

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

October 20, 2021

Council Chambers

4:30 P.M.

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

INVOCATION/MOMENT OF SILENCE – Councilmember Cosden

PLEDGE OF ALLEGIANCE – Councilmember Cosden

Roll Call: Mayor Gunter, Councilmembers Cosden, Hayden, Nelson, Sheppard, Tate, and Welsh were present. Councilmember Long arrived at 4:39 p.m.

CHANGES TO AGENDA/ADOPTION OF AGENDA

Mayor Gunter requested to add under item 6 Recognitions/Achievements the Dedication of Service Presentation for Deputy Chief Lisa Barnes, move item 10.A.(6) Ordinance 86-21 directly after Citizens' Input and remove item 12.A. Nuisance Abatement Appointment Discussion under New Business. There were no other changes to the agenda.

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

City Manager Hernandez clarified the dollar value in Consent Item Number 4 – Resolution 228-21 that it was for this fiscal year, not for the entire term of the contract.

Councilmember Tate asked the City Attorney for an update on Consent Agenda Item 14. She requested that it be done after the first of the year with each individual Councilmember.

Council polled as follows: Cosden, Gunter, Hayden, Nelson, Sheppard, Tate, and Welsh voted "aye." Seven "ayes." Motion carried 7-0.

RECOGNITIONS/ACHIEVEMENTS

Mayor Gunter announced there would be a presentation for Deputy Chief Barnes.

City Manager Hernandez noted it was a bittersweet day for the City of Cape Coral and how Deputy Chief Barnes spent her entire professional career in the City.

Chief of Police Sizemore discussed that a true legend has spanned 30 years in the CCPD and listed the many achievements of Deputy Chief Barnes.

Councilmember Long arrived at 4:39 pm.

Mayor Gunter thanked Deputy Chief Barnes for her 30 years of service. He issued a Proclamation for October 29, 2021 as Lisa Barnes Day.

Chief of Police Sizemore presented Deputy Chief Barnes with a plaque.

APPROVAL OF MINUTES

Special Meeting - September 23, 2021 (2nd and Final Budget Hearing)

Councilmember Nelson moved, seconded by Councilmember Tate, to approve the minutes for the September 23, 2021 Special Meeting, (2nd and Final Budget Hearing), as presented. Voice Poll: All "ayes." Motion carried.

Special Meeting - September 29, 2021 (Continuation of Special meeting dated
September 23, 2021)

Councilmember Cosden moved, seconded by Councilmember Welsh, to approve the minutes for the September 29, 2021 Special Meeting, (Continuation of Special meeting dated September 23, 2021), as presented. Voice Poll: All "ayes." Motion carried.

Regular Meeting - October 6, 2021

Councilmember Tate moved, seconded by Councilmember Hayden, to approve the minutes for the October 6, 2021 Regular Meeting, as presented. Voice Poll: All "ayes." Motion carried.

CITIZENS INPUT TIME

Lou Navarra appeared to discuss his communication with the School Board, Charter School sharing the ½ cent sales tax, and Code Enforcement. He would like to see Communications take a part in receiving complaints about unlicensed contractors.

Mayor Gunter stated that he received notice that the Lee County School Board may be hearing our request or discussing it at the November 2nd regular meeting. He will be attending that meeting.

Councilmember Tate mentioned that she planned on speaking at that meeting.

BUSINESS

Ordinance 86-21 Public Hearing – (moved to directly after Citizens Input)

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.

City Manager Hernandez discussed the following:

- In October of 2020 the City received an unsolicited proposal submitted by ProParks pursuant to Section 255.065 F.S.
- ProParks expressed an interest in leasing Sun Splash.
- Because it came under that particular section of the law, you are required to follow the process.
- It included posting a public notice for 60 days to notify any other potentially interested entities.
- The City would be open to receiving proposals from other interested firms.
- The City received a competing proposal by the Parks and Recreation Department.
- Pursuant to City practices, the Selection Advisory Committee (SAC) met.
- Both respondents were invited and gave a presentation that described their experience in operating these kinds of facilities and their business plan for moving the facility forward.
- After the presentation, the Selection Advisory Committee (SAC) made a recommendation to him which was to proceed to negotiate an agreement with the top ranked proposal submitted by ProParks.
- We then negotiated a lease agreement with ProParks.
- The item today is the actual agreement that will lease the facility to ProParks in exchange for rent payments and a percentage of the gross revenues from the park.
- The firm will be responsible for all aspects of running and maintaining the facility with the exception of the parking lot which is not included in the lease.

Assistant City Manager Barron stated that the slides presented at the COW meeting would be presented again since this was the actual Public Hearing on this item.

Procurement Manager Roop discussed the following displayed slides:

- P3 Unsolicited Proposal – Sun Splash
- Sun Splash Family Water Park
- Opened 1992
- Funded via revenue bond
- 14 acres with water slides, lazy river, private cabanas, play areas, The Ice Cream Shop, Tiki Express, and Calypso Café
- Open from March through September
- Site of annual CocoFest
- Agenda
- P3 Statute Overview – F.S. 255.065
- Process
- Proposal
- Key Terms
- Financial Analysis
- Expense Analysis: City vs Vendor
- 30 Year Analysis – Maintain Current Operations
- 30 Year Analysis – Negotiated Proposal
- Comparison for Estimated City Revenue over 30-Year Lease Term
- Independent Financial Analysis
- Sun Splash Staffing

Assistant City Manager Barron discussed concerns about the five FTE's, two non-bargaining and three bargaining. All five will continue their careers with the City in similar positions. There are 124 contract employees which change from year to year.

Procurement Manager Roop discussed the final displayed slide:

- Next Steps, today is the final hearing

Curt Caffey, President of ProParks, shared his hope to bring more tourism to the area. He discussed the following displayed slides:

- ProParks Attractions Group – Orlando, Florida
- ProParks video clip showcasing
- Sun Splash Family Waterpark
- New Website is created – Park Info
- New Website sells tickets and Season Passes – 2022 Season Passes
- Coming Soon!
- Special Events

Public Hearing opened.

Joe Mazurkiewicz appeared to discuss his concerns regarding the associated cost of Sun Splash, as well as the \$500,000 transferred in for services rendered from Sun Splash. He opined that the associated cost for the annual support of Sun Splash needs to be gone for this to work.

Public Hearing closed.

Councilmember Nelson moved, seconded by Councilmember Tate, to adopt Ordinance 86-21, as presented.

Councilmember Tate requested that the concerns of the speaker be addressed.

Assistant City Manager Barron opined that what Mr. Mazurkiewicz referred to was the full cost allocation which was just one piece to what the City provides to Sun Splash right now. There was still a \$9M deficit over time, and the City would not be able to invest that amount of money for improvement.

Financial Services Director Mason explained that annually on a net basis Sun Splash had a loss and part of that is the full cost allocation in order to repay the General Fund for the services being provided.

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

Assistant City Manager Barron stated she would keep Council updated on the process of the transition. There would be a new big Grand Opening in March.

CONSENT AGENDA

- 1) Resolution 219-21 Approve Agreement #CON-RPW2114MM with Wright Construction Group, Inc. for Construction Manager at Risk (CMAR) services and the Preconstruction Services (Phase I), for the Fire Department Training Facility, in which the intended firm was ranked #1 by the Selection Advisory Committee and the ranking approved by the City Manager, as allowed under the City of Cape Coral, Code of Ordinance which authorized entering into negotiation; And authorize the City Manager or designee to execute the agreement for the Pre-construction services (Phase I) for the Fire Department Training Facility Project in the amount of \$69,006. The construction services (Phase II) will be brought forward when the Guaranteed Maximum Price (GMP) is determined; Department: Public Works; Dollar Value: \$69,006; (Special Revenue Fund)
- 2) Resolution 221-21 Approve Extension #1 to Contract #PR17-20/GM with Brent's Lawn and Tree Service, Inc., for Landscape Maintenance of City Parks and the City Hall Campus and authorize the City Manager or Designee to execute the extension, change orders and purchase orders. The current contract expires on March 17, 2022, the extension will extend the contract through September 30, 2022 at a cost of \$269,529.46 with a City Controlled contingency of \$22,635.86 for a total extension cost of \$292,165.32. The Contract original amount was \$422,862 subject to a City Controlled Contingency amount not to exceed six percent of 25,371.72 for an amount of \$448,233.72. Including the extension amount the project cost will be \$692,391.46 with a City controlled contingency of \$48,007.58 for a total project amount of \$740,399.04; Department: Public Works; Estimated annual Dollar Value: \$292,165.32; (General Fund)
- 3) Resolution 223-21 Approve FY22 purchases of Capital Equipment, Vehicles and the corresponding peripheral equipment (upfitting), and Software within the City's General Fund, Special Revenue, Enterprise Funds and Internal Service Fund Groups including, but not limited to the Water and Sewer Fund, Stormwater Fund, Golf Course Fund, Internal Services Facilities Fund, Internal Services Fleet Fund, Lot Mowing Fund, Sidewalk Capital Project Fund and to dispose of City-owned surplus tangible personal property that is no longer needed as a result of said purchases in accordance to the City of Cape Coral Procurement Ordinance and authorize the City Manager to approve the purchase orders for these purchases and any related documents; Department(s): City-Wide; Dollar value: \$14,416,888; (Capital Project Fund, Enterprise Fund, General Fund, Internal Services Fund, Special Revenue Fund)
- 4) Resolution 228-21 Approve Interlocal Agreement for Stray Animal Control Services between Lee County and the City of Cape Coral effective October 1, 2021 through September 30, 2026; Department: Finance; Dollar Value: \$655,543; (General Fund/Governmental Services)

- 5) Resolution 232-21 Approve acceptance of FY21-22 Lee County Tourist Development (TDC) Beach and Shoreline Grant for Beach Park Facility Maintenance for the Yacht Club Community Park Beach, Four Mile Cove Ecological Park, Sirenia Vista Park, and Glover Bight Boardwalk (\$138,000) for the beach park facility maintenance project. Designee to execute contracts, purchase orders, and all required documents; Department: Parks and Recreation; Grant Dollar Value: \$138,000; (No matching funds required); (Fund: N/A)
- 6) Resolution 233-21 Approve City Manager or designee to execute Second 2021 Memorandum of Agreement between City of Cape Coral and B.P Limited Liability Company; Allows the City to continue purchasing additional water during the dry season from the B.P LLC reservoir to the City's freshwater canals; Department: Utilities; Est. dollar amount: \$1,544,269.33; (Water and Sewer Fund)
- 7) Resolution 229-21 Acceptance of Florida Department of Transportation Traffic Safety Subgrant : Impaired Driving Education and Enforcement funding to conduct operations on an overtime basis; Department: Police; Award Value \$67,000
- 8) Resolution 236-21 Acceptance of West Coast Inland Navigation District (WCIND) Subgrant: Marine Education and Enforcement funding for personnel; Department: Police; Award Value: \$250,000
- 9) Resolution 237-21 Acceptance of Florida Department of Transportation Traffic Safety Subgrant; Speed and Aggressive Driving Enforcement funding to conduct operations on an overtime basis and purchase a speed/message board trailer; Department: Police; Award Value: \$86,500
- 10) Resolution 244-21 Acceptance of Victims of Crime Act (VOCA) Grant Funding for 75% of two Victim Assistance Advocates base salary and fringe benefits and training; Department: Police; Award Value: \$136,339
- 11) Resolution 238-21 Approve Volunteer Florida/CERT grant agreement between the City of Cape Coral and the Volunteer Florida CERT/Citizens Corps Program. It authorizes the Mayor to execute the grant agreement. The agreement does not require a City of Cape Coral cash match. Matching funds will come in the form of in-kind CERT volunteer hours; Department: Fire; Award Value: \$5,000; In Kind Volunteer Hours Match; (Fund: N/A)
- 12) Resolution 239-21 Approve agreement for subgrant funding between the City of Cape Coral and the Lee County Board of County Commissioners (LCBCC) for the West Coast Inland Navigation District (WCIND) Grant for the purchase of a marine rescue fire boat and authorize the City Manager to execute all related grant documents. Additionally, authorize the City Manager or designee to execute all procurement-related documents over \$100,000; Department: Fire; Total Project Value: \$400,000; Award Value: \$200,000; City Match: \$200,000 (Fund: 001-22010-564101-22-53-522060-000-000)
- 13) Resolution 240-21 Approve agreement for grant funding between City of Cape Coral and US Department of Transportation (USDOT) for Pipeline and Hazardous Material Safety Administration (PHMSA) Technical Assistance Grant (TAG) and authorize City Manager to execute all related grant documents. Additionally, it authorizes the City Manager or designee to execute all procurement-related documents; Department: Fire; Award Value: \$50,000; City Match: N/A
- 14) Approve Engagement Letter with the law firm of Shumaker, Loop & Kendrick, LLP

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

Councilmember Tate moved, seconded by Councilmember Nelson, to approve items 9(A)(1), 9(A)(2), 9(A)(3), 9(A)(4), 9(A)(5), 9(A)(6), 9(A)(7), 9(A)(8), 9(A)(9), 9(A)(10), 9(A)(11), 9(A)(12), 9(A)(13), and 9(A)(14), as presented.

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

PERSONNEL ACTIONS

None.

PETITIONS TO COUNCIL

None.

APPOINTMENTS TO BOARDS / COMMITTEES / COMMISSIONS

Affordable Housing Advisory Committee - 1 Vacancy

City Clerk Bruns stated there was one vacancy on this board and one application received from Jack Schwartz who was unable to attend, but he expressed his desire to serve on the board. Mr. Schwartz qualified for two different areas: (a) Residential home building industry and (c) Areas of labor actively engaged in home building. The appointment would complete the existing term to 11/30/2021 and fill reappointment until 11/30/2024.

Applicant

Jack A. Schwartz – not present

Councilmember Nelson moved, seconded by Councilmember Tate, to appoint Jack Schwartz to the Affordable Housing Advisory Committee as category (a) residential home building industry (term expiration of 11/30/2024).

Councilmember Welsh queried if a future applicant were to qualify for category a, would Mr. Schwartz be able to move into category c in order to fill the Board?

City Clerk Bruns stated the decision would be up to Council.

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

Affordable Housing Advisory Committee (P&Z) - 1 Vacancy

City Clerk Bruns explained this was a Planning and Zoning vacancy on the AHAC. There was a recommendation from the Planning and Zoning Commission to appoint Mr. Robert O'Connor who was available for any questions.

Councilmember Tate moved, seconded by Councilmember Hayden, to appoint Robert O'Connor to the Affordable Housing Advisory Committee (P&Z) (term to expire 10/31/2024).

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

Districting Commission - 7 Vacancies and Liaison Selection

Mayor Gunter stated there were seven vacancies on this Board. There are 11 applicants. He noted that there are 14 applicants for the Planning and Zoning Commission vacancies. He asked Council if they wanted to establish a time limit for each applicant to speak.

Councilmember Tate moved, seconded by Councilmember Nelson, to approve one minute per applicant for both the Districting Commission and the Planning and Zoning Commission.

Discussion held regarding the time limit to be allowed.

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

City Clerk Bruns stated there were 11 applicants for the seven vacancies. Several have indicated whether or not they would be able to attend. Everyone has indicated a desire and eagerness to participate as a member.

Interviews

D1 - Crum, Robert – not present
D1 - Eidson, Gary (Current BRC - needs 2/3rds vote) – present
D1 - Redman, Christina – not present
WITHDRAWN - D1 - Shadrach, Thomas
D2 - Gillis, Laurence Joseph – present
D3 - Sund, Andrew – not present
D3 - Lastra, Melissa McComis – present
D4 - Harris, William – present
WITHDRAWN - D4 - Hartman, Sean
WITHDRAWN - D4 - McNamara, Susan
D5 - Tunney, Cathy – not present
D6 - Eveland, James – not present
D6 - Leon, Richard Andrew – present
D7 - Karnes, Kevin – present

Council polled as follows:

***Cosden – Crum, Eidson, Gillis, Karnes, Lastra, Leon, Redman
Gunter – Crum, Eidson, Eveland, Gillis, Karnes, Lastra, Sund
Hayden – Eidson, Eveland, Gillis, Karnes, Lastra, Leon, Sund
Long – Eidson, Eveland, Gillis, Harris, Karnes, Lastra, Tunney
Nelson – Crum, Eidson, Gillis, Karnes, Lastra, Leon, Sund
Sheppard – Crum, Eidson, Gillis, Harris, Karnes, Lastra, Leon
Tate – Eidson, Eveland, Gillis, Harris, Karnes, Lastra, Tunney
Welsh – Eidson, Harris, Karnes, Leon, Redman, Sund, Tunney***

Tally showed the following:

Crum – 4, Eidson – 8, Eveland – 4, Gillis – 7, Harris – 4, Karnes – 8, Lastra – 7, Leon – 5, Redman – 2, Sund – 4 Tunney – 3

Councilmember Tate, seconded by Councilmember Cosden, to appoint the top five candidates (Eidson, Gillis, Karnes, Leon, Lastra).

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

Discussion held regarding the poll for the last two seats to be filled.

Council polled as follows:

***Cosden – Crum, Harris
Gunter –Eveland, Sund
Hayden –Eveland, Sund
Long –Eveland, Harris,
Nelson – Crum, Sund
Sheppard – Eveland, Sund
Tate – Eveland, Harris
Welsh –Harris, Tunney***

Tally showed the following:

Crum – 2, Eveland – 5, Harris – 4, Sund – 4, Tunney – 1

Councilmember Tate moved, seconded by Councilmember Hayden, to appoint James Eveland to the Districting Commission.

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

Discussion held regarding the last seat to be filled by either Harris or Sund.

Council polled as follows:

Cosden – Harris , Gunter – Sund, Hayden – Sund, Long – Harris, Nelson – Sund, Sheppard – Sund, Tate – Harris, Welsh - Harris

Council repolled due to a tie:

Cosden – Harris, Gunter – Sund, Hayden – Sund, Long – Harris, Nelson – Sund, Sheppard – Sund, Tate – Harris, Welsh - Harris

Councilmember Hayden asked if it needed to be seven members or can it be eight.

City Attorney Menendez stated the number of members was in the Charter.

Mayor Gunter asked if an alternate was allowed.

City Attorney Menendez would research the answer.

Mayor Gunter stated to go to the next Board Appointment and come back.

Planning and Zoning Commission - 3 Vacancies (2 Members and 1 Alternate)

Mayor Gunter stated there were 14 applicants for three vacancies.

Interviews

Apking, Donald James (current Member of Charter Review Commission, requires 2/3 vote) – present

Bearden, Mary Louise – not present

Bridges, Robert – not present

Fioretti, Enrico Kenneth – present

Gilbert, William J. – not present

Hecht, Wayne Michael (current Member of Waterway Advisory Board, requires 2/3 vote) – not present

Moore, Julia D. – not present

Safranek, Barbara Jean (current Alternate) – present

Schwartz, Jack A. (current Member of Affordable Housing Advisory Committee, requires 2/3 vote) – not present

Soloway, Stephen Joseph – not present

Sullivan, Michael Patrick – not present

Telisky, John P. – not present

Wolford, Barbara Ann – not present

York, Jeanette – present

Mayor Gunter noted that if the current Alternate was appointed as a Regular Member, two Alternates would be selected.

Council polled as follows for the two Regular Member seats:

Cosden – Fioretti, Safranek, Gunter – Safranek, York, Hayden – Safranek, Apking, Long – Safranek, York, Nelson – Safranek, Fioretti, Sheppard – Apking, York, Tate – Safranek, Apking, Welsh – Fioretti, Safranek

Tally showed the following:

Apking – 3, Fioretti – 3, Safranek – 7, York – 3

Councilmember Welsh moved, seconded by Councilmember Long, to appoint Barbara Safranek as a Regular Member on the Planning and Zoning Commission for term ending 2/28/2023.

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

City Clerk Bruns stated there were three individuals at three: Apking, Fioretti, and York.

Council polled as follows for remaining candidates as Alternates:

Cosden – Fioretti, Gunter – York, Hayden – Apking, Long – York, Nelson – Fioretti, Sheppard – Apking, Tate – Apking, Welsh – Apking

Tally showed the following:

Apking – 4, Fioretti – 2, York – 2

Councilmember Welsh moved, seconded by Councilmember Tate, to appoint Donald Apking as a Regular Member term ending 2/28/2022 and Enrico Fioretti and Jeanette York as Alternates.

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

Districting Commission - 7 Vacancies and Liaison Selection – (resumed at 6:00 p.m.)

City Attorney Menendez stated the Districting Commission has seven members and no alternates.

Mayor Gunter asked about the status of how many members were already voted in.

City Clerk Bruns stated there were six.

Councilmember Hayden still questioned if there could be an alternate.

City Attorney Menendez stated the Attorney General's Office has opined that when a Board has a certain number by Statute or Ordinance and it does not provide for alternates, then there is no authority to appoint one.

Council re-polled due to tie:

Cosden – Harris, Gunter – Sund, Hayden – Sund, Long – Harris, Nelson – Sund, Sheppard – Sund, Tate – Harris, Welsh – Harris

City Clerk Bruns stated there was still a tie of four each.

Councilmember Tate noted that Harris was from District 4.

Council re-polled due to tie:

Cosden – Harris, Gunter – Harris, Hayden – Sund, Long – Harris, Nelson – Harris, Sheppard – Harris, Tate – Harris, Welsh – Harris

Tally favored Harris.

Councilmember Tate moved, seconded by Councilmember Cosden, to appoint William Harris to the Districting Commission.

Council polled as follows: Cosden, Gunter, Hayden, Long, Nelson, Sheppard, Tate, and Welsh 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:

- 70 complaints since the beginning of the Blue Green Algae bloom in the tidal canals off the Rubicon
- Current water quality conditions not related to Lake Okeechobee – Rubicon Green Algae
- Current water quality conditions not related to Lake Okeechobee – Makai Blue Green Algae
- Lake Okeechobee System Operating Manual (LOSOM)
- Current Lake Okeechobee-related water quality conditions

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

- No exciting update on the bubble curtain
- Permits issuances are pending
- Staff is prepared to install
- Once permits issued, Staff will come to Council with the final FWC agreement

Discussion held regarding:

- FWC report to Army Corps – not done yet, to be followed up
- Letters to Residents regarding identification of placement of electrical equipment in the right of way, not done yet, pending permit

COVID-19 Update

City Manager Hernandez noted this may be the last update for quite some time.

Fire Chief Lamb provided an update with the following displayed slides:

- COVID Status Report
- Decreased numbers across the State
- Down to a 3% rate of positivity across the State
- Uptick in testing across the street
- Two-hour PCR rapid testing availability at that location, still free
- Good access to testing

ORDINANCES/RESOLUTIONS

Public Hearings

Ordinance 69-21 (TXT21-0010) Second and Final 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 4.1.6, "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.

Planning Manager Pederson discussed the following displayed slide which would implement the recently passed HB403 from the Florida Legislature:

- Ordinance 69-21 – “Home Based Business”

Public Hearing opened.

No speakers.

Public Hearing closed.

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

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

Ordinance 83-21 (ZA21-0005*) Public Hearing

*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 Bruns read the title of the Ordinance and administered the oath.

Principal Planner Boyko explained the following displayed slides:

- ZA21-0005, Owners, location, size, urban services, request
- Aerial Map
- Current Zoning Map/Proposed Zoning Map
- Analysis – Land Development Code (three slides)
- Analysis – Comprehensive Plan
- Recommendation – Staff and HEX recommended approval of the rezone request
- Correspondence – None

Public Hearing opened.

Joe Mazurkiewicz, President, BJM Consulting, Inc., appeared on behalf of the owners and applicant of this property. He stated they agreed with Staff's recommendation and requested to make it part of his record as well. He opined that this would form a nice commercial node at Durden and Burnt Store. The owners are planning to use it themselves with a restaurant in the front overlooking the creek on the southeast corner and office facilities for their personal business behind it. He requested Council's approval.

Public Hearing closed.

Councilmember Tate moved, seconded by Councilmember Sheppard, to adopt Ordinance 83-21, as presented.

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

Ordinance 84-21 (ZA21-0011*) Public Hearing

*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 Bruns read the title of the Ordinance and administered the oath.

Principal Planner Boyko explained the following displayed slides:

- Ordinance 84-21/ZA 21-0011
- Owners, location, size, urban services, request
- Aerial Map
- Current Zoning Map/Proposed Zoning Map
- Analysis – Land Development Code (three slides)
- Analysis – Comprehensive Plan
- Recommendation – Staff and HEX recommended approval of the rezone request

Public Hearing opened.

Linda Miller, Avalon Engineering, authorized representative for applicant, appeared in support of Ordinance 84-21.

Public Hearing closed.

Councilmember Tate moved, seconded by Councilmember Nelson, to adopt Ordinance 84-21, as presented.

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

Ordinance 76-21 Public Hearing

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 Bruns read the title of the Ordinance.

City Manager Hernandez stated this Ordinance would recognize the name change of the former Community Development Department to Development Services Department which would better reflect their role.

Public Hearing opened.

No speakers.

Public Hearing closed.

Councilmember Tate moved, seconded by Councilmember Nelson, to adopt Ordinance 76-21, as presented.

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

Ordinance 82-21 Public Hearing

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 Bruns read the title of the Ordinance.

Financial Services Director Mason explained what this Ordinance would accomplish.

- In April of 2013, City Council implemented a 7% Public Service Tax to be levied upon electricity. The tax was based upon the number of kilowatt hours purchased each month. At that time, an exemption was provided for the first 500 kilowatt hours of electricity purchased per month for residential use.
- At this time, the City Council is amending the levy of the 7% Public Service Tax to include metered natural gas, liquefied petroleum gas either metered or bottled, and manufactured gas either metered or bottled, and to remove the exemption of the first 500 kilowatt hours of electricity purchased per month for residential use.

Director Mason explained the following displayed slides:

- Purpose
- Public Service Tax (PST)
- Summary and Background
- What does this Ordinance do
- Next steps – adopt Ordinance 82-21 Article II PST and send Ordinance adopting the PST to the State of Florida's Department of Revenue for implementation on April 1, 2022
- Questions & Answers

Public Hearing opened.

No speakers.

Public Hearing closed.

Councilmember Nelson moved, seconded by Councilmember Cosden, to adopt Ordinance 82-21, as presented.

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

Ordinance 86-21 Public Hearing – (moved to directly after Citizens Input)

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.)

Ordinance 87-21 Public Hearing

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.

Financial Services Director Mason explained the following displayed slides:

- Ordinance 87-21 FY 2021 City of Cape Coral Budget Amendment #3
- Ordinance 87-21 FY 2021 Budget Amendment #3 Purpose
- Summary
- Highlights – General Fund
- Highlights – Special Revenue Fund, Debt Service Fund
- Highlights – Capital Projects Funds (two slides)
- Highlights – Personnel
- Highlights – Charter School

Public Hearing opened.

No speakers.

Public Hearing closed.

Councilmember Nelson moved, seconded by Councilmember Tate, to adopt Ordinance 87-21, as presented.

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

Ordinance 88-21 Public Hearing

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.

Property Broker Andrews explained what this Ordinance would accomplish. She displayed an aerial map that reflected the location and also a map of the conservation easement, as well as an overlay.

- In November 2018, the electorate approved the use of General Obligation funding to deliver up to \$60 million in parks improvements identified in the 2016 Parks and Recreation Master Plan. This funding was used to fund the design and construction of seven neighborhood parks and four community parks. One of these neighborhood parks is Oasis Woods Park (to be renamed Joe Coviello Park) which is located directly south and adjacent to Oasis High School, in southwest Cape Coral. This is an existing environmental park, which consists of nature trails and wetland areas. Park improvements will include parking, walking paths, boardwalk, pavilions, an outdoor classroom, and a restroom.
- Design of the proposed park improvements is complete, and the design consultant (AECOM Technical Services, Inc.) has submitted for construction permitting on behalf of the City. Due to the existence of wetlands on the site, South Florida Water Management District, the permit authority, required either payment into a mitigation bank or dedication of a conservation easement to meet the permitting requirements. The City has opted to establish a conservation easement which aligns with the vision and intended public use of this park.

Public Hearing opened.

No speakers.

Public Hearing closed.

Councilmember Tate moved, seconded by Councilmember Nelson, to adopt Ordinance 88-21, as presented.

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

Introductions

Resolution 234-21 (VP21-0005*) Set Public Hearing for November 3, 2021

*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 alley and public utility and drainage easements lying in Lots 14 through 25, Block 1543, Cape Coral, Unit 17, as more particularly described herein; property located at 318 NE 16th Place.

Applicant: Vincent Recca, Trustee of the 318 N.E. 16th Place Land Trust

Hearing Examiner Recommendation: Approval with conditions

City Planning Division Recommendation: Approval with conditions

City Clerk Brunns read the title of the Resolution.

The public hearing was scheduled for November 3, 2021 in Council Chambers.

Discussion held regarding scriveners' error on the agenda referencing Lot 26.

Resolution 235-21 (VP21-0006*) Set Public Hearing for November 3, 2021

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

WHAT THE RESOLUTION ACCOMPLISHES:

A resolution providing for the vacation of plat for a portion of the Bimini and Skylark Canal rights-of-way and all underlying easements located adjacent to Lots 31 and 32, Block 126, Cape Coral Unit 5; providing for the vacation of plat for public utility and drainage easements associated with Lots 31 and 32, Block 126, Cape Coral Unit 5; property located at 5201 Skylark Court. Applicants: Peter B. and Winifred L. Foster

Hearing Examiner Recommendation: Approval with conditions

City Planning Division Recommendation: Approval with conditions

City Clerk Brunns read the title of the Resolution.

The public hearing was scheduled for November 3, 2021 in Council Chambers.

Resolution 241-21 (VP21-0011*) Set Public Hearing for November 3, 2021

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

WHAT THE RESOLUTION ACCOMPLISHES:

A resolution providing for the vacation of plat for a portion of the Majestic Canal right-of-way located adjacent to Lots 58-59, Block 27, Cape Coral Unit 1 Part 2; property located at 5302 Malaluka Court.

Applicant: CT Lending Solutions, LP

Hearing Examiner Recommendation: Approval with conditions

City Planning Division Recommendation: Approval with conditions

City Clerk Brunns read the title of the Resolution.

The public hearing was scheduled for November 3, 2021 in Council Chambers.

Ordinance 80-21 (TXT20-0002) Set Public Hearing for November 3, 2021**WHAT THE ORDINANCE ACCOMPLISHES:**

An ordinance amending the City of Cape Coral Land Development Code, Amending Article 3, "Development Review," Chapter 3, "Specific Review Procedures-Administrative Permits and Approvals," Section 3.3.6., "Administrative Deviations," regarding deviations for boat canopies; amending Article 3, "Development Review," Chapter 4, "Specific Review Procedures-Quasi-Judicial Permits and Approvals," Section 3.4.2., "Deviations," regarding deviations from marine improvement dimensional standards; amending Article 5, "Development Standards," Chapter 2, "Accessory Structures," Section 5.2.10., "Gazebos, Sun Shelters, and Similar Shelters," regarding height requirements; amending Article 5, "Development Standards," Chapter 4, "Marine Improvements," Section 5.4.2., "General Requirements," Section 5.4.3., "Dimensional Standards," Section 5.4.4., "Joint Marine Improvements," Section 5.4.6., "Davits, Watercraft Lifts, And Floating Docks," Section 5.4.7., "Boat Canopies," and Section 5.4.10., "Construction Standards," regarding requirements for marine improvements; deleting Section 5.4.5, "Quays and Mooring Piles"; and creating Section 5.4.11., "Deviations," establishing procedures for deviations from the requirements of Chapter 4; amending Article 11, "Definitions," Chapter 1, "General Provisions," Section 11.2., "Definitions," by adding definitions for Sun Shelter and Thatched Roof.

Planning & Zoning Commission: Approval

City Planning Division: Approval

City Clerk Brunns read the title of the Ordinance.

The public hearing was scheduled for November 3, 2021 in Council Chambers.

Ordinance 57-21 Set Public Hearing for November 3, 2021**WHAT THE ORDINANCE ACCOMPLISHES:**

The ordinance amends Chapter 9, "Health and Sanitation", Article III, "Disposition of Garbage", Sections 9-64 through 9-75.8 of the Code of Ordinances pertaining to refuse removal for residential dwellings and commercial establishments within the City. (Applicant: Brought forward by City Management.)

City Clerk Brunns read the title of the Ordinance.

The public hearing was scheduled for November 3, 2021 in Council Chambers.

Ordinance 85-21 Set Public Hearing for November 3, 2021**WHAT THE ORDINANCE ACCOMPLISHES:**

An ordinance amending the City of Cape Coral Engineering Design Standards by repealing Pages H-1 through H-9 of Section H. Seawalls and replacing the repealed pages with Pages H-1A through H-1M, H-2A through H-2K, and H-3A Through H-3G, attached hereto and incorporated herein by reference.

City Clerk Brunns read the title of the Ordinance.

The public hearing was scheduled for November 3, 2021 in Council Chambers.

UNFINISHED BUSINESS

Follow Up Items for Council

None.

NEW BUSINESS

Nuisance Abatement Appointment Discussion (item removed)

REPORTS OF THE MAYOR AND COUNCIL MEMBERS

Councilmember Cosden – Topics: Attended the Groundbreaking for the Cultural Park and the Gator Circle Parks, Chaired the MPO Local Coordinating Board Meeting, and on Saturday will be Guest Speaker at the Cape Coral Democratic Club.

Councilmember Hayden – Topics: Attended the two Groundbreakings. Last Friday he went to the City Golf Tournament and noticed there was a new company, Sustainable Energy Technologies, Inc., who has developed a new energy source that promises to revolutionize the green power market for electric vehicles. There was a golf cart on display that was equipped with a capacitor and are using Palmetto Pine as a research area for their golf carts. There will be an unveiling a week from Friday at Palmetto Pine at 3:30 p.m., and they will also be looking for office space in Cape Coral.

Councilmember Long – Topics: As a result of his review with the City Auditor's Report on the Lake Kennedy Audit, it was brought to his attention that the City does not have a dedicated Grant Writer although the CCPD and the Fire Department have one on Staff. He understood that we outsource to a couple different companies. He noted that \$64K is paid to one group used by Parks and Recreation to outsource and review the grants. He understood that the City Manager's Office uses a different company. He stated the salaries of the Grant Writers in Police and Fire average about \$75K to \$80K. He brought this to the attention of the City Manager who will be looking into the prospect of hiring a Grant Writer for the City.

Councilmember Nelson – Attended the Sign Unveiling for former Councilmember Carioscia with the Mayor, as well as Councilmember Hayden. Also attended the Cultural Park Groundbreaking, attended the Ribbon Cutting for the Cape Coral Pet Vet, next week will be attending the Horizon Council Strategic Planning on Wednesday and Thursday.

Councilmember Sheppard – Topics: No Report.

Councilmember Tate – Topics: No Report.

Councilmember Welsh – Topics: Explained he will be out of town on November 3rd and will be unable to attend any meetings that day. He noted that the City asset naming policy will be brought forward during the Council meeting on that day. He was looking for a second to look at our Code of Ordinances, Sections 6.2.1 and 6.2.6. referencing boat parking at homes, as well as trailers or campers. He would like to work with the Director of the Development Services Department on what can be done to allow people to park their boats on the side of the house. He would like to bring it forward at a future COW meeting.

Discussion held regarding Ordinance 44-20.

Councilmember Welsh explained his passion for this topic and wanted to have some of the restrictions removed on homeowners. If he did not get a second, he may revisit this again next year.

Councilmember Cosden agreed with Councilmember Welsh but would not provide the second since it would not be a productive discussion.

Councilmember Welsh stated he would do some more research and view those meetings to look into what was actually said. He withdrew his request for a second and would meet with Mr. Caution before coming back to Council.

Mayor Gunter – Topics: October 8th Guest Speaker at the Council for Progress at Coral Ridge Funeral Home, October 8th Guest Speaker at the Gator Circle Neighborhood Park with several other Councilmembers, October 9th participated in a coin toss at a Pop Warner Football Game at Caloosa Middle School, October 13th attended the John Carioscia Softball Field Dedication with the Parks Department at the Cape Coral Sports Complex, October 13th attended the MPO Executive Committee Meeting, October 14th attended the Lee County Board of County Commissioners Reception at the Burroughs Home, October 15th Guest Speaker at the Groundbreaking Ceremony at the Cultural Park, along with several other Councilmembers, October 16th attended the Grand Opening and Ribbon Cutting of the Cape Coral Pet Vet, October 19th Guest Speaker at the Cornwallis Neighborhood Association General Meeting.

REPORTS OF THE CITY ATTORNEY AND CITY MANAGER

City Attorney: No Report.

City Manager: No Report.

TIME AND PLACE OF FUTURE MEETINGS

A Committee of the Whole Meeting was scheduled for Wednesday, October 27, 2021 at 3:00 p.m. in Council Chambers.

MOTION TO ADJOURN

There being no further business, the meeting adjourned at 7:08 p.m.

Submitted by,



Kimberly Bruns, CMC
City Clerk