

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

December 14, 2020

Council Chambers

4:30 p.m.

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

INVOCATION/MOMENT OF SILENCE – Councilmember Hayden

PLEDGE OF ALLEGIANCE – Councilmember Hayden

Roll Call: Mayor Coviello, Councilmembers Cosden, Gunter, Hayden, Sheppard, and Welsh were present. Councilmembers Nelson and Williams were excused.

CHANGES TO AGENDA/ADOPTION OF AGENDA

Mayor Coviello asked if anyone had any changes to the agenda.

City Manager Hernandez requested to withdraw Item 9(A)(7) from the Consent Agenda and bring it back at a later time and pull Item 9(A)(14) (Resolution 281-20) for a comment.

Councilmember Welsh requested to discuss Item 9(A)(16) under the Consent Agenda as it was added today.

Mayor Coviello stated under Consent Agenda Item 9(A)(16) would be pulled for further discussion.

Councilmember Gunter requested to withdraw Resolutions 276-20 and 277-20 (Consent Items 9(A)(9) and 9(A)(10)) as both items were related to pending litigation cases; he recommended that Council have a discussion at a later time.

City Attorney Menendez clarified that Items 9(A)(9) and 9(A)(10) were being withdrawn by Councilmember Gunter and the City Manager requested to pull Item 9(A)(14) for further discussion.

Mayor Coviello confirmed that Items being withdrawn were 9(A)(7), 9(A)(9), and 9(A)(10), and the City Manager wanted an opportunity to discuss Item 9(A)(14) Resolution 281-20.

Councilmember Gunter moved, seconded by Councilmember Hayden, to adopt the agenda, as amended.

Council polled as follows: Hayden, Sheppard, Welsh, Cosden, Coviello, and Gunter voted "aye." Six "ayes." Motion carried 6-0.

RECOGNITIONS/ACHIEVEMENTS

None.

APPROVAL OF MINUTES

None.

CITIZENS INPUT TIME

No speakers.

BUSINESS

CONSENT AGENDA

- 1) Resolution 242-20 Approve the State Highway Lighting, Maintenance, and Compensation Agreement between the City of Cape Coral and the Florida Department of Transportation; Authorizing the City Manager or his designee to execute the Agreement; Department: Public Works; Dollar Value: N/A; (Fund: N/A)
- 2) Resolution 252-20 Approve the Memorandum of Understanding (MOU) between City and Department of Environmental Protection for modernization of Survey Datums with a cost divided over 3 years with \$190,000 in FY 2021, \$200,000 in FY 2022, and \$200,000 in FY 2023. Department: Public Works; Dollar Value: Funds to be divided between Transportation Capital and Stormwater Unassigned, Reserve Funds for a total cost of \$590,000.
- 3) Resolution 261-20 Approve Authorization and Execution of Utilities Hazard Mitigation Grant Program Agreement for Lift Station 120 Relocation and Generator Installation. Total Project Cost is \$854,449, the Federal Cost Share is \$640,836.75 Utilities Dept 25% match in the amount of \$213,612.25; Department: Utilities; (Water and Sewer Fund)
- 4) Resolution 268-20 Award Bid # BUT2070KR for the installation and testing of six test wells and three observation wells; and remediation services for up to six existing reverse osmosis (RO) wells to Layne Christensen Company, as the lowest responsive responsible bidder, in the amount of \$2,089,998 with a City controlled contingency of 10% , \$209,000, for a total amount of \$2,298,998 and authorize the City Manager or designee to execute the contract(s), purchase order(s), and any renewals; Department: Utilities; Dollar Value: \$2,298,998; (Water & Sewer Fund)
- 5) Resolution 269-20 Approve Renewal of the Mutual Aid Agreement (MAA) Between the City of Cape Coral o/b/o the Cape Coral Police Department and the Charlotte County Sheriff's Office and authorizing the Chief of Police to execute all necessary documents; Department: Police; Dollar Value: N/A; (Fund: N/A)
- 6) Resolution 270-20 Approve Renewal of the Voluntary Cooperation Mutual Aid Agreement (MAA) Between the Participating Agencies and the Florida Department of Law Enforcement to form the Fort Myers Regional Operations Center Child Abduction Response Team and to authorize the Chief of Police to execute all necessary documents; Department: Police; Dollar Value: N/A; (Fund: N/A)
- 7) WITHDRAWN: Resolution 274-20 Award Invitation to Bid #BPW2110AP Major Road Resurfacing FY2021 to Community Asphalt Corporation for asphalt resurfacing sections of three different major roadways totaling approximately 19 lane miles and other related work as the lowest responsive, responsible bidder, in the amount of \$1,798,000 with a 5% city controlled contingency of \$89,900 for a total of \$1,887,900 and authorize the City Manager or Designee to execute the contract, purchase orders and change orders; Department: Public Works; Dollar Value: \$1,887,900; (Transportation-Road Resurfacing Fund /Water and Sewer Fund)
- 8) Resolution 275-20 Award Invitation to Bid #BPW2111AP Local Road Resurfacing FY2021 to Pavement Maintenance, LLC, for asphalt resurfacing of approximately 41 lane miles of local roads and other related work as the lowest responsive, responsible bidder, in the amount of \$2,513,877 with a 5% city controlled contingency of \$125,694 for a total project cost of \$2,639,571 and authorize the City Manager or Designee to execute the contract, purchase orders and change orders; Department: Public Works; Dollar Value: \$2,639,571; (Transportation-Road Resurfacing Fund/Water and Sewer Fund)

- 9) WITHDRAWN: Resolution 276-20 Approval of Settlement Agreement for the eminent domain case of City of Cape Coral v. Calixto Blanco, et al., being Case Number 20-CA-002780 to resolve the acquisition of Festival Park Parcel #FP-070 (aka Lots 14 and 15, Block 3003, Cape Coral Unit 43 – 1014 NW 25th Street) for a total land settlement of \$50,000 plus statutory attorney fees of \$8,580 for a total of \$58,580, exclusive of expert costs. The City previously deposited into the Court Registry \$20,000; remaining funds due is \$38,580. Department: Financial Services / Real Estate Division; Dollar Value: \$38,580; (Parks Capital Project/GO Bond Fund)
- 10) WITHDRAWN: Resolution 277-20 Approval of Settlement Agreement for the eminent domain case of City of Cape Coral v. Calixto Blanco, et al., being Case Number 20-CA-002780 to resolve the acquisition of Festival Park Parcel #FP-196 (aka Lots 39 and 40, Block 3015, Cape Coral Unit 43 – 2608 NW 9th Place) for a total land settlement of \$45,000 plus statutory attorney fees of \$10,098 for a total of \$55,098, exclusive of expert costs. The City previously deposited into the Court Registry \$12,000; remaining funds due is \$43,098. Department: Financial Services / Real Estate Division; Dollar Value: \$43,098; (Parks Capital Project/GO Bond Fund)
- 11) Resolution 278-20 Acceptance of Florida Department of Transportation Highway Traffic Safety Funds to conduct impaired driving operations; Department: Police; Dollar Value \$71,000; No cash match; (Fund: N/A)
- 12) Resolution 279-20 Approve Donation of Tiki Hut for Outdoor Learning Center; Department: Parks and Recreation; Donation/Dollar Value: \$29,000; (Fund: N/A)
- 13) Resolution 280-20 - Approve the Memorandum of Understanding (MOU) between Lee County and Cape Coral as a Supplemental to Resolution 5-19 - Interlocal Agreement for Interconnection to Yellow Fever Creek to support Parks and Recreation GO Bond Community Park development; Department: Public Works; Dollar Value: Range between \$0.00 and \$196,568 dependent upon Lee County bid award; (Fund: GO Bond)
- 14) Resolution 281-20 COVID-19 Testing Agreement Between Curative, Inc., and the City of Cape Coral; Department: Fire; Dollar Value: N/A; (Fund: N/A)
- 15) ADDENDUM: Resolution 282-20 Approve Amended Interlocal Agreement between Lee County and Cape Coral for CARES Act Funding; Department: Finance; Dollar Value: This amendment increases our original grant by \$2,745,687
- 16) ADDENDUM: Resolution 283-20 Authorizing the City Manager to Receive, Review, and Accept or Reject the Donation of a Conservation Easement from Acorn Storage Properties, LLC, located Generally at the Northeast Corner of Van Buren Parkway and Burnt Store Road

Mayor Coviello stated that item 9(A)(14) was pulled at the City Manager's request. He asked if anyone wanted to pull any item. There were none.

Councilmember Gunter moved, seconded by Councilmember Hayden, to approve items 9(A)(1), 9(A)(2), 9(A)(3), 9(A)(4), 9(A)(5), 9(A)(6), 9(A)(8), 9(A)(11), 9(A)(12), 9(A)(13), 9(A)(14), and 9(A)(15) as presented.

Councilmember Welsh requested to pulled Item 9(A)(16).

Motion maker and second agreed to pull Item 9(A)(16) for discussion.

City Manager Hernandez discussed item 9(A)(14) regarding the efforts by Fire Chief Lamb and Staff to identify the ways for the City of Cape Coral to make COVID-19 testing convenient and accessible to the Residents.

Fire Chief Lamb discussed the different factors toward streamlining the process for the testing sites. He added that any Resident, regardless of insurance or lack thereof, will be able to be tested at no cost. If we test more, we will find out who has the virus in our community in order to eliminate the spread of the virus.

Mayor Coviello discussed the CenturyLink testing site and test results process.

Fire Chief Lamb stated that the testing that the City would perform would provide results in one to two days.

Council polled as follows: Hayden, Sheppard, Welsh, Cosden, Coviello, and Gunter voted "aye." Six "ayes." Motion carried 6-0.

Councilmember Welsh inquired about item 9(A)(16) specifically to the purpose and any tax credits associated with the transaction.

City Manager Hernandez noted Staff was contacted late on Thursday by a property owner in the City who was interested in donating the rights to a waterway. The property owner is proposing to grant the City a conservation easement over one section on the Gator Slough Canal. He deferred the question about how much a tax deduction this would be to Michael Ilczyszyn.

Senior Public Works Manager Ilczyszyn displayed an aerial of the site and explained that that this land was an unplatted tract of 125 acres. The Gator Slough Waterway flows over it, encompassing about 14 acres of land. A conservation easement would protect that area in perpetuity for the City. Through discussions with the property owner, it has a reduction of the adjusted gross income and has a three- or five-year window if it were given to us. Our interest is to make sure that there is one contiguous body of water in perpetuity that is open for nature, citizens, and the flow of fresh water into Charlotte Harbor. Staff was able to work with the owner to accept the perpetual conservation easement with the right to purchase at a later date should they ever transfer the property.

Discussion held regarding deed restrictions and the process of donation.

Councilmember Welsh inquired about the amount of the tax credit.

Property Broker Andrews explained it would have to be appraised as part of the process. She noted the tax credit process deadline was December 30, 2020.

Councilmember Welsh moved, seconded by Councilmember Hayden, to approve item 9(A)(16), as presented.

Council polled as follows: Hayden, Sheppard, Welsh, Cosden, Coviello, and Gunter voted "aye." Six "ayes." Motion carried 6-0.

Mayor Coviello asked if there was a projected date to bring back Items 9(A)(9), Resolution 276-20 and 9(A)(10), Resolution 277-20.

City Attorney Menendez stated she did not have a projected date but would verify it with the Council Office. She would probably request it at the January 6th meeting, and it could be scheduled then.

Mayor Coviello hoped it could be scheduled this week.

Councilmember Gunter stated he would be leaving on Thursday to go out of town for the holidays. He mentioned he would have no problem meeting an hour earlier on January 6th.

Mayor Coviello agreed that 3:00 p.m. on January 6th would work.

City Attorney Menendez stated that could probably be done; she would get the language from her Office in order to do the request by the end of today's meeting.

PERSONNEL ACTIONS

None.

PETITIONS TO COUNCIL

Petition to Council - Tim Trimble - Code Lien Refund Request

Mr. Trimble discussed the Oath of Office in the State of Florida, Article II Section 5(b) of the Florida Constitution which was displayed. He discussed the displayed Section 4. Homestead; exemptions. He also displayed his Homestead Exemption receipt for 2005. He explained his Petition to Council and requested that the City of Cape Coral assist him regarding a refund of \$5,000 that was paid several years ago regarding a code lien for parking a small trailer and parking a boat.

City Manager Hernandez explained this Petition to Council and that City Management recommended denial.

Councilmember Cosden understood from Mr. Trimble's Petition that it was against the Florida Constitution. She noted that in the Staff Review, it says Code liens may be filed on properties that have a Homestead Exemption. She asked for an explanation.

City Attorney Menendez stated having a Homestead Exemption from the Property Appraiser's Office is not what the Florida Constitution considers to be homestead property. Homestead Exemption with the Property Appraiser's Office gets you a Homestead Exemption on your ad valorem taxes. It does not mean that a lien cannot be placed on the property. Mr. Trimble had run up a tremendous amount of liens in the amount of \$241,000. She recalled that he and his wife had come in wanting to potentially refinance and could not do that with those liens on the property. It was beneficial for them to have it reduced to a more manageable amount. The City has long maintained that our main goal with Code Enforcement is not collection of the fines; it is gaining compliance. Mr. Trimble received benefit from reducing the liens to \$5,000, and he did not challenge the imposition of the liens.

Mayor Coviello noted that code liens may be filed on properties that have a Homestead Exemption which would only protect against foreclosure for the lien. He opined that Mr. Trimble was fortunate to have the liens reduced to only \$5,000.

Councilmember Gunter agreed. He noted that Mr. Trimble did not heed the Hearing Officer's warnings after 2 ½ years and kept that violation continuing. He recommended denial of this request.

Councilmember Gunter moved, seconded by Councilmember Hayden, to deny the request from the petitioner (Tim Trimble).

Council polled as follows: Hayden, Sheppard, Welsh, Cosden, Coviello, and Gunter voted "aye." Six "ayes." Motion carried 6-0.

Petition to Council - Robert Denis - Authorize Use of Golf Cart on Paved Roadway

Mr. Denis understood that there is an Ordinance that existed within Cape Coral to allow for Golf Carts on certain roadways in approved neighborhoods. He stated it was to raise awareness for the possibility of coming across a Golf Cart on the roadway. He noted he learned that it is up to City Council to approve.

Councilmember Welsh stated an Ordinance would be required for a Golf Cart to be on the roadway. Within the State of Florida, there are low speed vehicles which allow for the use of Golf Carts but needs to have a windshield, seat belts, and turn signals, and can be

operated on any roadway with a speed limit of 35 mph or less. He suggested looking into a street-legal Golf Cart. He cautioned that the approval of this may bring other petitions. He mentioned enforcement difficulties. He was against the use of Golf Carts.

Mr. Denis questioned if there were two classifications for Golf Carts, noting one was under 20 mph.

Councilmember Welsh noted that an Ordinance would be required for under 20 mph. There is a process to apply for the low speed vehicle permit. He noted there were great resources on the State's website.

Mayor Coviello stated this was much more of an issue not just confined to one neighborhood. He suggested having a workshop or a future Council meeting for discussion to address this topic City-wide. Photos were displayed of Golf Carts on Pelican and Cape Coral Parkway and bike paths in areas that are not approved. He voiced his concern about safety.

City Attorney Menendez stated she understood that Council may want to potentially repeal the Ordinance that allows for the designation of certain areas.

Mayor Coviello responded in the affirmative.

City Attorney Menendez noted that under the current Ordinance, a Petition to Council is treated like an application. If Mr. Denis is interested in continuing with having Council formally consider his request beyond what he hears today as part of the discussion, then Council would consider this with a Resolution to approve or disapprove a designated area.

Councilmember Gunter agreed that this was something that needed to be discussed City-wide as to whether or not to allow this. If so, criteria and parameters would need to be set. He discussed that the use of Golf Carts had come up in his District about 18 months ago. Instead of having several petitions possibly coming up to Council for each individual neighborhood, he opined that Council needed to look at this collectively as a City. He suggested to have this discussion at a future workshop.

Councilmember Sheppard agreed Council should look at this topic City-wide. He noted that some Residents in his District use Golf Carts. He did not have issues with it for neighborhood travel but not on major roads.

Traffic Engineer Corbett discussed the displayed aerial showing the existing designated neighborhoods for Golf Cart use:

- Existing Golf Cart Designated Neighborhood (established 2001) (southeast quadrant of Santa Barbara Boulevard and Hancock Bridge Parkway)
- Requested Golf Cart Designated Neighborhood (east of Viscaya and Del Prado in the southeast quadrant)
- Existing Golf Cart Designated Neighborhood 6.5 miles +/- of roadway 0.27 sq. mi. +/- (Saratoga Lake Park)
- There was a request in 2012-2013 to expand this area to include areas west of Santa Barbara Boulevard which was denied by the City Council at that time.
- Request Golf Cart Designated Neighborhood 2 miles +/- of roadway 0.6 sq. mi. +/-

Councilmember Hayden agreed that a more comprehensive discussion was needed at a later date to come up with a more uniform regulation. He noted the current request still needed to be resolved. It has already been established that it can be done in certain parts of the City.

Traffic Engineer Corbett mentioned that Staff from Public Works and the Police Department has reviewed this, and there is no technical safety concern why this could not be implemented. However, both departments generally do not recommend Golf Cart

use on any public roadways to prevent any interaction between golf carts and vehicles, bicycles or pedestrians.

Councilmember Cosden stated that an Ordinance would need to be created to apply it City-wide.

City Attorney Menendez stated the current Ordinance complies with the State Statute. The City should be proactive in designating more areas for Golf Cart access if they want to support Golf Carts on more City roads. If the Council was interested in considering the Golf Cart petition, then a Resolution would need to be heard before Council.

Mayor Coviello stated that the topic of Golf Carts in residential neighborhoods should be presented at a COW meeting for discussion. There should be limits on major roads such as Santa Barbara and Cape Coral Parkway. A more in-depth discussion is needed on what the Resolution would include. He inquired about the protocol for dealing with violations.

Interim Chief of Police Sizemore stated that there would be a reactionary process. There is no proactive enforcement of Golf Cart driving.

Councilmember Gunter stated that he was also concerned with enforcement and teenage drivers. He asked the City Manager when this could be scheduled for a COW meeting.

City Manager Hernandez requested that Council amend their meeting calendar to have a COW meeting on a Wednesday in late March which would be the earliest unless other items are moved.

Councilmember Gunter inquired if the Petitioner would agree with having the topic discussed further when Council could analyze this at a COW meeting.

Mr. Denis agreed.

Councilmember Gunter asked the City Attorney if the petitioner would be okay with a continuance in this matter.

City Attorney Menendez stated if the petitioner was amenable to that, it would be fine.

Mr. Denis agreed and would be willing to participate.

Councilmember Gunter stated that safety was the main objective.

Mayor Coviello stated some framework was needed on what was allowed.

Councilmember Sheppard agreed it was a change that needs to happen. He questioned if a parameter was set for the neighborhood currently using Golf Carts. Could we allow the petitioner to operate his with the same parameters?

City Attorney Menendez explained that approval was needed for a new area to be designated. There will be a Resolution that will identify the area, and Council will vote. The current area that was designated a number of years ago followed this process.

City Manager Hernandez clarified that the next available date would be March 31, 2021; however, it could be held on February 24, 2021.

Mayor Coviello asked if the meeting date was already scheduled.

City Manager Hernandez believed it was not part of the approved calendar yet. He stated he would work with the Clerk and bring an item forward on January 6th to amend the Council meeting calendar to include either or both of these two dates.

Mayor Coviello agreed for him to work with the Clerk to verify the date of the COW meeting. He noted there may be other topics that could be added for that meeting as well.

Councilmember Welsh inquired if Council would have to repeal the current Ordinance in the existing neighborhood that currently allows the Golf Carts.

City Attorney Menendez stated if this were to be repealed, it would depend on its nature, but it is likely that if Council was going to repeal the Ordinance, it would also be related to the existing neighborhood that has already been designated.

Mayor Coviello requested that the Police Department patrol the current neighborhood that allows Golf Carts and provide feedback at that COW meeting.

Interim Chief of Police Sizemore provided history on the prior approval. He agreed to have data for the Council as requested.

City Attorney Menendez explained that we could also look at the issue of creating a new Ordinance that repeals the existing Ordinance, but not affecting the current designated area.

Mayor Coviello thanked Mr. Denis for bringing this item to Council's attention which will be on a future agenda.

City Attorney Menendez stated it would be appropriate to have a motion to continue, but it does not need to be continued to a date certain.

Councilmember Gunter moved, seconded by Councilmember Sheppard, to continue this petition (from Robert Denis) and reach out to the petitioner once we know exactly which of the two dates that we are going to utilize and give him the opportunity to come back, if he would like, until after the City Council has had an opportunity to discuss this matter further at a COW meeting (in February/March 2021).

Council polled as follows: Hayden, Sheppard, Welsh, Cosden, Coviello, and Gunter voted "aye." Six "ayes." Motion carried 6-0.

APPOINTMENTS TO BOARDS / COMMITTEES / COMMISSIONS

None.

ORDINANCES/RESOLUTIONS

Public Hearings

NOTE: N/A

Ordinance 79-20 Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance establishing the Stonewater Community Development District located within the municipal boundaries of the City of Cape Coral, containing approximately 184.82 acres, pursuant to Chapter 190, Florida Statutes; providing for the establishment of the boundaries for the Stonewater Community Development District; providing for the designation of the initial board members; providing for the District name; providing for statutory provisions governing the District. (Petitioner: DR Horton, Inc.)

City Clerk Bruns read the title of the Ordinance.

Planning Manager Pederson explained what this Ordinance would accomplish and displayed the following slides:

- Ordinance 79-20 Stonewater CDD

- Stonewater PDP
- Stonewater is an approved Planned Development Project
- What is a CDD? Community Development Project (2 slides)
- Background
- CDD Powers Section 190.012 F.S.
- Stonewater CDD
- Recommendation – Staff recommends approval authorizing creation of the Stonewater CDD

Public Hearing Opened.

Wesley Haber, Attorney with the Law Firm of Hopping Green and Sams, authorized representative for DR Horton, appeared to discuss the CDD request. He pointed out that it was an independent unit of government distinguished from an HOA, subject to public record, the Sunshine Law, and Chapter 112 of the Code of Ethics. It has more power than an HOA and serves a different function in that it is largely an operation, maintenance, and finance tool for the landowner to develop a public infrastructure within a project. He noted that his office filed a petition with the City which established that the petitioner met all the criteria set forth in Chapter 190 of the Florida Statutes for the establishment of a community development district. He noted that they met the advertising requirements.

Public Hearing Closed.

Councilmember Gunter moved, seconded by Councilmember Cosden, to adopt Ordinance 79-20, as presented.

Councilmember Welsh inquired if this would ever change to an HOA once it is built out.

Mr. Haber stated they were perpetual entities. He explained that there are CDD's that get dissolved from time to time.

Council polled as follows: Hayden, Sheppard, Welsh, Cosden, Coviello, and Gunter voted "aye." Six "ayes." Motion carried 6-0.

Ordinance 86-20 Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance declaring Lots 63 and 64, Block 1915, Unit 28, Cape Coral Subdivision (1302 SW 5th Avenue), as unusable municipal surplus real property not projected to be used for municipal purposes; authorizing the City Manager to exchange said municipal surplus property for real property described as Lots 5 and 6, Block 1916, Unit 28, Cape Coral Subdivision (1309 SW 6th Avenue); 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 City 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.

Property Broker Andrews explained what this Ordinance would accomplish and displayed the following slides:

- Ord. 86-20 Exchange of Real Property
- In 2019, the City was contacted by the property owner's local representative to purchase the property at 1309 SW 6th Avenue
- This property is located within 100 feet of the BMX Eagle Nest (LE-27).
- The nest has been in this location since at least 1989.
- The eagles utilize the perch tree located along the north side of the site.
- Per the Eagle Ordinance, the City may prohibit development from taking place within 350 feet of an active bald eagle's nest in order to preserve critical eagle habitat.
- The City owns several parcels near the LE-27 nest site.

- To preserve the critical eagle habitat at the LE-27 nest site, Staff negotiated an exchange of property with the owner for a nearby City site.
- Recommendation – Approval of Ordinance 86-20
- Declare City property located at 1302 SW 5th Avenue as "unusable municipal surplus real property"
- Exchange City property for 1309 SW 6th Avenue, which is owned by Golden River Solo 401K, LLC

Public Hearing Opened.

No Speakers.

Public Hearing Closed.

Councilmember Welsh moved, seconded by Councilmember Cosden, to adopt Ordinance 86-20, as presented.

Councilmember Gunter inquired about the rings surrounding the property as indicated on the aerial picture in the presentation.

Property Broker Andrews explained the different radius from the eagle nest pursuant to the aerial picture. The first ring is at 150 feet (grey ring) that bisects the property. There is a 350-foot ring (secondary zone for the eagle nest). There is a 660 (blue) and 1,100 (black) foot ring.

Councilmember Gunter explained his reasons for not supporting the Ordinance due to the property being located within 350 feet radius of the eagle nest.

Property Broker Andrews explained that the City may prohibit the development of the site. In the past, when the Florida Fish and Wildlife Conservation Commission denies a person to build on the site, the City gets stuck purchasing the site.

DCD Director Cautero further explained that there are provisions in the Ordinance once you get past that 150 to 330 range. Staff has used management practices which adds to the cost of construction. There could be opportunities if someone developed within that radius based on a number of factors. What are the practices to be used if developing in that timeframe from May 1st to October 15th? What if you cannot develop within that 100 feet? If you go outside of that in the next band, the outer band is City, not Federal; City Council reaffirmed that about 18 months ago with an amendment to the Ordinance which was not approved.

Mayor Coviello requested to see the picture with the red ring which showed the perching site. He noted that the eagles like to perch away from the nest; it certainly would be within the 350 feet.

Property Broker Andrews believed that the perch tree was on the City's property with some overhang.

Councilmember Welsh inquired about when the landowner purchased the property.

Property Broker Andrews stated that the property was purchased in December 2018.

Councilmember Welsh stated that he was familiar with the eagle nest in District 5, and the nest was not a new one. The property owner who purchased this realized that they could not develop on it. He did not see any reason to oppose this Ordinance.

Council polled as follows: Hayden, Sheppard, Welsh, Cosden, and Coviello voted "aye." Gunter voted "nay." Five "ayes." One "nay." Motion carried 5-1.

Ordinance 94-20 Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

The ordinance authorizes the issuance of not to exceed \$10,600,000 in principal amount of a Water and Sewer Revenue Bond of the City of Cape Coral, Florida to finance, on an interim basis, various costs and expenses relating to the design and planning for the water, wastewater and irrigation water utility capital improvements to be acquired, constructed and equipped within the North 1 assessment area. (Applicant: Brought forward by City Management.)

City Clerk Bruns read the title of the Ordinance.

Interim Financial Services Director Phillips explained what this Ordinance would accomplish and displayed the following slides:

- City of Cape Coral Bank Loan to Fund North 1 UEP Design
- North 1 Project Boundary
- City of Cape Coral Proposed Utilities Extension – Revised FY 2018-2023
- Proposed Bank Loan
- RFP for Bank Loan Results
- Timing

Public Hearing Opened.

No speakers.

Public Hearing Closed.

Councilmember Gunter moved, seconded by Councilmember Welsh, to adopt Ordinance 94-20, as presented.

Council polled as follows: Hayden, Sheppard, Welsh, Cosden, Coviello, and Gunter voted "aye." Six "ayes." Motion carried 6-0.

Recessed at 6:02 p.m. and reconvened at 6:15 p.m.

Resolution 264-20 Public Input Authorizes Issuance of Water and Sewer Revenue Bonds not exceeding \$10,600,000 Principal Amount for the North 1 Assessment Area

WHAT THE RESOLUTION ACCOMPLISHES:

The resolution supplements Resolution 98-86, as previously amended and supplemented, which resolution, among other things, authorizes the issuance from time to time of City of Cape Coral, Florida Water and Sewer Revenue Bonds; authorizes the issuance by the City of not exceeding \$10,600,000 principal amount of a City of Cape Coral, Florida Water and Sewer Revenue Bond, Series 2020 in order to finance, on an interim basis, various costs and expenses relating to the design and planning for the water, wastewater and irrigation water utility capital improvements to be acquired, constructed and equipped within the North 1 assessment area; provides certain terms and details of such Series 2020 bond and authorizes a negotiated sale of said bond and the award of the bond pursuant to the proposal of PNC Bank, National Association; delegates certain authority to the mayor and other city officials with respect to the Series 2020 bond; and provides certain other provisions with respect to the Series 2020 bond. (Brought forward by City Management.)

City Clerk Bruns read the title of the Resolution.

Interim Financial Services Director Phillips explained what this Resolution would accomplish.

Public Hearing Opened.

No speakers.

Public Hearing Closed.

Councilmember Cosden moved, seconded by Councilmember Gunter, to approve Resolution 264-20, as presented.

Council polled as follows: Hayden, Sheppard, Welsh, Cosden, Coviello, and Gunter voted "aye." Six "ayes." Motion carried 6-0.

Ordinance 97-20 Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

The ordinance approves a Ground Lease Agreement between the City of Cape Coral and Lee County, Florida for the lease of a portion of the property owned by the City of Cape Coral located at 815 Nicholas Parkway for placement of communication-related ground equipment and generator; authorizes the Mayor to execute the Ground Lease Agreement; and attaches a copy of the ground lease agreement. (Applicant: Brought forward by City Management.)

City Clerk Bruns read the title of the Ordinance.

Property Broker Andrews explained what this Ordinance would accomplish and displayed the following slides:

- 3 five-year extension terms
- Aerial picture of the site

Public Hearing Opened.

No speakers.

Public Hearing Closed.

Councilmember Welsh moved, seconded by Councilmember Hayden, to adopt Ordinance 97-20, as presented.

Council polled as follows: Hayden, Sheppard, Welsh, Cosden, Coviello, and Gunter voted "aye." Six "ayes." Motion carried 6-0.

Introductions

Ordinance 83-20 Set Public Hearing for January 6, 2021

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending Ordinance 87-00, as amended by Ordinance 88-04, Ordinance 40-11, and Ordinance 13-19, which established the City of Cape Coral Investment Policy for Surplus Funds, by adopting an amended City of Cape Coral Investment Policy. (Applicant: Brought forward by City Management.)

City Clerk Bruns read the title of the Ordinance.

The public hearing was scheduled for January 6, 2021 in Council Chambers.

Ordinance 98-20 Set Public Hearing for January 6, 2021

WHAT THE ORDINANCE ACCOMPLISHES:

The Ordinance approves the sale of municipal surplus real property described as Lots 35 and 36, Block 5460, Unit 90, Cape Coral Subdivision pursuant to Section 2-155 of the City of Cape Coral Code of Ordinances and authorizes and directs the Mayor and Clerk to execute a deed conveying the aforementioned surplus real property located at 4122 NW 39th Lane to TSAVO Group, Inc. (Applicant: Brought forward by City Management)

City Clerk Bruns read the title of the Ordinance.

The public hearing was scheduled for January 6, 2021 in Council Chambers.

Ordinance 99-20 Set Public Hearing for January 6, 2021

WHAT THE ORDINANCE ACCOMPLISHES:

The Ordinance approves the sale of municipal surplus real property described as Lots 53 and 54, Block 5241, Unit 81, Cape Coral Subdivision pursuant to Section 2-155 of the City of Cape Coral Code of Ordinances and authorizes and directs the Mayor and Clerk to execute a deed conveying the aforementioned surplus real property located at 1432 Old Burnt Store Road North to TSAVO Group, Inc. (Applicant: Brought forward by City Management)

City Clerk Bruns read the title of the Ordinance.

The public hearing was scheduled for January 6, 2021 in Council Chambers.

Ordinance 100-20 Set Public Hearing for January 6, 2021

WHAT THE ORDINANCE ACCOMPLISHES:

The Ordinance approves the sale of municipal surplus real property described as Lots 49 and 50, Block 5465, Unit 90, Cape Coral Subdivision pursuant to Section 2-155 of the City of Cape Coral Code of Ordinances and authorizes and directs the Mayor and Clerk to execute a deed conveying the aforementioned surplus real property located at 4111 NW 39th Street to TSAVO Group, Inc. (Applicant: Brought forward by City Management.)

City Clerk Bruns read the title of the Ordinance.

The public hearing was scheduled for January 6, 2021 in Council Chambers.

UNFINISHED BUSINESS

Follow Up Items for Council

None.

NEW BUSINESS

None.

REPORTS OF THE MAYOR AND COUNCIL MEMBERS

Councilmember Hayden – Topics: Attended the Grand Opening of Fire Station #2. He encouraged people to read an article in the News Press by Amy Bennett Williams about the 20-year history of the Everglades Restoration Plan.

Councilmember Nelson – Topics: Excused.

Councilmember Sheppard – Topics: No Report.

Councilmember Welsh – Topics: Attended Fire Station #2 Dedication. He expressed thanks to the City workers and City Manager Hernandez for raising money for the United Way Rise to the Challenge Campaign.

Councilmember Williams – Topics: Excused.

Councilmember Sheppard asked to be released from his appointment to the Charter School Governing Board (CSGB).

Councilmember Cosden stated that she served two years on the CSGB and noted that it was very time intensive. She suggested that Councilmember Welsh would be a good candidate for that Board.

Councilmember Welsh stated he would not have the time to serve on the Charter School Governing Board. He mentioned that he did take an alternate position with

Councilmember Sheppard on Planning and Zoning and would be willing to take that one over for him.

Councilmember Sheppard stated he hoped that possibly Councilmember Gunter would be interested in taking the CSGB position.

Councilmember Gunter agreed to take over the Charter School Governing Board for one more year since they were in the middle of doing some capital improvement project analysis for the Charter School.

Councilmember Cosden moved, seconded by Councilmember Hayden, to release the appointment of Councilmember Sheppard from the Charter School Governing Board and appointed Councilmember Gunter for the Charter School Governing Board for the next year.

City Attorney Menendez clarified that it was not a liaison position but an actual voting member of the CSGB.

Council polled as follows: Hayden, Sheppard, Welsh, Cosden, Coviello, and Gunter voted "aye." Six "ayes." Motion carried 6-0.

Mayor Coviello asked Councilmember Sheppard if he wanted to release his appointment from the Planning and Zoning Commission.

Councilmember Sheppard stated he would remain on the Planning and Zoning Commission.

Councilmember Cosden – Topics: Attended the Grand Menorah Lighting yesterday at the Chabad Jewish Center Chanukah Festival.

Councilmember Gunter – Topics: Attended the Charter School Governing Board meeting last week and the CTAC meeting last week as well.

Mayor Coviello – Topics: Attended the CTAC meeting; Grand Menorah Lighting at the Chanukah Festival; this morning the Grand Opening and Ribbon Cutting at Fire Station #2.

REPORTS OF THE CITY ATTORNEY AND CITY MANAGER

City Attorney: Topics: As the Council is aware, the City is a party to an eminent domain litigation entitled City of Cape Coral v. Calixto Blanco et al, Case Number 20-CA-002780. Accordingly, pursuant to Section 286.011, subsection 8 F.S., she requested that the City Council convene in a closed Attorney Client Session to discuss settlement and litigation strategies in that case. If Council approves, the Session can be scheduled for Wednesday, January 6, 2021, at 3:00 p.m.

Consensus agreed, without objection, to schedule the Attorney-Client session.

City Manager: Topics: Wished everyone happy holidays

TIME AND PLACE OF FUTURE MEETINGS

An Attorney-Client Session Meeting of the Cape Coral City Council was scheduled for Wednesday, January 6, 2021, at 3:00 p.m. in Council Chambers.

A Regular Meeting of the Cape Coral City Council was scheduled for Wednesday, January 6, 2021, at 4:30 p.m. in Council Chambers.

MOTION TO ADJOURN

There being no further business, the meeting adjourned at 6:34 p.m.

Submitted by,



Kimberly Bruns, CMC
City Clerk