MINUTES FOR THE REGULAR MEETING OF THE CAPE CORAL CITY COUNCIL

NOVEMBER 23, 2015

Council Chambers **4:30 p.m.**

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

Moment of Silence – Councilmember Cosden

Pledge of Allegiance

Roll Call: Mayor Sawicki, Council Members Burch, Carioscia, Cosden, Erbrick, Leon, and Williams were present. Councilmember Stout was excused.

CHANGES TO AGENDA/ADOPTION OF AGENDA

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

Council polled as follows: Cosden, Erbrick, Leon, Sawicki, Williams, Burch, and Carioscia voted "aye." Seven "ayes." Motion carried 7-0.

RECOGNITIONS/ACHIEVEMENTS

None.

APPROVAL OF MINUTES

Regular Meeting - October 26, 2015

Councilmember Carioscia moved, seconded by Councilmember Leon to approve the minutes for the October 26, 2015 regular meeting as presented. Voice Poll: All "ayes." Motion carried.

Regular Meeting - November 2, 2015

Councilmember Carioscia moved, seconded by Councilmember Williams to approve the minutes for the November 2, 2015 regular meeting as presented. Voice Poll: All "ayes." Motion carried.

BUSINESS

PUBLIC COMMENT - CONSENT AGENDA

No speakers.

Councilmember Leon pulled Consent Agenda B(2).

CONSENT AGENDA

(1) Resolution 180-15 Approve the Selection Advisory Committee(SAC) recommendation to enter into negotiations with the twenty five (25) firms that responded to RFQ-UT15-21/KR whom were all qualified for Professional Engineering Services and authorize the City Manager or designee to enter into the negotiations with the firms. The contracts will be brought forward to Council at a later date which will reflect the respective firms negotiated rates and term of the agreement only – no associated work is guaranteed. Department: Citywide (Public Works & Utilities) Dollar Value: N/A

(3) Resolution 195-15 Approval of the Interlocal Agreement between the City of Cape Coral and the Lee County Metropolitan Planning Organization (MPO).

Councilmember Burch moved, seconded by Councilmember Leon to approve the 8B(1) Resolution 180-15 and 8B(3) Resolution 195-15, as presented.

Council polled as follows: Cosden, Erbrick, Leon, Sawicki, Williams, Burch, and Carioscia voted "aye." Seven "ayes." Motion carried 7-0.

Discussion was held in reference to item 8B(2).

(2) Resolution 189-15 Approve extension of the City's in-house turn key parts operation contract, to obtain vehicle and equipment repair parts, with Genuine Parts Company d/b/a NAPA for sixty (60) days or until the awarded vendor is fully set up and operational and authorize the City Manager or designee to execute the extension. Department: Public Works/Fleet Dollar Value: est. $140,000 (Internal Service Funds)

Councilmember Leon moved, seconded by Councilmember Burch to approve the 8B(2) Resolution 189-15 as presented.

Council polled as follows: Cosden, Erbrick, Leon, Sawicki, Williams, Burch, and Carioscia voted "aye." Seven "ayes." Motion carried 7-0.

CITIZENS INPUT TIME

Joyce Easton discussed the Citizen's Academy program; recent graduates.

Both Councilmember Leon and Councilmember Burch expressed their appreciation to Joyce Easton for her dedication to the Citizen's Academy program.

PERSONNEL ACTIONS

None.

PETITIONS TO COUNCIL

None.

APPOINTMENTS TO BOARDS / COMMITTEES / COMMISSIONS

MPO

Discussion held regarding the MPO with the approval of item 195-15, the number of seats for the City of Cape Coral is five; therefore, there is a need for an additional member. Councilmember Stout is the alternate.

Councilmember Leon moved, seconded by Councilmember Carioscia to approve Councilmember Stout as a full time member of the MPO.

Council polled as follows: Cosden, Erbrick, Leon, Sawicki, Williams, Burch, and Carioscia voted "aye." Seven "ayes." Motion carried 7-0.

Discussion held as to the need for an alternate position.

Councilmember Burch moved, seconded by Councilmember Leon to approve Councilmember Cosden as the alternate of the MPO.

Council polled as follows: Cosden, Erbrick, Leon, Sawicki, Williams, Burch, and Carioscia voted "aye." Seven "ayes." Motion carried 7-0.

ORDINANCES/RESOLUTIONS
Public Hearings

Ordinance 52-15 Public Hearing
WHAT THE ORDINANCE ACCOMPLISHES:
Amends Chapter 8 of the Code of Ordinances, Fire Prevention and Emergency Management, to be consistent with the current edition of the National Fire Codes, eliminates the Fire Code Board of Adjustments and Appeals and provides that appeals be heard by the Cape Coral Construction Regulation Board.

City Clerk van Deutekom read the title of the Ordinance.

Fire Division Chief Lamb explained what the Ordinance would accomplish.

Public Hearing opened.

No speakers.

Public Hearing closed.

Councilmember Williams moved, seconded by Councilmember Leon to adopt Ordinance 52-15.

Council polled as follows: Cosden, Erbrick, Leon, Sawicki, Williams, Burch, and Carioscia voted "aye." Seven "ayes." Motion carried 7-0.

Resolution 184-15 VP14-0005 Final Public Hearing
WHAT THE RESOLUTION ACCOMPLISHES:
A resolution providing for the vacation of plat for an alley located between Lots 1-15 and 16-30, Block 363, Unit 30, and the public utility and drainage easements underlying and adjacent to a portion of the alley; property is located at 1707-1729 Cape Coral Parkway East and 1724-1732 SE 47th Terrace. (Downtowner Car Wash)

City Clerk van Deutekom read the title of the Resolution.

Planning Team Coordinator Struve stated that the applicants are all the property owners in Block 363 and presented a power point on the topic. Staff recommended approval of all vacation requests subject to the conditions appearing in the staff report associated with this project. The Planning and Zoning Commission voted (7-0) to recommend approval of Resolution 184-15 subject to conditions in the staff reports; there were no speakers during the public hearing at the November 4, 2015 Planning and Zoning Commission meeting, and no correspondence was received.

Public Hearing opened.

Cliff Repperger, Vice President, Avalon Engineering, authorized representative, stated that the applicant concurs with all recommendations and conclusions that Planning Team Coordinator Struve listed. He presented two items to add; that the alley has been blocked off in the past making it virtually unusable and unsafe, there are no issues with the Fire Department's access. Applicant has met all conditions within the Development Regulations; the vacation was a condition of the Council's approval in August, 2015; the site plans are in the City for review.

Public Hearing closed.

Councilmember Carioscia moved, seconded by Councilmember Erbrick to approve Resolution 184-15 as amended.

City Attorney Menendez requested clarification that the five recommendations included in the presentation are part of the motion. Planning Team Coordinator Struve confirmed this.

Councilmember Carioscia amended his motion to include the five conditions included in the presentation, seconded by Councilmember Erbrick to approve Resolution 184-15.

Council polled as follows: Cosden, Erbrick, Leon, Sawicki, Williams, Burch, and Carioscia voted "aye." Seven "ayes." Motion carried 7-0.

Introductions

Ordinance 56-15 Set Public Hearing Date December 7, 2015
WHAT THE ORDINANCE ACCOMPLISHES:
An ordinance declaring a triangular shaped parcel of property being a part of Shaughnessey Canal right-of-way as unusable municipal surplus real property and deeding it to the property owner, subject to a public utility, drainage, and weir management easement, and subject to the grantee constructing a seawall upon said property; property is located at 1528 SW 29th Street.

City Clerk van Deutekom read the title of the Ordinance.

The public hearing date was scheduled for December 7, 2015 at 4:30 p.m. in Council Chambers.

Property Broker Andrews offered to answer any questions Council may have. A presentation will be done at the public hearing.

UNFINISHED BUSINESS

None.

NEW BUSINESS

Proposed Strategic and Audit Plan for Fiscal Year 2016

City Auditor Krym discussed the proposed Strategic and Audit Plan for Fiscal Year 2016; explained that this is an item brought forward each year; requested approval or amendment.

Councilmember Burch moved, seconded by Councilmember Leon to accept the Proposed Strategic and Audit Plan for Fiscal Year 2016.

Councilmember Burch discussed the importance of the job that the Auditor's office completes.

Mayor Sawicki requested an update on the Charter School. City Auditor Krym discussed the history of the audits with the Charter School system. She mentioned that it is not an item that the school system budgets for and does not have confirmation that we have the authority to do so. Mayor Sawicki stated that it is in the City's best interest to audit the Charter School System.

City Attorney Menendez discussed that in Chapter 26 of the Code of Ordinances the City has the audit authority. She read the section into record.

City Auditor Krym elaborated on the different types of audits with the Charter School System: financial; internal audit for operation issues and performance issues; IT governance and cash management. She requested direction as to what the Auditor's office should do with the Charter School System and should we use the City's resources.

City Manager Szerlag offered to meet with the Superintendent and our City Auditor to make a determination.

Discussion held.

Both Councilmember Williams and Councilmember Erbrick discussed the plan to start with the school board members and determine the best path forward.

City Auditor Krym clarified that the Strategic Plan and the 2016 Audit Plan are what has been brought forward to you for this evening; the Charter School items are in the 2017 and 2018 plans which are tentative. In 2007, the City did an audit on campus access which resulted in a large bill that created a hardship for them. We touched upon their systems when we audited Armored Car services which has not been revisited since 2008. Clifton Larson Allen completes their financial audit which is due in June, 2016.

Councilmember Carioscia requested a copy of that plan once it is available.

Council polled as follows: Cosden, Erbrick, Leon, Sawicki, Williams, Burch, and Carioscia voted "aye." Seven "ayes." Motion carried 7-0.

REPORTS OF THE MAYOR AND COUNCIL MEMBERS

Councilmember Cosden – No report.

Councilmember Erbrick – Topics: Expressed appreciation to organizers of the Catch the Vision, Linda Biondi and Gloria Tate; recent Do the Right Thing Ceremony; and Florida League of Cities update

Councilmember Leon – Topic: Holiday Safety

Councilmember Williams –Topics: Florida League of Cities Committee Update

Councilmember Burch – Topics: Florida League of Cities Committee Updates and recent Mayor's Scholarship Fundraiser

Councilmember Carioscia – Topic: 5th Annual Catch the Vision

Mayor Sawicki – Topics: Recent MPO Meeting; Upcoming Mayor's Business Meeting; Possible Anti-Fracking Ordinance and Seismic Blasting and Offshore Drilling Resolution; League of Mayor's meeting; Mayor's Night Out; and Upcoming Holiday Festival of Lights

REPORTS OF THE CITY ATTORNEY AND CITY MANAGER

City Attorney – No report

City Manager – No report.

TIME AND PLACE OF FUTURE MEETINGS

A regular meeting of the Cape Coral City Council was scheduled for Monday, November 30, 2015 at 4:30 p.m. in Council Chambers.

A Committee of the Whole meeting was scheduled for Wednesday, December 2, 2015 at 4:30 p.m. in the Nicholas Annex, A200 Green Room, 815 Nicholas Parkway, Cape Coral, Florida 33990.

MOTION TO ADJOURN

There being no further business, the meeting adjourned at 5:50 p.m.

Submitted by,

Rebecca van Deutekom

Rebecca van Deutekom, MMC
City Clerk

subdivision plan approval; property is located at 3000 Del Prado Boulevard North.

City Clerk van Deutekom read the title of the Ordinance.

City Clerk van Deutekom administered the oath.

Planning Team Coordinator Struve stated this was a PDP entitled "Engle at Entrada", now known as "Bella Vida". The applicant, Thomas Brown, requests approval of a proposed PDP that consists of a replat of Lots 7-122, Block 8018 to support single-family development; deviations for minimum lot area and width and minimum front and side setbacks, and subdivision plan approval. He described the subject property, surrounding area on the proximity map, and displayed aerial photographs and reviewed the PowerPoint presentation.

At the November 4, 2015 meeting, the Planning and Zoning Commission/Local Planning Agency voted (7-0) to recommend approval of Ordinance 54-15 with the following condition; that the 2.5-foot side setback deviation be limited to a small number of lots demonstrating an actual need for the deviation based on lot width. There were no speakers during public hearing. A number of phone calls have been received, all of an informational nature. Staff recommends approval of Ordinance 54-15. Staff also supports the condition recommended by the Planning and Zoning Commission regarding the side setback deviation.

Public hearing opened.

Jennifer Sapen, Barraco & Associates, authorized representative, gave a PowerPoint presentation which demonstrated the purpose of the request. She described the project, displayed aerial photographs, and further explained the proposed deviations.

Public Hearing closed.

Discussion held.

Councilmember Erbrick moved, seconded by Councilmember Cosden to adopt Ordinance 54-15 as presented.

Council polled as follows: Erbrick, Leon, Sawicki, Williams, Burch, Carioscia, and Cosden voted "aye." Seven "ayes." Motion carried 7-0.

Ordinance 55-15 Public Hearing
WHAT THE ORDINANCE ACCOMPLISHES:
An ordinance amending Ordinance 33-14, as amended by Ordinance 13-15, which adopted the City of Cape Coral Operating Budget, Revenues and Expenditures, and Capital Budget for FY 2015, by increasing the total revenues and expenditures by a total of $79,448,899. The purpose of this budget amendment is to make various true-up type adjustments to the budget. These adjustments will have no impact on the taxpayers.

City Clerk van Deutekom read the title of the Ordinance.

Finance Director Bateman explained the reason for the request.

Public Hearing opened.

No speakers.

Public Hearing closed.

Councilmember Carioscia moved, seconded by Councilmember Erbrick to adopt Ordinance 55-15 as presented.

Council polled as follows: Erbrick, Leon, Sawicki, Williams, Burch, Carioscia, and

Cosden voted "aye." Seven "ayes." Motion carried 7-0.

Introductions

Ordinance 64-15 Set Public Hearing Date for December 14, 2015
WHAT THE ORDINANCE ACCOMPLISHES:
An ordinance adopting, by reference, Lee County's Animal Control Ordinance.

City Clerk van Deutekom read the title of the Ordinance.

The public hearing date was scheduled for December 14, 2015 at 4:30 p.m. in Council Chambers.

Councilmember Burch requested that staff look at the Lee County Control Ordinance and confirm there are no conflicts with what the County has approved.

City Manager Szerlag discussed that there will be a supplement addressing this in the Ordinance.

City Attorney Menendez advised Council that the City had its own ordinance that had its own provision. Our ordinance has been matching the County's for several years because Lee County provides the animal control services.

UNFINISHED BUSINESS

None.

NEW BUSINESS

Resolution 186-15 Award Request for Proposal RFP-DCD15-18/SH-A for the HEARING EXAMINER, to Anne Dalton, Esquire of Fort Myers, Florida in the amount of $250.00 per hour for attendance at hearings and preparation of orders, recommendations, or other quasi-judicial decisions, at $225.00 per hour for review of applications and related documentation, and $112.50 per hour for site visits and travel time for an estimated annual amount of $75,000 not to exceed budgetary limits and authorize the City Manager or designee to execute the contract and any renewals. Department: Community Development Dollar Value: $75,000 (General Fund)

City Manager Szerlag explained the history of the need for a Hearing Examiner, as recommended in the Zucker Report.

DCD Director Cautero explained what this resolution would accomplish and addressed the scope of services.

Anne Dalton addressed the Council and asked if they had any questions.

City Attorney Menendez explained that the Hearing Examiner is contingent upon the Council's future decision of the City of Cape Coral in reference to having a Hearing Examiner.

Ms. Dalton explained that she is fully aware of the process and should Council vote against having a Hearing Examiner, her contract will be null and void.

Discussion held in reference to the contract terms and liability.

Discussion held regarding the consideration of having an alternate for the Hearing Examiner.

Councilmember Erbrick moved, seconded by Councilmember Leon to approve Resolution 186-15, as presented.

Mayor Sawicki inquired as to why the request for approval of the contract was coming before the ordinance.

DCD Director Cautero stated they did not want to lose momentum and implement as many items as possible from the Zucker Report.

City Manager Szerlag assured Council that this would not only bring about new efficiencies but it is also an economic endeavor. He stated staff would provide a report during budget sessions.

Council polled as follows: Erbrick, Leon, Sawicki, Williams, Burch, Carioscia, and Cosden voted "aye." Seven "ayes." Motion carried 7-0.

Resolution 199-15 Acceptance of Florida Department of Transportation Highway Safety Funds: Police Dollar Value: $25,000 with no matching funds

Police Special Operations Sgt. O'Grady presented a PowerPoint entitled FDOT Grant-Funded DUI Operations that explained what the resolution would accomplish.

Councilmember Leon moved, seconded by Councilmember Erbrick to approve Resolution 199-15.

Council polled as follows: Erbrick, Leon, Sawicki, Williams, Burch, Carioscia, and Cosden voted "aye." Seven "ayes." Motion carried 7-0.

REPORTS OF THE MAYOR AND COUNCIL MEMBERS

Councilmember Erbrick – No report.

Councilmember Leon – No report.

Councilmember Williams – No report.

Councilmember Burch – No report.

Councilmember Carioscia – No report.

Councilmember Cosden – Requested attendance to the Everglades Coalition Conference in January with Councilmember Burch.

Mayor Sawicki – Attended the Fort Myers Beach Town Meeting along with the County Commission regarding the new development; Committee of the Whole Meeting on Wednesday to discuss the Bimini Basin update project along with the Seven Islands project; Holiday Festival of Lights is on Saturday at 4:00 p.m. on Cape Coral Parkway; mentioned the concept of having a New Year's Party for teens at Sun Splash.

Discussion held regarding the noise ordinance and having a timeframe for the Teen New Year's Party.

Councilmember Williams stated in this particular instance allowing the party until midnight is not a bad idea and recommending allowing staff to decide on limiting it to the residents of Cape Coral.

Councilmember Erbrick stated she would prefer it be limited to the residents of our city. She asked who would speak to the residents that complained about the noise during the Hip Hop concert. She suggested holding it indoors at the Oasis school.

Councilmember Cosden stated this was a great idea and agreed to limit it to the teenagers of Cape Coral. She suggested it be open to different locations.

Councilmember Burch stated he was on board but deferred to staff to make the decision. He agreed with limiting it to the students in Cape Coral.

Councilmember Leon agreed it was a great idea. He stated some people were researching a New Year's Eve ball drop next year in Cape Coral.

City Manager Szerlag stated this would be the first time such an event would be planned in Cape Coral. He noted they may limit noise after 10:00 p.m. He mentioned they were considering having a ball drop at Sun Splash instead of waiting until next year. He stated discussions were held involving the inclusion of high school students with proper identification from all of Lee County high schools. He noted they were planning a strong marketing campaign and he felt allowing it to midnight was fine.

Parks and Recreation Director Pohlman proposed a possible theme for the event - Future Fest 2K16. He stated money would need to be spent for decorations. He noted tickets would be sold to make it cost neutral. He voiced his concern limiting it just to Cape Coral since some students do go to school in North Fort Myers. In order to make this cost neutral, all schools would be invited. There will be significant expenses if we put on a production that will make an impression and will want the kids to come back next year. He stated there was not time to get sponsors for this year but should not be a problem in the future.

Special Events Coordinator King discussed Future Fest - the Future Begins Tonight. He stated Sun Splash was the best location for this event due to parking. He discussed the possibility of a bonfire, high energy music, fireworks, and a neon ball drop. He researched events for teenagers throughout the County, and concluded there were not many options for teenagers. He stated because of social media, a three week marketing window was not impossible. He noted the flexibility of the end time and would work with the neighbors.

City Attorney Menendez stated if Council wanted to try and limit it to Cape Coral teenagers, Council would have to consider the Cape Coral students who attend school in North Fort Myers and Fort Myers kids who come to school in Cape Coral. She noted there was a growing contingency of home schooled students.

Councilmember Williams stated his concern was for students all over the County and their competitiveness and the potential for fights.

Special Events Coordinator King stated anyone fighting would immediately ejected from the venue. He stated the Police Department does an amazing job for gang recognition and all security issues.

Councilmember Williams asked if this would be spread out County-wide. Special Events Coordinator King stated Coconut Fest had many teenagers that show up. He noted 99 percent of events are family-oriented. He stated it was important to have County-wide ticket exposure in order to mitigate costs and our City would be proud showing the rest of the County that we were on the cutting edge for providing events for our youth.

Police Chief Connelly stated the Police Department will make it work and provide the necessary security for the event.

City Manager Szerlag stated modifications were made a few months ago regarding special events across the City which includes input from the Police Chief relating to security.

Councilmember Cosden stated she heard it will cost more if we limit it to Cape Coral residents. She stated by opening it up to the entire county, it will be cost neutral.

Director Pohlman stated it was their hope to have it cost neutral with a larger group of people.

Councilmember Cosden agreed it would be important to reach out to the entire County.

Director Pohlman stated staff would accept help from any sponsors listening.

Councilmember Burch stated he would defer to staff if they think they can handle this activity. He questioned student identification methods.

Director Pohlman stated home schoolers were provided letters for other events previously planned.

Councilmember Burch stated all students, regardless of being home schooled, should have I.D.'s.

Councilmember Erbrick stated for the first year she would prefer this event be limited to Cape Coral residents living within the City limits. She felt social media will give us the numbers needed. She asked for a meeting with the neighborhood and stated she would provide a list of the people who have contacted her about past events.

Discussion held regarding violating the noise ordinance for one night.

Councilmember Leon mentioned that City Council has funding available for special and questioned if those funds could be used. No other Council Members agreed.

City Manager Szerlag listed seven points for the event that staff will work toward: 1) the party will be held and residents will be advised accordingly; 2) It will be at Sun Splash;3) It will run until midnight; 4) For county-wide high school kids with an I.D. and home schoolers with an I.D. letter; 5) Police Chief Connelly will be in charge of security; 6) Will charge enough to be cost effective; and 7) all of Council is invited to this event (in the adult section) to help judge the event's success.

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, December 2, 2015 at 4:30 p.m. in the Nicholas Annex, A200 Green Room, 815 Nicholas Parkway, Cape Coral, Florida 33990.

A regular meeting of the Cape Coral City Council was scheduled for Monday, December 7, 2015 at 4:30 p.m. in Council Chambers.

MOTION TO ADJOURN

There being no further business, the meeting adjourned at 6:53 p.m.

Submitted by,
Rebecca van Deutekom
Rebecca van Deutekom, MMC
City Clerk