2021).

City Attorney Menendez clarified that the motion is to approve Mr. Gilbert and Mr. Long for the alternate seats, not to nominate them.

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

ORDINANCES/RESOLUTIONS

Public Hearings

Resolution 18-20 (VP 19-0011*) 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 the San Carlos Canal right-of-way and all underlying easements located adjacent to Lots 38-39, Block 98, Cape Coral Unit 2, Part 2; providing for the vacation of plat for public utility and drainage easements associated with Lots 38-39, Block 98, Cape Coral Unit 2, Part 2; property located at 4980 Seville Court. (Applicant: Cape Seville, 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 VP HEX Recommendation 19-2019.

City Management Recommendation: City Management recommends approval with conditions.

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

Planner Woellner explained what this Resolution would accomplish. She displayed the following slides:

- Resolution 18-20
- Introduction, Vacation Request, Staff Analysis, Conclusions
- Case Background
- Vacation Request
- Land Use and Development Regulations 8.11
- Staff Recommendation - Approval with Conditions and Public Correspondence – None.

Public Hearing opened.

No speakers.

Public Hearing closed.

Councilmember Cosden moved, seconded by Councilmember Gunter, to approve Resolution 18-20, as presented.

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

Resolution 23-20 (VP 19-0014*) 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 the Triton Canal right-of-way and all underlying easements located adjacent to Lots 75-77, Block 101, Cape Coral Unit 2, Part 2; providing for the vacation of plat for public utility and drainage easements association with Lots 75-77, Block 101, Cape Coral Unit 2, Part 2; property located at 5021 Sorrento Court. (Applicants: Craig & Nelly Simounet)

Hearing Examiner Recommendation: The Hearing Examiner recommends that City Council approve the application for the requested vacations, subject to the conditions set forth in VP HEX Recommendation 18-2019.

City Management Recommendation: City Management recommends approval.

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

Senior Planner Heller explained what this Resolution would accomplish. He displayed the following slides:

- Resolution 23-20, Case #VP 19-0014
- Aerial Map, Owner/Applicant, Location, Zoning, Future Land Use
- Request to vacate
- Background
- Vacate ROW and Underlying Easements
- Analysis – Vacation of ROW
- Vacation of Easements
- Vacate Portion of existing PUE and New PUE
- Recommendation – Staff and HEX recommend approval with conditions; Correspondence – None.

Public Hearing opened.

No speakers.

Public Hearing closed.

Councilmember Gunter moved, seconded by Councilmember Stout, to approve Resolution 23-20, as presented.

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

Ordinance 58-19 (LU 19-0001) Public Hearing for Transmittal (Continued from the January 6, 2020 Regular Council Meeting)

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Comprehensive Plan by amending the Future Land Use Map from Open Lands & Wetlands (a Lee County designation) to Open Space (OS) land use for property located in Section 17, 20, 21 and 22, Township 43 South, Range 23 East, City of Cape Coral, Lee County, Florida; from Open Lands & Wetlands (a Lee County designation) to Single-Family (SF) land use for property located in Section 17, 20 and 21, Township 43 South, Range 23 East, City of Cape Coral, Lee County, Florida; from Open Lands & Wetlands (a Lee County designation) to Single-Family and Multi-Family (SM) land use for property located in Section 22, Township 43 South, Range 23 East, City of Cape Coral, Lee County, Florida, all as more particularly described herein; property located north of Jacaranda Parkway and Wilmington Parkway and east of Burnt Store Road. (Applicant: GA-Pinnacle Cape Coral, LLC) (1,238.5 acres) Planning & Zoning Commission Recommendation: At their December 4, 2019 Regular Meeting, the P&Z Commission voted 7-0 to recommend approval of Ordinance 58-19. City Management Recommendation: City Management recommends approval.

City Clerk Bruns read the title of the Ordinance.

Principal Planner Boyko explained what this Ordinance would accomplish. He displayed the following slides:

- Ordinance 58-19, LU 19-0001
- Aerial Map, Applicant, Location, Site Size, Urban Service
- Current Future Land Use Map, Current Zoning Map
- Requested Future Land Use Designations, aerial map
- Findings of Fact
- Findings of Fact (continued)

- Findings of Fact (continued)
- Analysis, Comprehensive Plan – Chapter 4, Future Land Use Element, Policy 1.15, Single-Family (SF)
- Analysis, Comprehensive Plan – Single-Family and Multi-Family Residential (SM)
- Analysis, Comprehensive Plan – Open Space (OS)
- Analysis, Comprehensive Plan – Policy 1.7, Multi-Family Locational Guidelines
- Analysis, Comprehensive Plan – Chapter 4, Future Land Use Element, Policy 4.1
- Analysis, Comprehensive Plan – Chapter 4, Future Land Use Element, Policy 4.4
- Analysis, Comprehensive Plan – Chapter 4, Future Land Use Element, Policy 7.4
- Analysis, Comprehensive Plan – Chapter 4, Future Land Use Element, Policy 7.7
- Analysis, Comprehensive Plan – Chapter 1, Future Land Use Element, Policy 7.10
- Analysis, Comprehensive Plan – Chapter 2, Conservation and Coastal Management Element, Policy 1.1
- Analysis, Comprehensive Plan – Chapter 2, Conservation and Coastal Management Element, Policy 1.2.2
- Analysis, Comprehensive Plan – Chapter 2, Conservation and Coastal Management Element, Policy 1.2.16
- Analysis, Comprehensive Plan – Chapter 2, Conservation and Coastal Management Element, Policy 1.5.2
- Analysis, Comprehensive Plan – Chapter 3, Housing Element, Policy 1.6
- Analysis, Comprehensive Plan – Chapter 7, Recreation and Open Space Element, Policy 1.8
- Analysis, Comprehensive Plan – Chapter 8, Transportation Element, Policy 1.1.1
- Analysis, Utility Extension Funding Options
- Recommendation – Approval

Public Hearing opened.

Tony Palanz stated he had questions about how the property taxes would be affected based on this project.

Russell Schropp appeared on behalf of the applicant to discuss the project. He stated he was available for any questions. He noted that this had been discussed at a Committee of the Whole meeting a few weeks ago. He stated that this was a transmittal hearing only.

Pascha Donaldson suggested that the Council think about how decisions made today affects the future. She supported green space and questioned if there were conservation and preservation plans.

Public Hearing closed.

Councilmember Stout moved, seconded by Councilmember Nelson, to approve transmittal of Ordinance 58-19, as presented.

Councilmember Cosden inquired about similarity or difference of the City's Open Space and Lee County's Open Space and Wetlands Designation.

Principal Planner Boyko explained Lee County's Designation was Open Lands which allows for a very sparse residential density, one unit per 10 to 20 acres. The City's Open Space does not allow for commercial or residential development. It does not allow for any development that would create a need for Public Facilities, such as water, sewer, roadways, electricity, etc.

Councilmember Cosden questioned why not make this conservation land.

Principal Planner Boyko stated that was the applicant's request. Staff found that the Open Space was restrictive enough so that you would not allow for any development within there. If the Land Use was amended to Open Space and then they wanted to change it in the future for development, staff would bring that to Council in the future. Right now,

Open Space is restrictive enough that staff did not find that there would be much change if it was preservation or conservation.

Councilmember Gunter inquired about the existing Mixed-Use designations. He requested information on the differences between the Mixed Use and the Commercial and Professional designations.

Principal Planner Boyko stated Mixed Use allows for a combination of non-residential and residential; it would allow for 20% of that to be designated as residential. So, there can be 80% commercial and 20% residential. The Zoning of the site is Commercial which would only allow for non-residential development.

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

Recessed at 6:32 p.m. and reconvened at 6:50 p.m.

Ordinance 5-20 (ZA 19-0009*) Public Hearing

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

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Official Zoning District Map by rezoning property described as Lots 1-60, Block 3786, Unit 52, Cape Coral Subdivision, from Commercial (C) to Single-Family Residential (R-1) zone; property located at 2200-2312 NW 8th Terrace and 2201-2313 Tropicana Parkway West. (Applicant: City of Cape Coral) (3.76 acres)

Hearing Examiner Recommendation: The Hearing Examiner recommends that City Council GRANT the Rezoning application.

City Management Recommendation: City Management recommends approval.

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

Planning Team Coordinator Struve explained what this Ordinance would accomplish. He displayed the following slides:

- Ordinance 5-20, ZA 19-0009
- ZA 19-0009, Owners, Applicant, Request, Location
- Aerial Map
- Zoning Maps, Current Zoning and Proposed Zoning
- Background
- Analysis, LDC, Sections 3.4.6, 4.2.1, and 4.2.6
- Recommendation – Staff and HEX Approval; Correspondence - None

Public Hearing opened.

No speakers.

Public Hearing closed.

Councilmember Gunter moved, seconded by Councilmember Nelson, to adopt Ordinance 5-20, as presented.

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

Ordinance 9-20 Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

An Ordinance approving the sale of municipal surplus real property described as Lots 21-22, Block 5449, Cape Coral Unit 90, pursuant to Section 2-155 of the City of Cape Coral Code of Ordinances; authorizing and directing the Mayor and City Clerk to execute a deed conveying the aforementioned surplus real property to Kimberly A. Pennino and Jeffrey S. Pennino. (Applicant: Brought forward by City Management.)

City Clerk Bruns read the title of the Ordinance.

Property Broker Andrews explained what this Ordinance would accomplish. She displayed an aerial map of the site located at 4208 NW 36th Lane.

Public Hearing opened.

No speakers.

Public Hearing closed.

Councilmember Carioscia moved, seconded by Councilmember Stout, to adopt Ordinance 9-20, as presented.

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

Ordinance 10-20 Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

An Ordinance approving the sale of municipal surplus real property described as Lot 47, Block 5257, Cape Coral Spreader Waterway plat, pursuant to Section 2-155 of the City of Cape Coral Code of Ordinances; authorizing and directing the Mayor and City Clerk to execute a deed conveying the aforementioned surplus real property to Michael J. Humphrey and Linda J. Humphrey, Trustees of the Humphrey Living Trust. (Applicant: Brought forward by City Management)

City Clerk Bruns read the title of the Ordinance.

Property Broker Andrews explained what this Ordinance would accomplish. She displayed an aerial map of the site. She noted that the property located at 1729 NW 41st Avenue was declared surplus in November 2018; it is waterfront property on the corner of two canals on the North Spreader Waterway. In December 2019 Council approved the sale of this property to the Humphreys under Ordinance 59-19; any changes to the contract had to come back under another Ordinance.

Public Hearing opened.

No speakers.

Public Hearing closed.

Councilmember Carioscia moved, seconded by Councilmember Gunter, to adopt Ordinance 10-20, as presented.

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

INTRODUCTIONS

Ordinance 7-20 (ZA 19-0008*) Set Public Hearing Date for March 2, 2020

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

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Official Zoning District Map by rezoning property described as Lots 23-42, Block 4415, Unit 63, Cape Coral Subdivision, from Neighborhood Commercial (NC) to Commercial (C) zone; property located at 1606-1616 SW 15th Place and 1609 Chiquita Boulevard. (Applicant: City of Cape Coral) (2.5 acres) Hearing Examiner Recommendation: The Hearing Examiner recommends that City Council GRANT the Rezoning application.

City Management Recommendation: City Management recommends approval.

City Clerk Bruns read the title of the Ordinance.

The public hearing was scheduled for March 2, 2020 in Council Chambers.

Ordinance 8-20 (LU 19-0002) Set Public Hearing Date for March 2, 2020

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Comprehensive Plan by amending the Future Land Use Map from Commercial (a Lee County designation) to Pine Island Road District (PIRD) land use for property lying in Section 4, Township 44 South, Range 23 East, Lee County; property located at 1570 Orchid Road, 2500 NE Pine Island Road, 2560 NE Pine Island Road. (Applicant: Harry Lowell, Trustee) (9.21 acres)

Planning & Zoning Commission Recommendation: At their February 5, 2020 P&Z Meeting, the P&Z commission voted 7-0 to recommend approval of Ordinance 8-20.

City Management Recommendation: City Management recommends approval.

City Clerk Bruns read the title of the Ordinance.

The public hearing was scheduled for March 2, 2020 in Council Chambers.

UNFINISHED BUSINESS

Water Quality – Update

Public Works Director Clinghan stated as of February 7, 2020, the level of Lake Okeechobee was approximately 13 feet. It was about 2.5 feet lower last year. Pulse releases from the Army Corps of Engineers is about 650 cfs; last year it was 1,000 cfs. There has been minimal Blue Green Algae observed at the Alva Boat Ramp and upstream at the Franklin Lock this past week. Red Tide was not presenting any issues. Water quality continues to be very good.

Follow Up Items for Council

None.

Update on Tropicana Park / Cape Coral Rowing Club - Brought forward by Mayor Coviello

Mayor Coviello stated Tropicana Park was covered after Citizens Input.

Update on Ongoing Investigations – Current Status and Estimated Completion – Brought forward by Mayor Coviello

City Attorney Menendez reported that she spoke with Deborah Brown, the Attorney who is doing the investigation. Two prongs of the investigation that Council engaged her to perform are nearing completion and will probably be ready for review later this week. The other two are still being investigated by the FDLE, so she has not begun the administrative part. She asked Council if they want to receive these different prongs of the investigation as she completes them, or to hold off and receive them only at the end when she is done with all of them? Whatever decision Council makes tonight, if any, can be changed at a later date, if Council so desires.

Councilmember Carioscia voiced that he would prefer to receive the entire completed investigation.

Councilmember Stout voiced that she would prefer the entire completed investigation.

Councilmember Welsh voiced that she would prefer the entire packet once completed.

City Attorney Menendez stated she would advise Attorney Brown that Council would prefer to receive the total package once the investigation is complete. She stated as time goes by Council can decide to change that to receive it in parts. She stated right now it

is Council's preference that we not receive the two that are nearing completion but rather that Attorney Brown hold off on that until she has completed all prongs.

Mayor Coviello asked when the anticipated timeline was for completion of the entire investigation. About a month ago, the expectation was two to four weeks to complete the entire investigation.

City Attorney Menendez stated when they estimated the two to four weeks, Council may recall that was dependent upon the FDLE's investigation and whether they were going to be doing one, and if so, over what period of time. She stated Attorney Brown has been in communication with the investigator from FDLE. She mentioned she would revisit with her whether there is any part of that investigation that she can do in the meantime. As of right now, Attorney Brown has held off doing that because of the ongoing FDLE investigations.

Mayor Coviello asked if there was any update on the investigation of the Finance Department which was being conducted by the CCPD.

Chief of Police Newlan updated Council that they are completing the review of the documents from the Finance Department, will be starting interviews soon, and waiting for the Auditor to finish their fact finding on the numbers to make sure there was nothing criminal before we could move forward with an administrative investigation. He asked Council that he would be requesting a copy of that final Audit Report which would help the CCPD with their investigation. If something has already been done or there has been a finding, the Auditor's Report will help to expedite the CCPD's investigation, as well as any transcripts or statements from the Attorney in Tampa if they have interviewed the same people and crosses over into the CCPD's investigation, all will assist in getting it done quicker.

Mayor Coviello inquired if that information would remain confidential within the CCPD or would it be subject to public records. The Auditor's Report has been issued, and it has been labeled Confidential at this point, based on improving the processes in the Finance Department.

Chief of Police Newlan stated it would remain Confidential. He asked that it only goes to the investigator, Sergeant McDonald.

Councilmember Carioscia agreed with the Chief of Police. All persons involved must be available to the investigators for interview, and any and all documents must be available to both the Chiefs' investigators, as well as the other side. If they are looking into wrongdoing, they would be able to compare some information. He noted as part of the entire investigation that all documents be submitted to the investigators to be part of the completed investigation.

Mayor Coviello asked if he would be in agreement that the investigation completed by Fire Chief Lamb should be made available to Council as well.

Councilmember Carioscia stated if it is ready and available, it should be given to Council.

Fire Chief Lamb noted that they completed a preliminary investigation. After meeting with the adjudicators, there were some questions which he could not answer, and there is a follow-up meeting this week to get the answers. It should be finished in the next two weeks.

Mayor Coviello inquired once that is done, will it be provided to all of Council?

Fire Chief Lamb stated once it is completed, it will be provided to the City Manager as the adjudicator to review that.

City Manager Szerlag stated he would release Chief Lamb's investigation when complete to the entire Council.

City Attorney Menendez asked if Council would be taking a vote or should she just direct Ms. Brown to go ahead and share all information with the Police Department.

Mayor Coviello stated there was enough of a census that Council wants to get it shared all in one report once it is completed.

City Attorney Menendez stated she understood that Council wants one full report with four prongs to it. She asked Council if she should contact Ms. Brown that the Council wants her to share the transcripts with the Police Department understanding that when they are shared that way, any part of them that becomes a part of their investigation will remain confidential and exempt until such time as any administrative disciplinary proceedings are complete, if any, as a result of the CCPD's investigation.

Mayor Coviello stated his preference was that particular investigation comes to Council first for discussion at a meeting to determine what we do with it after that.

Councilmember Stout asked if the Audit Report would go to the Police Chief.

Mayor Coviello responded in the affirmative.

City Attorney Menendez confirmed that she would instruct Ms. Brown that Council wants all of the four prongs when they are all complete and currently she will not instruct her to share any part of the transcripts or anything like that with the CCPD until after they are complete and are submitted to Council.

Mayor Coviello agreed. He confirmed with City Auditor Russell that she will release the Audit Report only to Alisha McDonald.

NEW BUSINESS

None.

REPORTS OF THE MAYOR AND COUNCIL MEMBERS

Councilmember Gunter – Topics: Attended CRA meeting on February 4th, staff meeting on February 6th regarding the 60/40 regulations, and attended the Budget Review Committee meeting this morning.

Councilmember Nelson – Topics: Last Friday presented to the Gold Coast Rotary Club on high level three, three main topics about the City.

Councilmember Stout – Topics: Will be attending the Audit Committee Meeting on Wednesday, February 12th.

Councilmember Welsh – Topics: No Report.

Councilmember Williams – Excused.

Councilmember Carioscia – Topics: No Report.

Councilmember Cosden – Topics: No Report.

Mayor Coviello – Topics: Last week attended a combination of two Republican Women's Groups that merged, upcoming week attending the Cape Coral Fire Department Ceremony and Recognition, Women's Council of Realtors event for the Mayors of Lee County, CCCIA Dinner Meeting, will ride in the Festival of Lights Grand Parade in Fort Myers, and plans on attending the Taste of the Cape at Tarpon Point Marina.

REPORTS OF THE CITY ATTORNEY AND CITY MANAGER

City Attorney: Topics: No Report.

City Manager: Topics: Met with staff regarding items for a COW meeting coming up. He suggested having a COW meeting on the Charter School in March. At this point, there were no other topics to hold a COW meeting in February.

Councilmember Gunter inquired about Quality of Life issues and parking of trucks with lettering. He asked when those topics would be presented to Council again.

City Manager Szerlag responded that he would find out from staff and provide that information.

DCD Director Cautero stated that they would be making their way through the HEX if required, as well as the Planning and Zoning Commission next month. There is a chart that is being revised which will be shared with all of Council.

Mayor Coviello suggested items for the COW meeting, one is the IRMA Hurricane reimbursement funds which could be presented for discussion. He also suggested to discuss the rules and regulations that are being considered regarding seawalls and which direction to take. The other suggested topic was the discussion of the staging area at Everest to make available to the contractors.

City Manager Szerlag stated that he would have staff provide updates on Hurricane IRMA funding as well as the staging area. He noted that he would need to speak with Director Clinghan on the seawall topic. He confirmed that the two other items would be topics for the February 24, 2020 COW meeting.

Mayor Coviello discussed the changing of regulations of the heights and the effect to neighboring properties.

City Manager Szerlag responded in the affirmative.

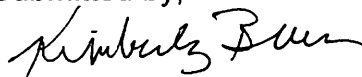
TIME AND PLACE OF FUTURE MEETINGS

A Committee of the Whole Meeting was scheduled for Monday, February 24, 2020 at 4:30 p.m. in Council Chambers.

MOTION TO ADJOURN

There being no further business, the meeting adjourned at 7:22 p.m.

Submitted by,



Kimberly Bruns, CMC
City Clerk