

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

April 21, 2021

Council Chambers

4:30 p.m.

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

INVOCATION/MOMENT OF SILENCE – Councilmember Nelson

PLEDGE OF ALLEGIANCE – Councilmember Nelson

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

CHANGES TO AGENDA/ADOPTION OF AGENDA

Mayor Gunter requested that item 11.A. Waste Pro Discussion and 12.A. Youth Council Reports be heard immediately after Citizens Input. He asked if there were any other changes to the agenda. There were none.

Councilmember Tate moved, seconded by Councilmember Nelson, to adopt the agenda, as amended. Voice Poll: All "ayes." Motion carried.

RECOGNITIONS/ACHIEVEMENTS

None.

APPROVAL OF MINUTES

Regular Meeting - April 7, 2021

Councilmember Nelson moved, seconded by Councilmember Tate, to approve the minutes for the April 7, 2021 Regular Meeting, as presented. Voice Poll: All "ayes." Motion carried.

CITIZENS INPUT TIME

Steve Crane appeared to discuss Cape Harbour development concerns with current/future development changes and changes to public access.

John Tilowski appeared to discuss Waste Pro contract concerns and supported fining them. He also discussed the hiring of the Chief of Police.

Jennifer Ford appeared to petition that City Council rename Cape Coral Sports Complex to John M. Carioscia Sr. Sports Complex in memory of the former Councilmember.

Frank Perry appeared to discuss the invasive green iguana issue. He suggested that City Council work on an effective long-term policy for removal of invasive green iguanas.

Joe Argonzoni appeared in favor of renaming Cape Coral Sports Complex in honor of John M. Carioscia, Sr.

Tom Busata appeared in favor of renaming Cape Coral Sports Complex in honor of John M. Carioscia, Sr.

George Faliker appeared in favor of renaming Cape Coral Sports Complex in honor of John M. Carioscia, Sr.

Councilmember Cosden stated that she was open to discuss the naming of facilities at a later date as this was an Ordinance being worked on by Councilmember Welsh with the City Attorney's Office.

Councilmember Welsh stated that the topic was tabled since the last discussion. He would be open to restart the work on the Ordinance in light of this new petition.

Councilmember Nelson requested that the City Manager discuss the iguana process.

City Manager Hernandez stated that green iguanas were declared by the State as prohibited species because of their invasive nature. He suggested that the public refer to the information that is published by the Florida Wildlife Commission which would be published on our website.

Mayor Gunter voiced his support for renaming Cape Coral Sports Complex to John M. Carioscia Sr. Sports Complex. He agreed that Councilmember Welsh should work on a policy for renaming facilities and bring it to Council for discussion at a COW meeting.

ADDENDUM: Waste Pro Discussion – Brought forward by Mayor Gunter
(moved directly after Citizens Input)

City Manager Hernandez discussed the following:

- As part of the meeting agenda packet, a memo was provided from the Public Works Director transmitting an official status report from Bill Jones of Waste Pro.
- Council had requested a weekly update as well as a comprehensive monthly report to be provided at the first Council meeting in May.
- Since the beginning of April, we have seen a decline in the number of complaints that the City has received for missed pickups.
- Waste Pro has begun large item drop-off events this week (Tuesdays through Saturdays) to help catch up with pickups.
- Majority of the complaints received in his office this week seems to be yard waste.
- May need to rethink the manner in which we are collecting bulk and yard waste
- Formerly Residents called and scheduled pickup on their regularly scheduled day
- Opined that the current process to be extremely inefficient
- May be more responsive if we went to a system that work can be scheduled to have a better idea of where the stops are and the types of items that need to be removed.

Bill Jones, Division Manager, Waste Pro, stated he spoke with the City Manager yesterday at the Drop-off site. He noted they observed how Residents were bringing items in and appreciated it. The key to bulk is technology with scheduling. There may be some opportunities to follow up with an app or some sort of system as mentioned by the City Manager. It could be a little more user friendly, set the schedule, and get the trucks out. He was open to discussing that. He noted this weekend they were working with Keep Lee County Beautiful and the NWNA on a cleanup event at Tropicana Park. There are opportunities to work with other neighborhood groups to do similar types of cleanup events.

Councilmember Tate voiced her concerns with bulk pickup. How do we educate our Residents? How would they be notified? Residents would also need to be educated on horticulture. Could there be containers specific for horticulture?

Mr. Jones stated if we go down the path of changing the process, we would coordinate it with Public Works and the City Manager's Office. He agreed education was important.

Councilmember Nelson agreed about education. She liked the idea of going back to scheduling. Her concern was that if we don't make an efficient change, that in 90 days or so after being caught up, the same issue will occur. She recommended that Council implement some change to go back to scheduling.

Councilmember Cosden stated that one of the selling points that made the renewal of the contract was the bulk pickup service. She was disappointed in the way the bulk pickup service was being handled. If there are going to be any changes in bulk pickup, the contract would need to be changed, and we would need to refund the Residents who paid for the service they are not getting. We are all paying for weekly pickups without having to make a call or use an app. If we are going to change to monthly or on call, then that service is different, and the cost should be different. We also need to change the amount that we are paying Waste Pro. She requested information about monthly complaints going back a year or two or three.

City Manager Hernandez reported the following information on complaints per year:

- On average, the number of complaints that we received from 2017 through 2020 was about 1,195 complaints per year, just slightly over 3.27 per day.
- 2017 - 1,321
- 2018 - 1,322
- 2019 – 878 – brought the average down
- 2020 - 1,259
- 2021 - 3,654 so far this year

City Manager Hernandez mentioned those are calls that are registered with the City's 311 Call Center regarding complaints relating to missed pickups, bulk pickups, and miscellaneous garbage-related issues. This does not include calls Residents made directly to Waste Pro.

Councilmember Hayden requested an update on the Action Plan from Waste Pro. What are the efforts on eliminating the shortage of drivers and what they are doing to improve the employees' pay?

Mr. Jones stated that Waste Pro continues to work on Job Fairs, noting it was a tough market to get people. They have added five new employees. Waste Pro is continuing to advertise in the Breeze, started radio ads, and market reviews are pending.

Discussion held regarding whether corporate has discussed eliminating the process of paying by the day for ten hours and going to an hourly rate for eight hours per day.

Councilmember Hayden asked how much was being withheld on paying Waste Pro.

City Manager Hernandez recalled the number quoted for the six days in March was approximately \$196,000; we are still withholding that payment. On April 1st, we started tallying the number of complaints that we received for that month. He explained that was how they would plan on tracking the complaints and tie the complaints to their monthly invoices. When we receive the invoice for the month of March, consistent with the discussion that we had here previously, he directed Staff to go ahead and issue payment minus the amount of money that we will continue to withhold for those missed pickups until we are able to gauge an improvement in their performance.

Councilmember Hayden opined that even though there may have been some improvement, we are not anywhere close to where we need to be. He suggested payment being withheld in May as well.

City Manager Hernandez stated as of right now that was being contemplated.

Mayor Gunter discussed that the withholding of payment will be continued until a market performance is improved.

City Manager Hernandez stated that payment will not be released until there is a marked improvement in their performance. Waste Pro has provided the service of picking up the bulk items, however, it is being delayed.

Councilmember Sheppard stated that time was being wasted in trying to come up with ideas. If it is your trash day, then all your trash should be picked up and removed. He discussed the issues with horticulture not being picked up and causing lawns to die. Then, Residents replacing their lawns incur permitting costs. He was not in favor of the automated systems. When we had three guys and a truck, the trash was gone.

Councilmember Tate inquired about the additional haulers; gauging if there are enough haulers. She was concerned with the bulk service, and it did not seem that it was progressing fast enough. She has been forwarding the complaints directly to Waste Pro, and the numbers might not capture all the issues being reported.

Mr. Jones stated that there were two more haulers added, and there are five total subcontractors. One of the haulers has been assisting with bulk services. He did not have a method of gauging if there were sufficient haulers. There may be a blend of working with Waste Pro and subcontracting haulers.

City Manager Hernandez requested that Mr. Jones respond to the comment raised by Councilmember Sheppard if the problem was the type of trucks in the automated system being used versus three people on a truck.

Mr. Jones stated that the old way was the rear loaders with three people on a truck which is not used much due to safety reasons. He explained the difference between the automated system and the rear loaders. There is difficulty finding general laborers.

Councilmember Sheppard explained that the automated system did not seem to work for the City. He has not heard anything that would improve the business plan, and it may require to offer a better pay structure for their employees. He discussed the issue with the recycling system. There are not only pickup issues but also littering issues which creates more liability and issues to the canals, lawns, and streets. He opined that Waste Pro needs an overhaul of its business plan. He wants to hear that Waste Pro would get the job done. The automated system does not work, and Waste Pro needs to fix the problem.

Councilmember Welsh stated that he has seen a significant improvement in his neighborhood. He did not see a problem with going back to the old system of calling in for bulk pickups. Having a system that you can call that there are large bulk pickups might be an idea to improve the bulk pickup service. He announced that Residents should continue to call to let the City know the issues. He inquired if there was a new Resident Packet or list on the website with contact numbers and notice of the trash schedule. The City needs to educate the Community. He announced that horticulture was the most recent reported issue.

Mayor Gunter inquired about the payments being withheld. Was it \$250 per incident?

City Manager Hernandez stated consistent with the discussion held last time, for the first 30 days or so we would be withholding at the rate of about \$250 per incident. Council gave the City Manager direction that after the first 30 days, then that amount would increase to \$500. Then, every other 30 days, we would be increasing that by \$250 consistent with the range that is provided for in the contract. Right now, we are still at \$250 per incident.

Mayor Gunter voiced his concerns as the City Clerk displayed his pictures of two yards on SE 17th Place near SE 14th Terrace and SE 13th Terrace with bulk items that have not been picked up for the past six weeks. He opined that Waste Pro has done okay with regular trash and recycling, but Waste Pro has failed in the pickup of horticulture and bulk. Residents are not receiving the expectation for their payment of solid waste fees. It is a simple concept of putting out your trash once a week, and it gets picked up once a week. A letter was sent on February 26th to Waste Pro putting them on notice and requested an Action Plan. On March 26th we asked for another Action Plan which was provided. On March 26th we started withholding the \$250 fee per incident. There was discussion going up to \$500 after 30 days. There was no motion to do that. He spoke with the City Attorney

today about implementing a \$250 fine and then notifying Waste Pro that we were imposing that fine, we could also impose a fine if they don't pick up from that particular property within a few days. That is something that could be considered later on. He researched the national average for a solid waste collection driver is about \$23.84, in Florida the average is \$18.60; an 8-hour day it's about \$150. He understood that Waste Pro pays their employees by the day and not the hour which may be an issue. He was focused on having the trash picked up in the City on the designated day.

Mayor Gunter passed the gavel to Mayor Pro Tem Nelson.

Mayor Gunter moved, seconded by Councilmember Tate, to continue the \$250 fines which go back to March 26, 2021 time period because on February 26, 2021, we gave them 30-days' notice and notified them that we could levy fines. (He opined that the City Manager explained today that those fines began to be implemented to be withheld back to March 26th.) On April 26, 2021, those fines will go to \$500. Every 30 days thereafter they will be increased to \$250. Those fines will continue. Those fines will increase at those rates (if it is passed) until Council directs the City Manager otherwise.

Councilmember Cosden inquired if these fines were by address.

Mayor Gunter stated it was per incident. He explained that if they do not pick up anyone of those three: solid waste, horticulture, or recycling, that would be considered one incident. The next subsequent day which is bulk trash would be an additional incident.

Councilmember Cosden questioned if payment was being withheld that we will eventually be paying.

City Manager Hernandez stated that was correct. He understood that we were going to withhold payment rather than a true fine and as long as Waste Pro made improvements over that 30-day period, then we would release that money.

Mayor Gunter stated that he agreed with the administrative fee mentioned by the City Manager, but that money would not be released until there is action from Council. We will withhold the administrative fee in the parameters he described, but that monies would not be released until Council direction, not by the City Manager.

Councilmember Cosden stated that she was in support.

Councilmember Tate inquired how the incidents were tracked.

City Manager Hernandez stated they are being tracked via 311 and any complaints received by email to the City Manager or to City Council. Information is forwarded to Public Works who track it. The City does not have the staffing to identify missed pickups.

Councilmember Tate inquired how one entire street would be identified.

City Manager Hernandez explained that in a situation where there is a complaint for an entire block, it will be treated as one incident. He gave an example of the gated community Entrada which would be one incident.

Mayor Gunter clarified that his motion was for every household would be counted as one.

City Manager Hernandez discussed the challenge of identifying each and every location if the issue is being reported as an entire block.

Mayor Gunter explained that each household, if there is a missed pickup, would have that administrative fee apply. He stated that the call would need to be reported through 311 per household. The citizens of the community need to know the process. If there is a missed pickup per household, it needs to be called in to 311, go to the app, or email.

Councilmember Tate questioned if that needs to be part of the motion that each incident has to go through 311.

Mayor Gunter clarified his motion that it is processed through 311, as we have received many, and emails need to be forwarded to the City Manager who in turn forwards them to 311 who would be responsible for making a note of that complaint.

Councilmember Tate questioned if each Councilmember should follow the same protocol.

Mayor Gunter opined that 311 will be the department to monitor the amount of complaints. He assumed that 311 notifies Waste Pro.

City Manager Hernandez stated 311 works with his Staff and the Public Works Staff to provide the information. He repeated the expectation: As long as we can tie a complaint back to a specific address, that works very well to track a complaint. When someone comes in with a broad complaint about their entire neighborhood, he did not want Staff to try to discern what someone meant by their neighborhood or community. Specific addresses would be needed to count as one complaint.

Public Works Director Clinghan stated the following:

- They have been tracking the 311 tickets and any emails received from Council.
- March 26th to March 31st: 311 reported 818 tickets x \$250 = \$204,500
- Emails are still being vetted from Councilmembers for duplicates.
- April 1st to April 7th (7 days) there were 501 tickets x \$250 = \$125,250
- The following week - 515 tickets x \$250 = \$128,750
- April 15th to April 21st, 377 tickets = \$94,250
- The trend is going down based on 311 tickets.
- Have not vetted the last three weeks
- There is a March invoice that we will deduct from

Mayor Gunter agreed to do due diligence to avoid redundancy.

Director Clinghan stated incidents were tied to addresses.

Councilmember Welsh asked what the average yearly tax cost was per household for Waste Pro services yearly.

City Manager Hernandez recalled on average a Resident pays \$17.80 per month for the waste hauling portion of their trash bill which includes bulk and horticulture.

Councilmember Welsh agreed with the motion but questioned grace periods and increases.

Councilmember Sheppard stated he did not like the idea of withholding money, it should be kept for damages to the City. Catch basins are being filled with trash which City workers have to clean out. Lawns are being ruined. He did not agree with calling in for special bulk pickups.

Councilmember Nelson stated Council can give recommendations and suggestions, but it was up to Waste Pro to decide on their operational efficiency. She agreed with the motion and would support it. She mentioned one way of verifying incidents would be by Waste Pro turning in their GPS reports. She asked how a refund to the Residents would be considered.

City Manager Hernandez discussed the challenges with calculating and disbursing credits to households. He opined that this could be used to lower the assessment fees for the following year.

Councilmember Nelson requested that the City Attorney verify that the fines were appropriate.

City Attorney Menendez stated that the maximum would be \$1,500 per incident. She discussed the issues with verification. We have the ability to assess the charges and Waste Pro has the ability to dispute.

Councilmember Nelson asked if the GPS reporting would be necessary.

City Attorney Menendez stated that the contract allows Waste Pro to dispute.

Councilmember Nelson stated that there would need to be a process of verification if there is a dispute.

Mayor Gunter suggested that the Citizens be informed to take a picture and send to 311 to be attached to the complaint.

Councilmember Williams moved to call the question, seconded by Councilmember Nelson.

Council polled as follows: Nelson, Sheppard, Tate, Welsh, Williams, Gunter, and Hayden voted "aye." Cosden voted "nay." Seven "ayes." One "nay." Motion carried 7-1.

City Manager Hernandez asked for the motion to be restated.

Mayor Gunter restated his motion: Start applying administrative fees effective March 26, 2021 in the amount of \$250 per incident per household, that rate every 30 days will increase by \$250 each month up to the \$1,500, which is the maximum that we're allowed to apply an administrative fee towards and that the complaints must be logged through 311 in order to be considered a valid complaint and then Staff will do their due diligence to make sure there is no redundancy in costs.

City Attorney Menendez inquired if this was an across the board escalation if they miss a house one month, that's \$250, and they miss that same house the next month, that's \$500.

Mayor Gunter stated it was across the board. If a house is missed for solid waste, recycling, or horticulture, that would be considered one incident. If they miss picking up the bulk on the second subsequent day, that would be another incident. It would also apply the following week if there are missed pickups and would continue.

City Clerk Bruns stated there were two other pieces to the original motion: ***Staff will continue until Council directs the City Manager otherwise and money not released until Council directs payment.***

Mayor Gunter responded that was correct.

Councilmember Tate (the second) agreed.

Council polled as follows: Nelson, Sheppard, Tate, Welsh, Williams, Cosden, Gunter, and Hayden voted "aye." Eight "ayes." Motion carried 8-0.

Youth Council Reports

(moved directly after the Waste Pro Discussion item under Citizens Input)

Chair Ziegler, Senior Member Cranford, and Junior Member Young presented the Youth Council Reports. The slides consisted of the following:

- City of Cape Coral Youth Council Quarterly Report to Council
- Introductions: Devon Cranford, Kylee Young, Payton Ziegler
- Recap: What's New
- End of the 2020-2021 Term!

- Adopt a Road
- What we've completed this year
- Involvement with Florida League of Cities
- Senior Project
- Updates: What we are doing now
- Love Locks
- Plans: What we are going to continue
- Junior Project: Guardian Angels for Special Populations
- Any Questions?
- Senior Exit Videos

Discussion held regarding:

- College plans
- Suggestion of Joint meeting between City Council and Youth Council
- Youth Council Projects
- Returning and reinvesting into the Community after college
- Gratitude and appreciation for service
- Senior videos displayed to the City Council

BUSINESS

CONSENT AGENDA

- 1) Resolution 72-21 Approve Contract #PPW2157MM with Charles Perry Partners, Inc., piggybacking Sourcewell, formerly NJPA (National Joint Powers Alliance) cooperative contract #FL-WCA-GC05-041019-CPP, to provide support for the Florida FDOT Lighting Maintenance project in the amount of \$207,071 with a City controlled contingency of 10%, in the amount of \$20,707, for a total amount of \$227,778, and authorize the City Manager or designee to execute the contract, purchase order(s) and change orders; Department: Public Works; Dollar Value: \$227,778; (General Fund)
- 2) Resolution 73-21 Approve award for Invitation to Bid # BUT2139KR and Agreement for the installation and testing of one Upper Floridan aquifer water supply well to Wells & Water Systems, Inc., as the lowest responsive, responsible bidder, in the amount of \$429,760 with a city controlled contingency of 10% or \$42,976, for a total amount of \$472,736 and authorize the City Manager or designee to execute the contract(s), purchase orders(s), and change orders; Department: Utilities; Dollar Value \$472,736; (Water & Sewer Fund)
- 3) Resolution 77-21 Award Invitation to Bid #BPW2135AP to EHC, Inc. of Fort Myers, FL, for the Construction of FL SUN Trail (Ph 1) from Burnt Store Road to Nelson Road and additional related improvements indicated in the bid additive, as the lowest responsive, responsible bidder, in the amount of \$4,767,206 for the base bid, plus the bid additive of \$181,756 for a total of \$4,948,962 and a 10% city controlled contingency of \$494,896 for a project total of \$5,443,858; And approve the use of Undesignated Reserves from the Five Cent and Road Impact Undesignated Reserves account in the amount of \$874,101; And authorize the City Manager or Designee to execute the contract, purchase orders and change orders; Department: Public Works; Dollar Amount \$5,443,858; (Transportation Capital Funding \$4,569,756/Five Cent Undesignated Reserves \$400,000/Road Impact Undesignated Reserves \$474,101)
- 4) Resolution 78-21 Award Invitation to Bid #BPW2137AP for Spot Paving FY2021 to Pavement Maintenance, LLC. of Fort Myers, FL, for the milling, resurfacing, and select structural repairs or full depth pavement construction of local and major roads, as the lowest responsive, responsible bidder, in the amount of \$890,420 with a 10% City controlled contingency of \$89,042 for a project total of \$979,462, and authorize the City Manager or Designee to execute the contract, purchase orders and change orders; Department: Public Works; Dollar Amount: \$979,462;

(Transportation Capital Projects Fund \$932,217 / Water & Sewer Capital Project Fund \$47,245)

- 5) Resolution 83-21 Approve a Stipulation for Entry of Final Judgment as to Parcel FP-109 in the eminent domain action captioned "City of Cape Coral v. Miguel A. Guerrero, et al." Case No. 20-CA-006826, Parcel No FP-109; property located at 1429 NW 27th Street
- 6) Resolution 84-21 Approve the agreement with Urban Land Institute (ULI), via a Waiver of the Procurement Process, for review and recommendation on development and planning issues associated with a variety of land use, real estate and organizational issues using the Institute's Advisory Services Panel Program in the amount of \$135,000; and authorize the City Manager or designee to execute the agreement; Department: City Manager's office/EDO; Dollar Amount \$135,000; (General Fund)
- 7) Resolution 89-21 Acceptance of Public Utility Easement in a portion of 1701 Old Pondella Road (Strap # 08-44-24-C1-01200.E000, Tract E, Eagle Subdivision 1) to provide access to and maintenance of utility facilities at this location associated with Site Plan SP19-0019 – Fairfield by Marriott Inn & Suites. Department: Financial Services / Real Estate Division; Dollar Value: N/A; (Fund: N/A)
- 8) Resolution 90-21 Acceptance of Public Sidewalk Easement in a portion of 1401 SW Pine Island Road (Strap #15-44-23-C4-03613.1000; a portion of Block 3613, Cape Coral Unit 49) to provide public access and use of sidewalk improvements at this location in association with Site Plan SP20-0048 – Joe V's Farm Market. Department: Financial Services / Real Estate Division; Dollar Value: N/A; (Fund: N/A)
- 9) Resolution 91-21 Approve the Final Plat for Gator Circle Park; This replat for the Gator Circle Park encompasses two City owned parcels of land located in the south west corner of De Navarra Parkway and Garden Boulevard. The replat will combine the two larger parcels and create a Right of Way tract to accommodate previously constructed improvements to De Navarra Parkway; Department: DCD; Dollar Value: N/A; (Fund: N/A)

Mayor Gunter asked if any Councilmember wanted to pull any item.

Councilmember Williams pulled 9(A)(3).

Councilmember Nelson moved, seconded by Councilmember Tate, to approve items 9(A)(1), 9(A)(2), 9(A)(4), 9(A)(5), 9(A)(6), 9(A)(7), 9(A)(8), and 9(A)(9), as presented.

Council polled as follows: Nelson, Sheppard, Tate, Welsh, Williams, Cosden, Gunter, and Hayden voted "aye." Eight "ayes." Motion carried 8-0.

Councilmember Williams discussed that he was under the impression that the SUN Trail bulk of the cost was going to be borne by State and Federal grants.

Public Works Director Clinghan stated that the majority was from grants. Grants cannot be used for 1,350 feet of road being four laned, but it will be covered by road impact fees and Five Cent Gas Tax. The additional cost was \$874,000.

Councilmember Williams moved, seconded by Councilmember Tate, to approve item 9(A)(3), as presented.

Councilmember Hayden inquired if there were other costs besides the widening.

Director Clinghan explained that the majority of the cost not grant funded is the widening.

Council polled as follows: Nelson, Sheppard, Tate, Welsh, Williams, Cosden, Gunter, and Hayden voted "aye." Eight "ayes." Motion carried 8-0.

PERSONNEL ACTIONS

None.

PETITIONS TO COUNCIL

None.

APPOINTMENTS TO BOARDS / COMMITTEES / COMMISSIONS

None.

ORDINANCES/RESOLUTIONS

Public Hearings

Ordinance 28-21 Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Code of Ordinances, Chapter 18, Traffic, by repealing Section 18.7, Golf Cart Allowable Areas. (Applicant: Brought forward by City Council)

City Clerk Bruns read the title of the Ordinance.

City Manager Hernandez explained what this Ordinance would accomplish. This decision does not impact the use of low-speed vehicles on City streets, which is allowed under State law.

Public Hearing opened.

No speakers.

Public Hearing closed.

Councilmember Tate moved, seconded by Councilmember Welsh, to adopt Ordinance 28-21, as presented.

Council polled as follows: Nelson, Sheppard, Tate, Welsh, Williams, Cosden, Gunter, and Hayden voted "aye." Eight "ayes." Motion carried 8-0.

Resolution 74-21 Public Input

WHAT THE RESOLUTION ACCOMPLISHES:

A resolution repealing Resolution 4-01, a resolution designating certain city streets in an area adjacent to Saratoga Lake as suitable for use by golf carts pursuant to Section 18-7 of the Code of Ordinances. (Applicant: Brought forward by City Council)

City Clerk Bruns read the title of the Resolution.

City Manager Hernandez explained what this Resolution would accomplish. The Cape Coral City Council adopted Resolution 4-01, which designated certain City streets in an area adjacent to Saratoga Lake as suitable for use by golf carts pursuant to Section 18-7 of the City Code of Ordinances. The City Council has repealed Section 18-7 of the City Code of Ordinances. This resolution would repeal Resolution 4-01.

Public Hearing opened.

No speakers.

Public Hearing closed.

Councilmember Tate moved, seconded by Councilmember Welsh, to approve Resolution 74-21, as presented.

Council polled as follows: Nelson, Sheppard, Tate, Welsh, Williams, Cosden, Gunter, and Hayden voted "aye." Eight "ayes." Motion carried 8-0.

Recessed at 6:40 p.m. and reconvened at 6:55 p.m.

Ordinance 30-21 Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

The ordinance amends Chapter 12, "Offenses and Miscellaneous Provisions" of the Code of Ordinances, by amending Article II, "Offenses Creating Nuisances", Section 12-23(b) to prohibit overnight parking of commercial vehicles and trailers on certain public streets posted with signs, and by amending Section 12-23(f) to prohibit overnight parking of commercial vehicles on certain public streets posted with signs. (Applicant: Brought forward by City Management.)

City Clerk Brunns read the title of the Ordinance.

City Manager Hernandez explained what the Ordinance would accomplish. Additionally, the hours prohibiting parking in subsections 12-23 (b) and (f) are being increased from 2:00 a.m. to 6:00 a.m. to 11:00 p.m. to 6:00 a.m.

Public Hearing opened.

No speakers.

Public Hearing closed.

Councilmember Tate moved, seconded by Councilmember Nelson, to adopt Ordinance 30-21, as presented.

Council polled as follows: Nelson, Sheppard, Tate, Welsh, Williams, Cosden, Gunter, and Hayden voted "aye." Eight "ayes." Motion carried 8-0.

Resolution 75-21 (VP20-0011*) Public Hearing

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

WHAT THE RESOLUTION ACCOMPLISHES:

A resolution providing for the vacation of plat for easements underlying a previously vacated street right-of-way being a part of SW 54th Street adjacent to Lots 25-27, Block 184, Cape Coral Unit 3; providing for the vacation of plat for public utility and drainage easements associated with Lots 25-27, Block 184, Cape Coral Unit 3; providing for the vacation of plat for a portion of the Pioneer and Bimini canals located adjacent to Lot 26, Block 184, Cape Coral Unit 3; property located at 111 SW 54th Street. (Applicant: Mark and Gina Queiros)

Hearing Examiner Recommendation: Approval with Conditions

Community Development Recommendation: Approval with Conditions

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

Planner White explained what this Resolution would accomplish and displayed the following slides:

- Resolution 75-21, VP 20-0011
- Owner, Applicant and Rep, Request, Location
- Background (2 slides)
- Request to vacate
- Analysis
- Recommendation: Staff recommended approval

- HEX Recommended approval with staff conditions
- Correspondence: one inquiry was made regarding this case

Public Hearing opened.

Gary Aubuchon, President, Aubuchon Homes, and applicant, appeared to request the vacation approval.

Public Hearing closed.

Councilmember Tate moved, seconded by Councilmember Cosden, to approve Resolution 75-21, as presented.

Council polled as follows: Nelson, Sheppard, Tate, Welsh, Williams, Cosden, Gunter, and Hayden voted "aye." Eight "ayes." Motion carried 8-0.

Ordinance 31-21 (PUD19-0001*) 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 of all property within the limits of the City of Cape Coral by approving a Planned Unit Development entitled "Surfside Apartments, Zimmer Development," including rezoning property described as Block 5916, Cape Coral Unit 92, as more particularly described herein, from the Residential Multi-Family Low (RML) zone to a Residential Planned Unit Development (RPUD), and approval of a Master Concept Plan for a multi-family development; property located at 2200-2224 Oasis Palm Circle between SW 23rd Street to the north, SW 21st Avenue to the east, Veterans Memorial Parkway to the south, and Surfside Boulevard to the west; providing for findings of fact and conclusions of law; providing for conditions of approval. (Applicant: ZP NO 339, LLC) (Acres: ±19.89)

Hearing Examiner Recommendation: Approval with Conditions

Community Development Recommendation: Approval with Conditions

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

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

- Ordinance 31-21
- Owner, Rep, Project, Location, and Area
- Aerial picture of RPUD Site
- Planned Unit Development (PUD)
- Requests
- Site History
- PUD Master Concept Plan
- Allowed Uses and Accessory Buildings
- RPUD Standards
- Building Elevations
- Landscaping and Open Space Plan
- Existing Landscaping
- Access and Transportation
- Rezoning
- Further Land Use Map and Current Zoning Map
- Proposed Zoning Map
- Analysis (3 slides)
- Recommendations and Correspondence: Staff recommended approval with terms and conditions in Ordinance 31-21
- HEX recommended approval
- Correspondence: Four phone calls; two expressed concerns about the project; one supportive; one requesting information
- HEX Recommended Condition (this condition does not appear in Ord. 31-21)

- Questions and Discussion

Public Hearing opened.

Bruce Strayhorn, Attorney, Strayhorn and Persons, appeared on behalf of the applicant, Zimmer Development, to request the approval of the vacation and agreed with the Staff presentation.

Michael Harper appeared to voice his concerns with traffic issues. There were no effective barriers surrounding the property. He pointed out the issues outlined in the HEX recommendation that discussed the traffic issues. He suggested making both entrances emergency access and to add fencing.

Robert Parker appeared to discuss his disapproval for this request due to noise, traffic, and crime. He suggested to hold off on Phase II and to analyze the impacts of Phase I first before proceeding. He discussed the egress/ingress to Veterans Parkway. He recommended partial speed bumps. He inquired if there could be something else built in Phase II instead of another 228 apartments.

Michael Harper was allowed to speak again and displayed a picture of a sign that the builder installed in the area "Low Speed Residential Area 15 MPH."

Brian Smith, Director of Land Design, EnSite, Inc., appeared to address some of the comments by the Citizens before and after the HEX hearing. He explained the conditions brought forth by the HEX. He discussed the egress/ingress off of Veterans Parkway, the jurisdiction is Lee County Department of Transportation. He noted they have been in contact with Lee DOT to find out the possibility to have a right at the cul-de-sac on the west side of the property; there has been no response. They have been pursuing that, but it was not a guarantee since the decision would need to be made by the Board of County Commissioners. He explained that the design of the community did not include fencing, but there are conditions in the Ordinance that would provide more screening.

Public Hearing closed.

Councilmember Nelson moved, seconded by Councilmember Hayden, to adopt Ordinance 31-21, as presented.

Councilmember Hayden voiced his concerns with the Ordinance. He inquired about the 3,400 daily car trips.

James Banks, Professional Engineer, JMB Transportation, explained the 3,400 trips over a 24-hour period and how they measured capacity. He noted that SW 23rd Street and SW 21st Street are public roads. All public roads in the City of Cape Coral, Lee County, and the State of Florida are built to accommodate a certain volume of traffic. With the completion of Surfside Apartments and the buildout of all the residential homes along SW 23rd Street and SW 21st Street, that road will be operating at 30% of its available capacity.

Councilmember Hayden inquired about the elimination of the exit and entrance on to the neighborhood street and have everyone enter and exit on to Surfside.

Mr. Banks stated the entrance on SW 23rd Lane is only right in and right out on to Surfside. Residents coming from the north traveling south on Surfside would not be able to gain access into the Surfside Apartments because there is no left turn lane on SW 23rd Lane. They also could not make a U-turn at the intersection of Surfside and Veterans.

Councilmember Hayden voiced his concern for the lack of a gate around this community. He did not have any issues with the number of units, but he did have concern about the flow of traffic. He hoped for better ways to come in and out of that complex.

Councilmember Sheppard stated that this community should be gated. He would not vote in favor until knowing the impact to the taxpayers. He was not in favor of increased

density. He discussed the issues with entrance/exit points being in a residential neighborhood.

City Attorney Menendez stated it was her understanding that the motion was for approval of Ordinance 31-21. She asked if it was the motion maker's intention to approve it as it is to approve it with the inclusion of the HEX recommendation concerning the access points on SW 23rd Street.

Councilmember Nelson (Motion Maker) agreed to amend the motion to include the HEX Recommendation regarding the access point to SW 23rd Street as mentioned in the Staff presentation.

Councilmember Hayden withdrew his second.

Councilmember Cosden moved to second the motion.

Councilmember Welsh inquired about the HEX Recommended Condition. Would that be closing off the entrance except for emergency vehicles only on SW 23rd Street? He noticed it does allow entrance with a keypad and will not close off the entrance.

Planning Team Coordinator Struve explained that it would be closed off, but the gate would be accessible only by a keypad or a fob reader or maybe even a strip affixed to the vehicle. He understood the condition would be restricted and the only people who would have unrestricted access through this gate would be people living in the development or employees of the developer that work there. Visitors, contractors, and repair people would all use the entrance off of SW 23rd Lane which is more centrally located.

Councilmember Welsh stated he would support the motion with adding the HEX recommendation. He suggested having a better buffer.

Mayor Gunter inquired about redesigning Surfside at SW 23rd Lane for a left turn.

Planning Team Coordinator Struve asked Dave Hyyti to address this question. He noted there may be a spacing requirement.

Mayor Gunter stated all the larger multi-family units built during the last couple of years in the City have some type of fencing.

Planning Team Coordinator Struve stated he did not remember if the majority had fencing. He stated there was no fencing requirement around multi-family developments.

Development Services Manager Hyyti discussed access and putting in an additional median cut at SW 23rd Lane. Staff looked at this parcel several times over the last few years and have worked with the prior owner about getting alternate access including access off of Veterans Parkway which Lee County was not in favor. A median cut at SW 23rd Lane was too short in spacing from Veterans Parkway to add another median opening. He noted if traffic develops at the turn lane into the first driveway at the shopping center heading north on Surfside, there is a condition in the development order that if traffic issues develop there that the median will be closed.

Councilmember Tate stated that many larger communities have gates and walls to provide protection.

Adam Tucker, Director of Development, Zimmer Development Company, stated that a barrier could be included.

Councilmember Tate asked if that could be made a condition in the Ordinance.

City Attorney Menendez stated number 17 on page 3 of the Ordinance says that a perimeter fence or wall may be constructed along one or more property lines. It could be rewritten to say "shall" instead of "may." The rest of it describes the maximum height of

six feet. The projection cannot be more than six additional inches above the six-foot height requirement. There is also mention of potential choice of materials. She also discussed the HEX Recommended Condition pertaining to the electronic keypad on SW 23rd Street.

Councilmember Tate stated that the keycard/fob or reader would be acceptable. She was concerned with a driver license check and language "similar restricted access." The fob and the wall will help.

Mr. Tucker stated that other properties they have designed included fob readers and can accommodate this. He suggested striking the electronic keypad and adding key fob reader or similar.

Councilmember Cosden was in support of the Ordinance and agreed with the barrier inclusion.

City Attorney Menendez asked if the motion maker and second agreed to deleting the term "wall" and make it a fence all around the entire property to be required on all sides for the entire perimeter of the property, a perimeter fence shall be constructed.

Motion maker and second agreed.

City Attorney Menendez stated regarding the HEX Recommended Condition, all options other than the key card/fob reader be deleted. So, they would be required to use a key card/fob reader.

Motion maker and second agreed.

Discussion held regarding using something similar to a transponder on a visor which would still be considered a fob.

Councilmember Nelson requested more additional landscaping as buffer. She was in support of the Ordinance with the amendments.

Council polled as follows: Nelson, Tate, Welsh, Williams, Cosden, Gunter, and Hayden voted "aye." Sheppard voted "nay." Seven "ayes." One "nay." Motion carried 7-1.

Ordinance 27-21 Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

The ordinance amends the City of Cape Coral Code of Ordinances, Chapter 2, Administration, Article VI, Pensions, Division 1, Police Pension, Section 2-121.6, Benefit Amounts and Eligibility, Section 2-121.7, Death Benefits, Section 2-121.10, Optional Forms of Benefits, Section 2-121.16, Minimum Distribution of Benefits, Section 2-121.17, Miscellaneous Provisions, Section 2-121.26, Military Service prior to Employment, and Section 2-121.28, Prior Police Service. (Applicant: Brought forward by the Pension Board)

City Clerk Bruns read the title of the Ordinance.

Human Resources Director Sonogo explained what this Ordinance would accomplish.

Public Hearing opened.

No speakers.

Public Hearing closed.

Councilmember Tate moved, seconded by Councilmember Welsh, to adopt Ordinance 27-21, as presented.

Council polled as follows: Nelson, Sheppard, Tate, Welsh, Williams, Cosden, Gunter, and Hayden voted "aye." Eight "ayes." Motion carried 8-0.

Ordinance 32-21 Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

The ordinance approves the sale of municipal surplus real property described as Lots 7 and 8, Block 5413, Cape Coral Unit 90, 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 to Terrell Patton Youngblood Jr., property located at 3216 NW 45th Place. (Applicant: Brought forward by City Management.) Note: Purchase price is \$120,000.00.

City Clerk Brunns read the title of the Ordinance.

Property Broker Andrews explained what this Ordinance would accomplish and displayed the slide on the Location Map.

Public Hearing opened.

No speakers.

Public Hearing closed.

Councilmember Tate moved, seconded by Councilmember Cosden, to adopt Ordinance 32-21, as presented.

Council polled as follows: Nelson, Sheppard, Tate, Welsh, Williams, Cosden, Gunter, and Hayden voted "aye." Eight "ayes." Motion carried 8-0.

Ordinance 33-21 Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

The ordinance approves the sale of municipal surplus real property described as Lots 49 and 50, Block 5152, Cape Coral Unit 83, 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 to Groff Building Contractors, LLC, property located at 2843 NW 46th Place. (Applicant: Brought forward by City Management.) Note: Purchase price is \$107,500.00.

City Clerk Brunns read the title of the Ordinance.

Property Broker Andrews explained what this Ordinance would accomplish and displayed the slide on the Location Map.

Public Hearing opened.

No speakers.

Public Hearing closed.

Councilmember Williams moved, seconded by Councilmember Tate, to adopt Ordinance 33-21, as presented.

Council polled as follows: Nelson, Sheppard, Tate, Welsh, Williams, Cosden, Gunter, and Hayden voted "aye." Eight "ayes." Motion carried 8-0.

Introductions

Ordinance 35-21 (ZA20-0013*) Set Public Hearing for May 5, 2021

*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 of all property within the limits of the City of Cape Coral by rezoning property described as Lots 1-8, Block 4555, Unit 68, Cape Coral Subdivision, from Commercial (C) to Residential Multi-Family Low (RML) Zone; property is located at 801-813 SW 8TH Street. (Applicant: John Koza, John Michael Koza Contracting, Inc.) (Acreage:1.01 acres)

City Clerk Bruns read the title of the Ordinance.

The public hearing was scheduled for May 5, 2021 in Council Chambers.

Ordinance 29-21 (TXT21-0002) Set Public Hearing for May 5, 2021

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Comprehensive Plan by amending Policy 1.15 of the Future Land Use Element to amend the Judd Creek Sub-District. (Applicant: City of Cape Coral).

City Clerk Bruns read the title of the Ordinance.

The public hearing was scheduled for May 5, 2021 in Council Chambers.

Ordinance 36-21 Set Public Hearing for May 5, 2021

WHAT THE ORDINANCE ACCOMPLISHES:

An Ordinance amending the City of Cape Coral Code of Ordinances, Chapter 8, Fire Prevention and Emergency Management, Article II, Fire Prevention, by amending Sections 8-9, Purpose and Scope, Enforcement, to add Investigations; 8-10, City of Cape Coral Fire Prevention and Protection Code Adopted; Amendments to Fire Codes, to be consistent with the current edition of the National Fire Codes; by amending Section 8-14, Burn Ban Implementation Procedures, to add other disasters and under advisement of the Fire Chief. (Applicant: Brought forward by City Management.)

City Clerk Bruns read the title of the Ordinance.

The public hearing was scheduled for May 5, 2021 in Council Chambers.

Ordinance 40-21 Set Public Hearing for May 5, 2021

WHAT THE ORDINANCE ACCOMPLISHES:

The Ordinance approves the sale of municipal surplus real property sale described as Lots 38 and 39, Block 2986, Cape Coral Unit 42, Part 1, 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 to Danny Garcia; property located at 1231 NW 20th Terrace. (Applicant: Brought forward by City Management.) NOTE: The purchase price is \$15,500.00.

City Clerk Bruns read the title of the Ordinance.

The public hearing was scheduled for May 5, 2021 in Council Chambers.

Ordinance 41-21 Set Public Hearing for May 5, 2021

WHAT THE ORDINANCE ACCOMPLISHES:

The Ordinance approves the sale of municipal surplus real property sale described as Lots 49 and 50, Block 5437, Cape Coral Unit 90, 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 to Michael Essig, Stephanie R. Rouch and Worth A. Packer; property located at 4411 NW 35th Terrace. (Applicant: Brought forward by City Management.) Note: The purchase price is \$111,750.00.

City Clerk Bruns read the title of the Ordinance.

The public hearing was scheduled for May 5, 2021 in Council Chambers.

Ordinance 25-21 Set Public Hearing for May 5, 2021

WHAT THE ORDINANCE ACCOMPLISHES:

An Ordinance amending Article III, "Development Review," Chapter 6, "Other Approvals," of the City of Cape Coral Land Development Code, by creating Section 3.6.2, "Dogs in Food Service Establishments." (Applicant: Brought forward by City Management.)

Planning & Zoning Commission Recommendation: Approval

Community Development Recommendation: Approval

City Clerk Brunns read the title of the Ordinance.

The public hearing was scheduled for May 5, 2021 in Council Chambers.

UNFINISHED BUSINESS

Follow Up Items for Council

ADDENDUM: Waste Pro Discussion – Brought forward by Mayor Gunter
(moved directly after Citizen's Input)

NEW BUSINESS

Youth Council Reports

(moved directly after the Waste Pro Discussion item after Citizens Input)

REPORTS OF THE MAYOR AND COUNCIL MEMBERS

Councilmember Nelson – Topics: On April 10th, read Proclamation on behalf of the Mayor for the Cape Coral Friends of Wildlife Trust at Pascha's Preserve on Oasis Boulevard, this morning attended the Uncommon Friends Business Ethics Roundtable Discussion.

Councilmember Sheppard – Topics: No report.

Councilmember Tate – Topics: Reminded all to try and attend the 25th Anniversary of Friends of Wildlife on Saturday, April 24, 2021 at 10:00 a.m. at the Coral Ridge Exhibit Area sponsored by the Cape Coral Museum of History.

Councilmember Welsh – Topics: No report.

Councilmember Williams – Topics: No report.

Councilmember Cosden – Topics: Attended the Ribbon Cutting of the Family Initiative Autism Center newly opened in Cape Coral.

Councilmember Hayden – Topics: Had his First Town Hall on Saturday, April 17, 2021 where Utilities Director Pearson and Irrigation Specialist King discussed irrigation efficiency, also attended along with Councilmember Cosden the Family Initiative event.

Mayor Gunter – Topics: Attended Family Initiative Ribbon Cutting for the Autism Support Center, April 8th CCCIA Dinner Meeting, April 9th CTAC Special Meeting, April 10th Guest Speaker at the Cape Coral Military Officers Association, April 14th attended Speed Politics at the Vineyard Church, April 14th meeting in the City Attorney's Office in reference to the draft Sign Ordinance which he had received a second on and will be coming to Council soon, meeting today with Public Works Department on the draft Seawall Ordinance which will also be coming to Council soon. ***He mentioned there was a request from Congressman Byron Donalds' office to have a Town Hall Meeting here with Council's participation on Wednesday, May 5, 2021 from 3:00 p.m. to 4:00 p.m. He asked if Council was okay with the time and date. Consensus received. He stated he will have Staff notify him that Council looks forward to this Town Hall Meeting.***

REPORTS OF THE CITY ATTORNEY AND CITY MANAGER

City Attorney: Topics: No Report.

City Manager: Topics: Earlier this evening he estimated a calculation of \$17.80 for how much Residents in Cape Coral pay for hauling services. The actual monthly cost for all collections, not just hauling, that residents in Cape Coral pay is \$17.52 per month. The portion that is attributed to the hauling that we pay our vendor, Waste Pro, is \$11.52.

COVID-19 Update

Fire Chief Lamb discussed the following:

- COVID-19 still in our community
- Lee Health numbers for the last 60 days
- Last two days there has been an uptick
- 30-day view of new admissions
- Lee Health – increase in hospitalizations
- Last 30 days for the State of Florida, Lee County, and Cape Coral
- Overall trend in upward direction of new cases
- Rate of Positivity, escalated in the last 14 days, crossed the 10% threshold
- Number of New Cases
- Same number of positives, not as many people getting tested
- Curative Site Results
- Keep encouraging good hygiene, face masks, hand washing
- www.Vaccinefinder.org
- Search by zip code, 50 locations within 25 miles
- Social media blast to Residents of the website

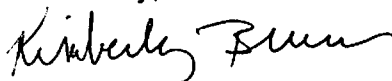
TIME AND PLACE OF FUTURE MEETINGS

A Committee of the Whole was scheduled for Wednesday, April 28, 2021 at 3:00 p.m. in Council Chambers.

MOTION TO ADJOURN

There being no further business, the meeting adjourned at 8:40 p.m.

Submitted by,



Kimberly Bruhs, CMC
City Clerk