

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

October 6, 2021

Council Chambers

4:30 P.M.

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

INVOCATION/MOMENT OF SILENCE – Councilmember Welsh

PLEDGE OF ALLEGIANCE – Councilmember Welsh

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

CHANGES TO AGENDA/ADOPTION OF AGENDA

Mayor Gunter requested that item 12.(A). Youth Council Report be moved after Citizen's Input. There were no other changes to the agenda.

Councilmember Tate moved, seconded by Councilmember Hayden, to approve the agenda, as amended.

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

RECOGNITIONS/ACHIEVEMENTS

**Presentation of Civilian Award from Fire Chief Ryan Lamb
To Alan Wilson from Waste Pro**

Fire Chief Lamb presented Alan Wilson, Waste Pro driver, with the CCFD's Civilian Award. He explained that while on his route on August 25, 2021, Alan called 911 for a Cape Coral resident in need and waited for emergency services to arrive on scene.

Mayor Gunter thanked Mr. Wilson for his service to the community.

APPROVAL OF MINUTES

Special Meeting - September 22, 2021

Councilmember Tate moved, seconded by Councilmember Nelson, to approve the minutes for the September 22, 2021 Special Meeting, as presented. Voice Poll: All "ayes." Motion carried.

Regular Meeting - September 22, 2021

Councilmember Tate moved, seconded by Councilmember Cosden, to approve the minutes for the September 22, 2021 Regular Meeting, as presented. Voice Poll: All "ayes." Motion carried.

CITIZENS INPUT TIME

Lou Navarra appeared to discuss Code Compliance, the expenses of Sun Splash and Coral Oaks Golf Course, old golf course property, letter to the School Board about sharing the ½ cent sales tax, and he advocated for a mask mandate for the children.

Mayor Gunter addressed the issues raised by the speaker. He explained that Code Compliance was mandated by State legislation. Regarding the old golf course, the City's position has not changed since there is some environmental mitigation that needs to be

done at that site. The City has not received a response from the School Board regarding the ½ cents sales tax. He has directed his Assistant today to draft a follow-up letter.

Councilmember Tate stated that she contacted the Lee County School Board and that a decision has not been made yet although it is on their agenda for the following week.

BUSINESS

CONSENT AGENDA

- 1) Resolution 191-21 Accept Cape Coral Reclaimed Water Transmission Line Project State Appropriations FDEP Grant; Department: Utilities; Dollar Value: \$1,000,000; (Water and Sewer Fund)
- 2) Resolution 226-21 Authorization to refer Bid Protest BUT2175KR Reclaimed Water Transmission Main Caloosahatchee River Crossing to the Division of Administrative Hearing (DOAH); Department: Utilities; Estimated Dollar Value: \$155 - \$160/hour; (Water and Sewer Fund)
- 3) Resolution 201-21 Award ITB# BPD2185SB for the purchase and delivery of Police Duty Gear to Dana Safety Supply, Inc.; Global Trading, Inc.; G T Distributors, Inc.; Lawmen's and Shooters Supply Inc; and Read's Uniforms Inc. for the respective awarded items percent off List-Price, for an estimated annual amount of \$150,000: And authorize the City Manager or Designee to execute the contract, renewals, and purchase orders; Department: Police; Dollar Value: \$150,000; (General Fund)
- 4) Resolution 202-21 Approve Contract #PCW21114SB with ServiceWear Apparel, Inc. utilizing the OMNIA Partners – Region 4 Education Service Center R210102, for Apparel, Uniforms, Accessories, Products and Services at the pricing proposed with an estimated annual amount of \$60,000 for a total three-year (FY22 through FY24) contract term dollar value of \$180,000 and authorize the City Manager, or designee, to execute the contract, renewals, purchase orders and change orders; Departments: Police and Fire Departments; Estimated Dollar Value \$180,000; (General Fund)
- 5) Resolution 218-21 Approve Agreement #CON-RPW2107MM with Sweet Sparkman Architects, Inc. to provide Professional Design Services for the Fire Training Facility for a not to exceed amount of \$545,089.78; and authorize the City Manager or designee to execute the agreement(s), change order(s), and purchase orders; Department: Public Works; Department/Fire Department; Dollar Value \$545,089.78; (Capital Project Fund)
- 6) Resolution 225-21 Approve Single Source with Trinova Inc. for the purchase and service of ultrasonic transmitter & sensor set, parts, preventative maintenance, troubleshooting, repairs, chemical pumps, system parts, level indicators or flow meters, and remote terminal units (RTU) from Endress + Hauser Inc., Telog Instruments, Inc. and Prominent Fluid Controls, Inc. for Fiscal Year 2022 through Fiscal Year 2024, at the three year annual cost of FY2022 \$202,000, FY2023 \$206,040, and FY2024 \$210,158 for a total three year cost of \$618,198 and authorize the City Manager or designee to execute the purchase orders and single source document. Trinova is the only authorized representative for Endress+Hauser (E+H), ProMinent Fluid Control Inc and Telog Instruments Inc. products and is the only authorized service repair and warranty organization in the State of Florida; Department: Utilities; Total Dollar Amount: \$618,198; (Water & Sewer Fund)
- 7) Resolution 227-21 Approve Impact Fee Deferral Agreements between the City of Cape Coral and Habitat for Humanity of Lee and Hendry Counties; Department: Community Development; Dollar Value: \$11,337.32; Fund: N/A

- 8) Resolution 224-21 Approve Contract for purchase of Lots 36 and 37, Block 2189, Unit 33 Cape Coral Subdivision, 2011 NE 20th Avenue, for a lift station site for duplex Lift Station #727, associated with the North 1 Utility Extension Project, for the purchase price of \$25,500 plus closing costs not to exceed \$2,000; Department: Financial Services / Real Estate Division; Dollar Value: \$27,500; (Water/Sewer Fund)

Mayor Gunter asked if any Councilmember wanted to pull any item. There were none.

Councilmember Nelson moved, seconded by Councilmember Tate, to approve items 9(A)(1), 9(A)(2), 9(A)(3), 9(A)(4), 9(A)(5), 9(A)(6), 9(A)(7), and 9(A)(8), as presented.

Discussion held regarding approval of Consent Agenda Item 8(2) Resolution 226-21 recommendation from Staff to refer the bid protest to the Division of Administrative Hearing (DOAH).

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

PERSONNEL ACTIONS

None.

PETITIONS TO COUNCIL

None.

APPOINTMENTS TO BOARDS / COMMITTEES / COMMISSIONS

Health Facilities Authority - 2 Vacancies

Applicant: Jennifer Cittadino – not present

City Clerk Bruns stated there were two vacancies on this board. There was one applicant, Jennifer Cittadino, who expressed her desire to serve on the board, but due to her work schedule, she indicated she may not be able to attend.

Councilmember Tate moved, seconded by Councilmember Welsh, to appoint Jennifer Cittadino as member of the Health Facilities Authority (Term expiration of 9/30/2025).

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

FOLLOW UP ITEMS FROM CITY MANAGEMENT

Water Quality - Update

City Manager Hernandez stated that Public Works Director Clinghan and his Staff will provide the update on Water Quality Issues throughout the City.

Environmental Resources Manager Robert provided an update as follows:

- Waterway Advisory Board (WAB) Recommendations from 9/23/21 meeting
- WAB recommended the City increase dredging depths in the freshwater system
- WAB recommended that the City collaborate with boating associations to increase boating education
- WAB also recommended to revise the use of idle speed in the Code to be consistent with State Statute
- Current Water Quality Conditions not related to Lake Okeechobee – Green Algae
- Current Water Quality Conditions not related to Lake Okeechobee – Makai Blue
- Lake Okeechobee System Operating Manual (LOSOM)
- Current Lake Okeechobee-related Water Quality Conditions

Assistant Public Works Director Ilczyszyn provided an update on the Bubble Curtains as follows:

- Total spent to date on Bubble Curtains \$573K of the \$750K that was allocated, will be under budget
- Collaborative field trial with the Smalltooth Sawfish
- Working on an agreement with FWC to try to pick up signals from tagged Sawfish
- Forwarding results to the National Marine Fisheries to wrap up the permit from the Army Corps of Engineers
- Pre-construction meeting with Solitude last week on activities for bubble curtains
- Staff finalizing renderings for the communications with the Residents this week

Discussion held regarding:

- Algae update removal on Rubicon Canal
- Non-harmful green algae found in the Rubicon Canal
- Working with Lee County Hyacinth Control
- Removal before possibility of any additional nutrients getting into the water system
- Reached out to vendors and obtained some quotes
- Bidding award to Bidder #2; project started 10/5/21
- Utilizing two harvesters, disposal process
- Update on algae issues – Palmetto Pine Golf Course, permit from South Florida Water Management District (SFWMD)
- Meeting yesterday – Finance, Public Works, and City Attorney's Office on our options to discuss SFWMD operating permit
- Communications with SFWMD and plan of action, will bring update in the future
- Blue Green Algae in the vicinity of Palmetto Pine is not connected with Lake O
- Aquatic vegetation caused by nutrients in the water
- Bubble Curtain Transponders Costs
- Receiver's supply, acoustic listening device for the fish, – roughly two per site at \$3K apiece, six sites – under \$20K for the listening devices itself
- Paying for data analysis and receivers for three years
- Earmarked \$100K, may only be two years of data collection, analysis, and maintenance for about \$70K
- Speculation as to how many Smalltooth Sawfish there are in our canals
- This year FWC has tagged over 60 Sawfish, in the past three years – over 200

Mayor Gunter inquired about the \$573K with \$750K being allocated towards this project leaving a balance of \$177K. Will we use that money identified for this project over the next three years?

City Manager Hernandez stated we need to wait until the point where we know what our final costs are before we come back to Council and return those funds to the Stormwater Fund.

Discussion continued:

- Construction with Bubble Curtain – pending permits
- Purchase Order issued to Solitude who are already manufacturing all the systems
- Pre-construction meeting held yesterday
- Projected timeframe depending on the permit from the Army Corps of Engineers

COVID -19 Update

City Manager Hernandez stated the community has made considerable progress with respect to lowering the rate of COVID-19 infections.

Fire Chief Lamb provided the following update:

- COVID Status Report
- 30 days ago, the Curative COVID Test Site across the street tested over 760 individuals, yesterday's count around 52 to 59
- Curative COVID Test Site – September 2021

- Florida DOH COVID Situation Report – State Overview, seeing downward trend
- Down to 111 Individuals at Lee Health
- Trend in right direction

City Manager Hernandez stated 30 days ago there was a spike in the number of employees that were out or quarantined. The number was well over 100 at one point and the week before last we were down to zero. Last week there were only three employees out. We are headed in the right direction, and he hoped that very soon we would perhaps be relaxing some of the restrictions that were put in place with regard to Staff travel and wearing masks in the common areas of the building. He mentioned there would be a meeting with Chief Lamb and part of the Executive Leadership Team to review the numbers before any decision is made.

Youth Council Reports

Youth Council Members Rodriguez and Zajdowicz, Junior Members of the Youth Council, presented the Quarterly Report. The slides consisted of the following:

- Quarterly Report of the Cape Coral City Youth Council
- Recap
- Start of the 2021-2022 Year
- Items Discussed
- Junior Project
- Senior Project
- Annual Project
- FLC Video
- Love Locks
- Tribute to Councilmember Rick Williams
- Any questions?

Councilmember Tate stated she was impressed with the work of the Youth Council. It is very special to honor Councilmember Williams. She was excited about the Love Locks Project which the CRA has also discussed. She stated she would sponsor the Gala like she did last year.

Councilmember Welsh inquired about the location of the Love Locks structure and suggested not putting it too close to the water.

Youth Council Member Rodriguez stated the spot has been chosen and understood that it was not on top of the river.

Councilmember Hayden commented on the dedication of the Youth Council Members. He noted he was proud of them undertaking the FLC video project. He mentioned the guest speaker at this Friday's Youth Council meeting would be Angela Melvin, founder of Valerie's House. He explained that as Council Liaison for the group that he would arrange a guest speaker each month such as the Lee County Property Appraiser. He encouraged everyone to attend the Youth Council meetings.

Councilmember Nelson thanked the Youth Council for their presentation and offered her help with their Spring Gala.

Councilmember Long thanked the Youth Council and commented on the technology used for their presentation.

Mayor Gunter thanked the Youth Council for their great job and to extend that sentiment to the entire Youth Council. He stated that a formalized presentation to honor Councilmember Williams in the near future might be facilitated in Council Chambers or at Councilmember Williams' location.

ORDINANCES/RESOLUTIONS

Public Hearings

Ordinance 79-21 Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

The ordinance amends the City of Cape Coral Code of Ordinances, Chapter 9, "Health and Sanitation", Article VI, "Use of Fertilizer", Sections 9-100 through 9-111, pertaining to the use of fertilizer in the City of Cape Coral. (Applicant: Brought forward by Councilmember Nelson)

City Clerk Bruns read the title of the Ordinance.

City Manager Hernandez offered the floor to Councilmember Nelson for bringing this item forward.

Councilmember Nelson explained the purpose of Ordinance 79-21 and what it would accomplish as follows:

- Amending the Use of Fertilizer
- Background history
- Consider Staff presentation
- Consideration of Waterways and Water Quality to avoid events seen in 2018
- Usage and benefit of hand fertilizer

Environmental Resources Manager Robert discussed the following displayed slides:

- Fertilizer Ordinance 79-21
- Fertilizer Ordinance Background (two slides)
- Changes to the Fertilizer Ordinance: Expanded Enforcement; Fertilizer-Free Zone; Fertilizer Education
- Changes to Fertilizer Ordinance: No Phosphorus Fertilizer allowed; Licensing
- Changes to Fertilizer Ordinance: Prohibited Application Period – June 1 through September 30 (four months), with Authority given to the City Manager to extend the Prohibited Application Period to include the month of May, for a total of five months

Public Hearing opened.

Ellen Starbird appeared in favor of the approval for Ordinance 79-21.

Mary Ann Parsons, Lee County Master Gardener and a Florida-Friendly Landscaping Instructor, appeared in support of Ordinance 79-21. She discussed that all of the stakeholders came to a consensus wanting better water quality, the Waterway Advisory Board recommended approval, and City Staff recommended the approval. The new guidelines do not extend the nitrogen ban. We need to stop feeding the algae. Clean up of the algae is more expensive than prevention. She shared a flyer about Florida-Friendly Landscaping Program that offers free classes in the community. She also shared photos from Pinellas County with a wrap on their City vehicles *Only rain down the drain* was their message along with a wrap that stated *Help Protect Our Waterways* which she suggested Cape Coral could do.

Holly Schwartz, Policy Associate with Sanibel Captiva Conservation Foundation (SCCF), appeared on their members' behalf, and offered their support in favor of the Ordinance.

Lyman Welch, Sierra Club Member, voiced concern for the hand dispersion of fertilizer within the fertilizer-free zones (Section 9-104). He suggested the Ordinance could be improved with the removal of this section. He explained that it creates the potential for fertilizer to escape into the waterways.

Scott King appeared to discuss how the Ordinance was voted down last year. He questioned if that stakeholder group changed with this new version of the Ordinance. The

last Stakeholder Committee did not approve of the fifth month. What changed there? He opined that May could be a dry month. What are the criteria that is going to be used? He stated his area did not see a rainy season until July. Is there a State standard based on tropical development? He requested a carve out for drier areas for May.

Warren Schirado explained he does not use fertilizer on his lawn and that his lawn is the envy of his neighborhood and listed various fruits grown on his property. He mentioned that he uses magnesium sulfate for his palm trees. He suggested being careful with grass cuttings near the stormwater drainage which goes directly into the canal since those are the nutrients making the water have blue green algae.

Jason Pim, WAB Member, expressed appreciation for the support to approve Ordinance 79-21. He mentioned the Waterway Advisory Board's position was to include May for a total of five months. There needs to be better communication and awareness in the community. The simplest thing we can do to improve water quality is to reduce the use of fertilizer.

Lori Haus-Bulcock, Friends of Wildlife Board of Directors, appeared in support of Ordinance 79-21. She discussed the algae that can feed blue green algae is present on the canal she lives on. She mentioned a bird rookery off of Tropicana that has several endangered species that roost there. Wildlife survival is dependent upon clean water. As a resident, she shared the lure of the Cape Coral waterways and supported the Ordinance.

Public Hearing closed.

Mayor Gunter inquired if this Ordinance would be classified as a stricter adoption of policies than the Florida-Friendly guidelines that are implemented in the State.

Manager Robert responded in the affirmative.

Mayor Gunter stated considering the exemptions in 9-108, he asked if our Ordinance being presented was stricter than SE-1, Florida Administrative Code (FAC) or the Best Practices outlined in the Florida Department of Environmental Protection (FDEP) document.

Public Works Environmental Biologist Hankins explained that in the original Ordinance the allowed amounts of nitrogen and phosphorous were included. In this revision, we are going with what the State says.

Mayor Gunter questioned if what is being presented tonight was equal to the SE-1 FAC or the Best Practices outlined in the FDEP document.

Biologist Hankins responded in the affirmative.

Mayor Gunter recalled that the last time this Ordinance was presented, there were exemptions for parks and athletic fields that were not in the current Ordinance. Although he supported the Ordinance, he was concerned about the algae issues at Palmetto Pine and that we were not protecting the Residents that live around that golf course with this exemption. Should that exemption for golf courses be included?

Assistant City Attorney Naclerio stated that regarding exemptions for golf courses, the City is pre-empted from regulating fertilizer with respect to sales, nutrient content, labelling, but there is no pre-emption for application. The City could regulate golf courses and parks. There is no State pre-emption for the use of fertilizer.

Biologist Hankins explained Section 108-4 mentions a document that the golf courses are required to follow.

Mayor Gunter asked if our policy was stricter than what they are bound to follow as far as Florida Golf Course Best Management Practices or the FAC or the Best Management Practices that are mentioned in the FDEP document.

Assistant City Attorney Naclerio reiterated that the City can regulate the use and application of fertilizer.

Mayor Gunter asked Council if this was something that needed further research. Should we not exempt the golf courses and the athletic fields? Those are locations where most fertilization is utilized.

Manager Robert recommended that there be another Ordinance established for golf courses.

Mayor Gunter inquired if #4 under Section 9-108 could be excluded from the Ordinance at this meeting.

Assistant City Attorney Naclerio stated this exemption exempts golf courses to comply with State regulations. He noted that the exemption has been in the Ordinance since 2010. He explained that the City can regulate golf courses.

City Attorney Menendez clarified that Mayor Gunter was asking if this provision could be removed.

Assistant City Attorney Naclerio responded in the affirmative. If it is removed, it will not get into any pre-empted area.

Councilmember Hayden moved, seconded by Councilmember Nelson, to adopt Ordinance 79-21.

Councilmember Hayden shared his support of the Ordinance. He discussed significant weather changes and was in agreement of the additional month as stated in the Ordinance. He suggested that the Ordinance be amended as follows:

- 9-103 City Manager informing Council ahead of time or after the fact. He suggested to eliminate the *after the fact* language
- 9-104 Fertilizer-free zones – he was not in agreement with the title

Councilmember Hayden amended his motion under Section 9-103 that eliminate the word "either" and eliminate the words "or as soon thereafter as practicable" (to finish with "prior to the extension.")

Councilmember Hayden stated he had issues with the wording *Fertilizer-free zones*.

Councilmember Sheppard requested that the City's experts educate the Citizens properly regarding fertilization. He strongly opined that fertilizer use was not the only problem.

City Manager Hernandez understood that Councilmember Sheppard would like Staff to identify other potential contributors to nitrogen and other accelerants in the water.

Manager Robert recommended taking a drive to the Southeast by Shamrock Lakes where there is a lot of aquatic vegetation growth, as well as green lawns whereas going to the extreme northwest part of the City no one fertilizes the lawn, it is undeveloped, and there are clear freshwater canals.

Councilmember Sheppard discussed the public being educated properly on the Ordinance as this was not the only reason causing the issues and challenges.

City Manager Hernandez stated that Staff recognizes that the Fertilizer Ordinance was only one part of the challenge. There are a wide range of factors that contribute to the waterway issues. This is a first step in a long journey to address the issues.

Councilmember Sheppard stated he would support the Ordinance.

Councilmember Welsh inquired about the annual cost of advertising and different social media platforms. He mentioned the fertilizer bans at the entrance to Cape Coral. Was that spent by the County or by the City?

Manager Robert stated that banner belonged to the City of Cape Coral.

Councilmember Welsh preferred that the marketing be handled by the City and that taxpayer money not be given to the County. He also inquired about the Business Licensing process for licensed fertilizer applicators.

Manager Robert stated that the State requirements would be checked, and Staff will work collaboratively to ensure that licenses are cross referenced.

Councilmember Welsh stated that education on fertilizer would be the top item. He was in favor of the Ordinance with the suggested changes. He would be in favor of keeping hand dispersion within the 15 feet and not removing it from the Ordinance. He would not want to remove golf courses from the exemption, they do need to fertilize the fields more and are regulated by the State.

Councilmember Long stated that this was a positive step in the right direction. He agreed with the revised language of removing the *thereafter* language. He inquired about the enforcement on the current Ordinance. What was the number of citations or warnings issued?

Manager Robert stated that the information will be provided to Council.

Councilmember Long would not be in support of removing the golf course exemption.

Councilmember Tate was generally in support of the Ordinance. She inquired about how many changes could be made until the Ordinance cannot be adopted.

City Attorney Menendez summarized the following suggested amendment:

- Motion maker indicated in 9-103 the City Manager's extension of the additional month, he would notify Council prior to the extension and delete the reference to *as soon thereafter as practicable*

City Attorney Menendez asked the motion maker if he wanted to proceed with any amendment to the Fertilizer-free zones.

Councilmember Hayden stated he was waiting for more feedback.

City Attorney Menendez asked about changing the name from fertilizer-free to fertilizer-restricted or deleting the allowance of the hand dispersion method.

Councilmember Tate explained the need of the *thereafter* language due to catastrophic events. She agreed with leaving the golf course language and then establishing a separate Ordinance focusing on golf courses. She concurred with the other Councilmembers on the focus for education.

Councilmember Cosden voiced her support for the Ordinance. She stated that fertilizer was not the only issue but was one of various issues.

Mayor Gunter stated that he would support the Ordinance as written but suggested looking at the golf course aspect. There is another Stakeholder Group that could possibly look at Best Practices of the Golf Courses and Best Practices on protecting Residents that live around golf courses. He opined that the month of May and language should remain as the City Manager would reach out and notify Council of urgent issues.

Councilmember Hayden stated that the only revision was to eliminate ***either and or as soon thereafter as practicable***. He had suggested the title ***Fertilizer-free zones*** was misleading. ***Fertilizer Restricted Zone*** would be more applicable.

Mayor Gunter agreed the word restricted would make more sense.

Councilmember Nelson agreed with changing the title to ***Fertilizer Restricted*** and also looking over golf courses at a later time.

Councilmember Hayden amended his motion to include the revision for 9-103 that eliminates the word either and or as soon thereafter as practicable to just include prior to the extension. The other wording change would be eliminating the word free and putting in restricted. Second agreed.

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

Ordinance 81-21 Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

The Ordinance amends the City of Cape Coral Code of Ordinances, Section 27-2, Redevelopment Trust Fund, to clarify City intent that Tax Increment Revenues derived from the "Expansion Community Redevelopment Area" described therein may be expended for redevelopment purposes throughout the City of Cape Coral Community Redevelopment area and ratifies and confirms such intent.

City Clerk Bruns read the title of the Ordinance.

City Manager Hernandez explained that this Ordinance would amend Chapter 27 of the Cape Coral Code of Ordinances to address an inconsistency between language in the Code and language within the CRA Plan.

Public Hearing opened.

No speakers.

Public Hearing closed.

Councilmember Tate moved, seconded by Councilmember Nelson, to adopt Ordinance 81-21, as presented.

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

Ordinance 69-21 (TXT21-0010) First Public Hearing; Set Second and Final Public Hearing for October 20, 2021

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Land Development Code, by amending Article 4, "Zoning Districts," Chapter 1, "General Provisions," Table 4.1.6, "Use Table," regarding home-based businesses and home occupations; amending Article 4, "Zoning Districts," Chapter 2, "Specific Regulations by District," Sections 4.2.1., 4.2.2., 4.2.3., 4.2.4., 4.2.5., 4.2.11., 4.2.12., 4.2.13., 4.2.14., and 4.2.15., regarding home-based businesses and home occupations; amending Article 5, "Development Standards," Chapter 10, "Specific Use Regulations (P* Uses in Table 4.4)," by repealing Section 5.10.4., "Home Occupations," in its entirety; amending Article 5, "Development Standards," Chapter 11, "Conditional Uses," by repealing Section 5.11.10., "Home Based Businesses," in its entirety; amending Article 5, "Development Standards," Chapter 11, "Conditional Uses," to create Section 5.11.10., "Home-Based Businesses," regarding home-based businesses; and by amending Article 11, "Definitions," Chapter 1, "General Provisions," Section 11.2., "Definitions," regarding home-based businesses and home occupations.

Planning and Zoning Commission recommendation: Approval

City Planning recommendation: Approval

Applicant: City of Cape Coral

City Clerk Bruns read the title of the Ordinance and set the second Public Hearing for October 20, 2021.

Planning Manager Pederson discussed the following:

- The Ordinance tracks a recently passed State Legislation that allows various types of businesses to operate within single-family homes.
- Home-based businesses must follow several new guidelines such as number of employees allowed to work at the home; parking of vehicles used for the business; signs; and restrictions on noise, odor, and hazardous materials.
- There needs to be a Business Tax Receipt.
- No more than two employees that are not Residents may work from the home-based business location.
- Vehicles must be parked in the driveway and not in the right-of-way, over a sidewalk, or any unimproved surface, mirrors current parking regulations
- Must retain the residential architectural identified when viewed from the street.
- No retail transactions can occur in any accessory structure such as a garage
- Must comply with all City sign regulations
- Must follow all local regulations regarding noise, fumes, etc.
- Must comply with all Federal and other regulations related to storage and disposal of hazardous, combustible, and flammable materials/liquids
- This Ordinance was heard at the Planning and Zoning Commission meeting on September 1st. The Commission voted unanimously to recommend approval of the Ordinance.
- No public comments or correspondence received
- Staff recommendation – approval
- Second public hearing – October 20th

Public Hearing opened.

Lou Navarra appeared in objection to Ordinance 69-21. He discussed the challenges with a home-based business and lack of enforcement.

Public Hearing closed.

Councilmember Tate moved, seconded by Councilmember Nelson, to adopt Ordinance 69-21, as presented.

City Manager Hernandez addressed the speaker's comment and explained why this Ordinance was needed to comply with State mandates.

City Attorney Menendez stated that a motion was not required since this is the first Public Hearing and the Second and Final Public Hearing was scheduled for October 20, 2021.

Motion maker and second withdrew the motion.

Recessed at 7:12 p.m. and reconvened at 7:20 p.m.

Ordinance 71-21 (TXT21-0011) Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Land Development Code, by amending Article 4, "Zoning Districts," Chapter 1, "General Provisions," Table 4.1.3.B., "Zoning District Dimensional Standards," regarding minimum setbacks in the South Cape Zoning District; amending Article 4, "Zoning Districts," Chapter 2, "Specific Regulations by District," Section 4.2.15., "South Cape District," regarding street frontage standards in the South Cape Zoning District.

Planning and Zoning Commission recommendation: Approval

City Planning recommendation: Approval

Applicant: City of Cape Coral

City Clerk Bruns read the title of the Ordinance.

Planning Team Coordinator Struve explained the following:

- Ordinance 71-21 eliminates a 50-foot minimum setback for a residential first floor with frontage along a primary street in the South Cape District.
- Eliminating this requirement will allow the first floor of residential buildings in the South Cape to be constructed at different setback line, which is consistent with good urban form observed in the downtown areas of many cities.
- This would allow what is commonly referred to as zero lot-line development.
- Recommendation of approval from Staff and Planning and Zoning Commission
- Correspondence – none

Public Hearing opened.

No speakers.

Public Hearing closed.

Councilmember Tate moved, seconded by Councilmember Cosden, to approve Ordinance 71-21, as presented.

Councilmember Welsh supported this Ordinance. He inquired if there were any other streets that could have been added to this.

Coordinator Struve stated that they captured them all as this only applies to primary streets.

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

Ordinance 72-21 (TXT21-0008) Public Hearing for Transmittal

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Comprehensive Plan by creating the Property Rights Element.

Planning and Zoning Commission recommendation: Approval

City Planning recommendation: Approval

Applicant: City of Cape Coral

City Clerk Bruns read the title of the Ordinance.

Planning Team Coordinator Daltry explained the following displayed slides:

- Ordinance 72-21
- Purpose, Applicant, Request, Purpose
- Background
- Key Language – Policy 1.1
- Conclusion: Staff recommended approval; P&Z recommended approval
- Transmittal – being sent to State agencies tomorrow
- Response anticipated by early November for adoption later that month

Public Hearing opened.

No speakers.

Public Hearing closed.

Councilmember Tate moved, seconded by Councilmember Welsh, to approve for transmittal (Ordinance 72-21, as presented).

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

Introductions

Ordinance 76-21 Set Public Hearing for October 20, 2021

WHAT THE ORDINANCE ACCOMPLISHES:

The Ordinance amends the City of Cape Coral Code of Ordinances, Chapter 2, Administration, Article 1, In General, Section 2-1.2, Departments Established, by changing the name of the Community Development Department to the Development Services Department. (Applicant: Brought forward by City Management.)

City Clerk Brunns read the title of the Ordinance.

The public hearing was scheduled for October 20, 2021 in Council Chambers.

Ordinance 82-21 Set Public Hearing for October 20, 2021

WHAT THE ORDINANCE ACCOMPLISHES:

The ordinance amends the Cape Coral Code of Ordinances, Chapter 7, "Taxation", Article II, "Public Service Tax", Sections 7-11 through 7-14, pertaining to public service taxes levied for electricity, metered natural gas, liquefied petroleum gas either metered or bottled, and manufactured gas either metered or bottled. (Applicant: Brought forward by City Management)

City Clerk Brunns read the title of the Ordinance.

The public hearing was scheduled for October 20, 2021 in Council Chambers.

Ordinance 83-21 (ZA21-0005*) Set Public Hearing for October 20, 2021

***Quasi-Judicial, All Persons Providing Testimony 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 a parcel of land lying in a portion of the East half of the Southeast quarter of Section 7, Township 43 South, Range 23 East, as more particularly described herein, from Single-Family Residential (R1) to Commercial (C) Zone; property is located at 4550 Burnt Store Road North.

Applicant: Yovan Santiesteban

Acreage: 12.5

Hearing Examiner Recommendation: Approval

City Planning Recommendation: Approval

City Clerk Brunns read the title of the Ordinance.

The public hearing was scheduled for October 20, 2021 in Council Chambers.

Ordinance 84-21 (ZA21-0011*) Set Public Hearing for October 20, 2021

***Quasi-Judicial, All Persons Providing Testimony 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 a parcel of land lying in a portion of the East half of the Southeast quarter of Section 7, Township 43 South, Range 23 East, Lee County, Florida, as more particularly described herein, from Single-Family Residential (R1) to Commercial (C) Zone; property is located at 4450 Burnt Store Road North.

Applicant: CC Land Development Company, LLC

Acreage: 18.65

Hearing Examiner Recommendation: Approval

City Planning Recommendation: Approval

City Clerk Brunns read the title of the Ordinance.

The public hearing was scheduled for October 20, 2021 in Council Chambers.

Ordinance 86-21 Set Public Hearing for October 20, 2021

WHAT THE ORDINANCE ACCOMPLISHES:

The ordinance authorizes and directs the Mayor to enter into a Lease Agreement with PPW Cape Coral, LLC for the lease of property owned by the City of Cape Coral at 400 Santa Barbara Boulevard, known as Sun Splash Waterpark, for the operation of the waterpark. (Applicant: Brought forward by City Council.)

City Clerk Bruns read the title of the Ordinance.

The public hearing was scheduled for October 20, 2021 in Council Chambers.

Councilmember Welsh inquired if a Citizen could be allowed to speak for two minutes on the Ordinance.

Consensus agreed, without objection, to allow Citizen to speak for two minutes.

Lou Navarra appeared to discuss Ordinance 86-21. He inquired about how the City was going to save money and would it continue to spend \$3.3M on Sun Splash.

Councilmember Welsh noted that a presentation was given at the previous COW meeting. He stated he would discuss specifics at the Public Hearing.

Ordinance 87-21 Set Public Hearing for October 20, 2021

WHAT THE ORDINANCE ACCOMPLISHES:

The ordinance amends Ordinance 74-20, as amended by Ordinances 13-21 and 46-21, which adopted the City of Cape Coral Operating Budget, Revenues and Expenditures, and Capital Budget for Fiscal Year 2021, by decreasing the total revenues and expenditures by a total of \$20,595. (Applicant: Brought forward by City Management)

City Clerk Bruns read the title of the Ordinance.

The public hearing was scheduled for October 20, 2021 in Council Chambers.

Ordinance 88-21 Set Public Hearing for October 20, 2021

WHAT THE ORDINANCE ACCOMPLISHES:

The Ordinance approves and grants to South Florida Water Management District a perpetual conservation easement upon property owned by the City located in Section 4, Township 45 South, Range 23 East, Lee County, Florida as shown in Official Records Book 409 at Pages 64 and 65 of the Public Records, as more particularly described herein and authorizes and directs the Mayor to execute the Deed of Conservation Easement - Passive Recreational Uses, a copy of the Deed of Conservation Easement - Passive Recreational Uses is attached hereto and incorporated herein by reference. (Applicant: Brought forward by City Management.)

City Clerk Bruns read the title of the Ordinance.

The public hearing was scheduled for October 20, 2021 in Council Chambers.

UNFINISHED BUSINESS

Follow Up Items for Council

None.

NEW BUSINESS

Youth Council Reports

(moved before 10. Ordinances/Resolutions – Public Hearings)

REPORTS OF THE MAYOR AND COUNCIL MEMBERS

Councilmember Welsh – Topics: No Report.

Councilmember Cosden – Topics: No Report.

Councilmember Hayden – Topics: Attended City Government Day with the Cape Coral Leadership Group along with Councilmembers Tate, Long, Sheppard and Mayor Gunter, Took the role of City Clerk at the mock Council meeting. Last Saturday participated in picking up trash with three Youth Council Meetings along their Adopt-A-Road on Santa Barbara Boulevard between Pine Island Road and Tropicana. Went to Ribbon Cutting for the new Community Center at Sandoval where the Mayor was Guest Speaker.

Councilmember Long – Topics: No Report.

Councilmember Nelson – Topics: Attended the Southwest Florida Pre-Legislative Luncheon with Councilmember Hayden on 10/5. On 10/8 looking forward to the first Southwest Florida Regional Resiliency Compact meeting at FGCU with Dr. Savarese and many other public and government entities.

Councilmember Sheppard – Topics: No Report.

Councilmember Tate – Topics: Reminder of Town Hall meeting October 12th at 5:30 p.m. at the Cape Coral Yacht Club on the Flood Insurance Change and FEMA Risk Rating 2.0.

Mayor Gunter – Topics: Attended Florida League of Cities Board of Directors meeting on the East Coast of Florida from September 23-25; Friday, September 30th Guest Speaker at the Cape Coral Leadership City Government Day; Friday, October 1st Guest Speaker at the new Sandoval Community Center. He is working on a formal event in Council Chambers to present a plaque to former Councilmember Williams for his service to the community. He would provide additional information as it becomes available.

REPORTS OF THE CITY ATTORNEY AND CITY MANAGER

City Attorney: No Report.

City Manager: Informational only.

Discussion held regarding the status of the Waste Pro negotiations.

Consensus agreed to add discussion item to 10/13/21 COW.

Mayor Gunter stated he had already approved the agenda for the next meeting. He asked the City Clerk to add Waste Pro to the COW agenda.

City Clerk Bruns responded in the affirmative.


TIME AND PLACE OF FUTURE MEETINGS

A Committee of the Whole Meeting was scheduled for Wednesday, October 13, 2021 at 3:00 p.m. in Council Chambers.

MOTION TO ADJOURN

There being no further business, the meeting adjourned at 7:52 p.m.

Submitted by,


Kimberly Bruns, CMC
City Clerk