

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

January 25, 2023

Council Chambers

4:30 p.m.

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

**INVOCATION/MOMENT OF SILENCE** – Councilmember Cosden

**PLEDGE OF ALLEGIANCE** – Councilmember Cosden

**Roll Call:** Mayor Gunter, Councilmembers Cosden, Cummings, Hayden, Long, Sheppard, Steinke, and Welsh were present.

**CHANGES TO AGENDA/ADOPTION OF AGENDA**

Mayor Gunter asked if anyone had any changes.

City Manager Hernandez requested to withdraw Item 9.(D).(2). Resolution 32-23 as this will be an item of discussion at the Winter Retreat; once feedback is gathered at the Retreat, the item would be brought back to Council.

***Councilmember Hayden, seconded by Councilmember Welsh, to approve the agenda, as amended.***

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

**RECOGNITIONS/ACHIEVEMENTS**

None.

**APPROVAL OF MINUTES**

Special Meeting - January 11, 2023

***Councilmember Hayden moved, seconded by Councilmember Steinke, to approve the minutes for the January 11, 2023 Special Meeting, as presented. Voice Poll: All "ayes." Motion carried.***

Regular Meeting - January 11, 2023

***Councilmember Hayden moved, seconded by Councilmember Steinke, to approve the minutes for the January 11, 2023 Regular Meeting, as presented. Voice Poll: All "ayes." Motion carried.***

**CITIZENS INPUT TIME**

Gloria Tate appeared to invite the public to the Lee Health Blood Drive at Cape Coral Historical Museum on February 16<sup>th</sup> from 12:00 p.m. to 4:30 p.m. She also announced the FEMA 2.0 Community Meeting scheduled for January 31, 2023 at the Kiwanis Club of Cape Coral with Guest Speaker Jeffery Parker; there is limited seating.

Laurie Lehmann appeared to discuss the speed limit on SW 38<sup>th</sup> Terrace near Agualinda and Oasis. She suggested speed bumps or making it one-way. She stated she would do a petition if needed as she was concerned with kids riding bikes and pedestrians.

Mary Anne Chevalier appeared to discuss the traffic issues at the Village of Entrada Entrance. She read the comments of the community into the record regarding dangerous

new traffic changes implemented. She also discussed a possible solution of reducing the speed limit.

Betty Henderson appeared as she emailed Council with 242 signatures on a petition due to the traffic pattern change on De Navarra and Del Prado Boulevard. She voiced concerns with accidents, and the change was a recipe for disaster. She inquired when the traffic signal or pattern was going to be fixed.

Jill Hiatt appeared as part of the Lake Kennedy Senior Acting Group. The group has been rehearsing in preparation for a show scheduled for Lake Kennedy on March 24<sup>th</sup>. She wanted to know when FEMA was going to vacate the Lake Kennedy Center. They need to start selling tickets at least four weeks in advance. Was there a way for FEMA to downsize?

Kristian Wydysh represented North Fort Myers High School Student Government and appeared to invite City Council to attend and speak on support of Special Populations Autism Awareness Walk on April 1, 2023 between 9:30 a.m. to 11:00 a.m., free admission to the public. The objective is to create inclusion and awareness.

Ron Austin, Cape Harbour resident, appeared to discuss the Chiquita Lock. He discussed navigational issues that may impact watercraft and safety measures to include reinstatement of the posting of the Chiquita Lock Tide Slack Time reports. He noted they had previously requested installation of bumpers. Entering the Lock east to west there is no way to tell if there is another boat entering the Lock, it would be beneficial to have Staff assisting with boat traffic. He also suggested camera relocation which would show the flow of current in the canal.

Mayor Gunter requested that Staff provide an update and assessments of the traffic changes at the De Navarra and Del Prado Boulevard intersection.

City Manager Hernandez noted that traffic control measures were implemented at De Navarra and Del Prado Boulevard, and this has affected the entrance at Entrada and Bella Vida. If this continues to be a problem, the same control measures could be added to that intersection to control thru traffic as well. Public Works has been in contact with the School District to see if the bus stops could be changed. There has been Police presence there for several days and will continue to monitor the situation over the next week or two to ensure that people are getting adjusted to the new traffic condition.

Chief of Police Sizemore reiterated that CCPD has been assigned to a two-week traffic detail trial in addition to speed trailers to measure the speed, volume, and aggressively enforce any violations. There has been a shift to driver behavior recognizing the change. This is a temporary fix until the traffic signal is installed.

Mayor Gunter discussed the show at Lake Kennedy Center, and he stated that FEMA would have first priority at that location before any other events.

City Manager Hernandez did not have a definite date when FEMA would be at Lake Kennedy. He suggested working on relocating their event to the Cultural Theater or other venue. He did not see FEMA winding up their efforts before April 1<sup>st</sup>.

Mayor Gunter recommended the resident inquiring about SW 38<sup>th</sup> Terrace reach out to his District representative.

Councilmember Cosden requested that Kristian send the Autism Walk information to City Council as she plans on attending.

Councilmember Sheppard discussed the traffic concerns on SW 38<sup>th</sup> Terrace as well as other areas in the City.

Councilmember Hayden stated that the Youth Council moved their Spring Gala to Four Freedoms Park since FEMA is a priority at Lake Kennedy. He inquired about posting Slack Time information on the website.

City Manager Hernandez stated he would look into that issue immediately as well as the camera relocation. He did not recommend or support Staff controlling boat traffic. The boat operator is responsible for safe operation. Bumpers were on the to do list at Public Works.

Councilmember Cummings inquired about sharing the space at Lake Kennedy with FEMA for the performance event.

City Manager Hernandez suggested keeping FEMA at Lake Kennedy and having other events elsewhere.

Councilmember Steinke inquired if there was contact information from the Resident to provide to City Council so any possible solutions could be shared.

Mayor Gunter noted the Resident was still present and suggested she share contact information.

## **BUSINESS**

### **CONSENT AGENDA**

- 1) Resolution 8-23 Approve Amendment #1 to Agreement CON-BPW2171MM-B for the Greenscape Median Landscape Mowing and Maintenance with Superior Landscaping and Lawn Service Inc to add select medians in Area 17B to include Nicholas Parkway West from Santa Barbara Blvd to SW Pine Island Road for an annual cost of \$42,432; and authorize the City Manager or Designee to execute the agreement, renewals, amendments, change orders and Purchase Orders. The original contract for Superior Landscaping and Lawn Service Inc, CON-BPW2171MM-B, was approved by City Council for an annual cost of \$542,903, the amendment of \$42,432 will increase the contract amount to \$585,335; Department: Public Works; Annual Dollar Value: \$42,432; (General Fund)
- 2) Resolution 11-23 Award Request for Proposal #RCP2236MM, and corresponding contract, for the City of Cape Coral's Facility Master Plan to Stantec Consulting Services, Inc for a not to exceed amount of \$237,120 and authorize the City Manager or Designee to execute the contract, amendments, purchase orders and change orders; Office: City Manager's Office/Capital Improvement Projects Division; Dollar Amount: \$237,120; (Governmental Services)
- 3) Resolution 16-23 Approve Economic Development Incentive Agreement with Graefen Cape Coral, LLC; Department: City Manager's Office; Division: Economic and Business Development; Dollar Value: \$250,000; (Economic and Business Development Fund)
- 4) Resolution 17-23 Approve SHIP Subrecipient Agreements between the City of Cape Coral with Pine Island Cape, LLC; Department: Development Services; Dollar Value: \$250,000; (Local Housing Trust Fund)
- 5) Resolution 18-23 Approve SHIP Subrecipient Agreement between the City of Cape Coral with Habitat for Humanity of Lee and Hendry Counties; Department: Development Services; Dollar Value: \$356,144; (Local Housing Trust Fund)
- 6) Resolution 19-23 Accept the Florida Department of Emergency Management (FDEM) Phase 2 Watershed Planning Grant; Department: Development Services; Dollar Value: \$200,000; (Fund: N/A)



- 7) Resolution 31-23 Approve Agreements with the Florida Forest Service to conduct Wildland Mitigation Burns within certain City Parks, at No Cost to the City; Department: Fire
- 8) Resolution 20-23 Approve Stipulated Order Taxing Costs-Festival Park Parcel 65 in the amount of \$3,019.88
- 9) Resolution 21-23 Approve Stipulated Order Taxing Costs - Festival Park Parcel 78 in the amount of \$3,019.88
- 10) Resolution 22-23 Approve Stipulated Order Taxing Costs - Festival Park Parcel 90 in the amount of \$3,019.88
- 11) Resolution 23-23 Approve Stipulated Order Taxing Costs - Festival Park Parcel 106 in the amount of \$3,019.88
- 12) Resolution 24-23 Approve Stipulated Order Taxing Costs - Festival Park Parcel 119 in the amount of \$3,019.88
- 13) Resolution 25-23 Approve Stipulated Order Taxing Costs - Festival Park Parcel 127 in the amount of \$3,019.88
- 14) Resolution 26-23 Approve Stipulated Order Taxing Costs - Festival Park Parcel 153 in the amount of \$3,019.88
- 15) Resolution 27-23 Approve Stipulated Order Taxing Costs - Festival Park Parcel 154 in the amount of \$3,019.88
- 16) Resolution 28-23 Approve Stipulated Order Taxing Costs - Festival Park Parcel 163 in the amount of \$3,019.88
- 17) Waiver of Conflict of Interest for the Law Firm of Henderson, Franklin, Starnes & Holt, PA, re Cape Coral Dunamis Storage, LLC

Mayor Gunter asked if anyone had any items to pull.

Councilmember Steinke pulled 9(A)(17) Waiver of Conflict of Interest for the Law Firm of Henderson, Franklin, Starnes & Holt, PA, re Cape Coral Dunamis Storage LLC.

***Councilmember Hayden moved, seconded by Councilmember Steinke, to approve 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), 9(A)(14), 9(A)(15), and 9(A)(16), as presented.***

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

Councilmember Steinke inquired about the waiver to dispute, or litigation not being signed by the firm, and this should be signed by all parties to be included in the document.

City Attorney Menendez stated if it was something Council wanted to add, it could be done and made part of the document.

Mayor Gunter stated that the alternative was to continue until the next meeting if Council so desired.

Councilmember Long stated that the Waiver of Conflict of Interest did not require the other party to include the firm's signature.

Mayor Gunter agreed to continue this item to the next meeting.

City Attorney Menendez did not see any issues with continuing the item to February 1<sup>st</sup>.

***Councilmember Cosden moved, seconded by Councilmember Hayden, to continue item 9(A)(17) to next week (February 1, 2023).***

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

#### APPOINTMENTS TO BOARDS / COMMITTEES / COMMISSIONS

##### Waterway Advisory Board - 6 Vacancies

City Clerk Bruns stated there were six vacancies, four regular members and two alternates, and ten applications were received with four members seeking reappointment.

\*An alternate could also be chosen from the same pool of applicants.

- 3 members serve for one year term
- 4 members serve for two-year terms
- 2 alternates serve for two-year terms

***Consensus agreed to allow one-minute interview for the applicants in attendance.***

Mayor Gunter suggested after the interviews that Council vote first to appoint the four regular members and then vote on the two alternates.

##### Applicants:

Ronald J. Austin (District 2) seeking reappointment – present  
Grey Bullen (District 2) – present  
Joseph J. Cruz (District 1) seeking reappointment – present  
Thomas E. Dawson (District 2) – present  
Lee G. Fowinkle (District 2) – not present  
Lane R. Jones (District 1) – present  
Milay Lombardo (District 7) – present  
Michael B. Magruder (District 2) seeking reappointment – not present  
Jason Pim (District 1) seeking reappointment – present  
Kelley C. Severns (District 2) – not present

Councilmember Cummings inquired about the establishment of the Waterway Advisory Board.

Discussion held regarding years of service since the establishment of the Board.

***Council polled as follows to appoint the four regular members:***

***Cosden: Austin, Cruz, Jones, and Pim***

***Cummings: Austin, Bullen, Dawson, and Jones***

***Gunter: Austin, Cruz, Lombardo, and Pim***

***Hayden: Austin, Cruz, Pim, and Severns***

***Long: Austin, Cruz, Lombardo, and Pim***

***Sheppard: Austin, Cruz, Dawson, Lombardo***

***Steinke: Austin, Bullen, Lombardo, and Pim***

***Welsh: Austin, Cruz, Lombardo, and Pim***

City Clerk Bruns announced the tally.

***Councilmember Welsh moved, seconded by Councilmember Cummings, to reappoint Ron Austin, Joseph Cruz, and Jason Pim, and appoint Milay Lombardo to the Waterway Advisory Board (term expires 1/25/25).***

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

***Council polled as follows to appoint two alternate members:***

***Cosden: Jones and Severns, Cummings: Dawson and Severns, Gunter: Dawson and Jones, Hayden: Jones and Severns, Long: Jones and Severns, Sheppard: Dawson and Jones, Steinke: Dawson and Jones, Welsh: Dawson and Severns***

City Clerk Bruns announced the tally.

***Councilmember Hayden moved, seconded by Councilmember Steinke, to appoint Lane Jones as an Alternate Member on the Waterway Advisory Board (term expires 1/25/2025).***

Discussion held regarding to keep voting for the other two alternates.

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

***Council polled as follows for the second Alternate:***

***Cosden: Severns, Cummings: Dawson, Gunter: Dawson, Hayden: Severns, Long: Severns, Sheppard: Dawson, Steinke: Dawson, Welsh: Dawson***

City Clerk Bruns announced the tally.

***Councilmember Hayden moved, seconded by Councilmember Steinke, to appoint Thomas Dawson as an Alternate Member to the Waterway Advisory Board (term expires 1/25/2025).***

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

Mayor Gunter thanked Councilmember Cosden for requesting the attendance record. He requested that the attendance record be included in the backup material for future board vacancies items.

**Requested action: Moving forward the City Clerk to include the attendance records for the past term for anyone requesting reappointment.**

#### UNFINISHED BUSINESS

None.

#### Follow Up Items for Council

None.

#### NEW BUSINESS

##### Youth Council Quarterly Report

Youth Council Liaison Hayden stated several Youth Council members were present today to provide their Quarterly Report. He noted a video would be displayed that was submitted to the Florida League of Cities in a community competition.

Youth Council Members Bernau-Chair, Little-Vice Chair, Bella, and Arevelo presented the following slides:

- Cape Coral Youth Council Quarterly Report
- New Member Feichthaler
- Spring Gala
- Love Locks Project
- Senior Project
- Junior Project
- FLC2022 Youth Council Video Competition
- Helping Our Community
- The Future



- Any Questions?

Youth Council Chair Bernau announced the Spring Gala's link is on the City's website, as well as sending out emails and located on other social media.

Youth Council Liaison Hayden mentioned that there was no other Youth Council in the State that has developed a Strategic Plan to be used as a road map for future Youth Councils and for the direction they want to set for the City.

Mayor Gunter thanked the Youth Council for their presentation and appreciated their hard work. He added that he planned on attending the Spring Gala.

Resolution 32-23 Approve 2023 State Legislative Platform  
**(to be brought back to Council at a later date)**

PERSONNEL ACTIONS

None.

PETITIONS TO COUNCIL

None.

FOLLOW UP ITEMS FROM CITY MANAGEMENT

Hurricane Ian Recovery Update

City Manager Hernandez stated the presentation would contain the latest update on Hurricane Ian Recovery.

Solid Waste Manager Schweitzer provided the following update as follows:

- Debris Removal Operations
- As of today, 1,965,640 cubic yards of debris picked up on our City's rights-of-way and 306,390 from canals, for a total of 2,269,030 cubic yards
- Curbside ROW collection ceases this Saturday, January 28<sup>th</sup> by our contractor
- Will go back to pre-storm solid waste collection
- Residents may continue to take storm-related debris to the Resource Recovery Facility on Buckingham Road (roof shingles cannot be disposed of at this location)
- Shingles can be taken to the Lee Hendry Regional Solid Waste Disposal Facility in Felda
- City Hall will host an upcoming Quarterly Bulk and Household Chemical Waste Event on Saturday, February 4<sup>th</sup>
- Resident drop off site – 1200 Kismet Parkway
- For more information go to the City website
- [https://www.capecoral.gov/departments/public\\_works/solid\\_waste.php](https://www.capecoral.gov/departments/public_works/solid_waste.php)
- Debris sites – haul out is continuing
- SW C&D site – 1200 SW 30<sup>th</sup> Street
- NW site – basically vegetation – minimal grinding – expect to finish this week – will be solely canal vegetation debris after this
- NE site – having lots of haul out
- Skyline – big empty field with little vegetation – will continue to be operational
- Canal debris removal – ongoing – webpage updated
- State still collecting debris – no deadline known when operations will cease

Mayor Gunter requested an explanation of how the canal debris would be processed.

Manager Schweitzer explained the vegetation is hauled to a debris site and ground out, then out to Burnt Store Recycling. As per the permit, C&D is hauled out direct from the canal, staged in a ROW, then picked up by a debris truck and hauled out directly to the landfill on Zemel Road.

Discussion held regarding:

- Land-based debris versus water-based debris
- Removal of water-based debris specialized with equipment
- Vegetation with green ribbon on a vacant lot in the ROW would indicate that it came from the canal
- Utilizing crews to help with pickup of loose debris such as paper and plastic - 3 days per week on Tuesday, Wednesday, and Thursday
- Pending hurricane debris not picked up or moved forward
- What is the action moving forward?
- Utilizing Code Compliance Officers to get residential properties and businesses in compliance with City Ordinance
- Responsibility disposing items would fall on the property owners and/or businesses
- State continuing work with removing debris on commercial properties

Mayor Gunter thanked Public Works for their quick response and efforts.

Councilmember Steinke echoed the Mayor's sentiments on the hard work and response. He inquired about canal debris submerged and avoiding damage to boaters.

Manager Schweitzer explained the process of clearing the canal with sonar; per FEMA cannot hunt for debris; freshwater canals not as deep as saltwater. He urged boaters to use caution.

Discussion held regarding:

- Contacting 311 Call Center to report canal debris
- Clogging of storm drains complaints and process of clearing
- City clearing manholes and storm drains – call 311 to report issue
- Vegetation removal

Councilmember Cummings thanked Public Works for the achievements.

Mayor Gunter noted that Ceres has done a phenomenal job and how much more ahead we are with cleanup from Ian than Irma in 2017.

Discussion held regarding:

- Yacht Club being used to haul boats on to the shore, breaking them down
- Permissive use license agreement with AC DC Disaster – State contract – extension being prepared since license for that location expires at the end of January
- Boathouse opening up in 30-45 days – meeting next week with owner

Councilmember Cummings left the dais at 6:07 p.m. and returned at 6:10 p.m.

#### Permitting Process Update

Special Projects Coordinator Grambow presented the following displayed slides:

- Permitting Process Update – 1/25/23
- Inspections Update
- Inspections Update – Virtual Inspections
- Permit Application Process Update – First 15 Business Days of 2023 / 2022
- Permit Applicant Process Update – Permitting Counter Service Changes, Preparations for Proposed Contractor Licensing Changes (Ordinance 10-23), Comprehensive Permit Workflow Restructuring, Master Single Family Residential Permit Reconfiguration, Tyler Technologies EnerGov EPL Software Assist Engagement

Discussion held regarding:

- Virtual and on-site inspections still being conducted
- Offering virtual inspections for minor projects not to include complex inspections



- Pros and cons of virtual inspections
- Prioritizing inspections hindering other inspections
- Specifying specific inspection slots, software capabilities – Staff/ITS to look into

***Recessed at 6:25 p.m. and reconvened at 6:35 p.m.***

## **ORDINANCES/RESOLUTIONS**

### **Public Hearings**

#### **Ordinance 89-22 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," Table 4.1.6, "Use Table," regarding mobile food vendors and mobile food courts as conditional uses in the P, C, I, Inst, NC, CC, MXB, MX7, and SC zoning districts; amending article 4, "Zoning Districts," Chapter 2, "Specific Regulations by District," Sections 4.2.6., 4.2.7., 4.2.8., 4.2.9., 4.2.11., 4.2.12., 4.2.13., 4.2.14., and 4.2.15., regarding mobile food vendors and mobile food courts and to make zoning district text regulations consistent with the zoning use table; amending Article 5, "Development Standards," Chapter 11, "Conditional Uses," to create Section 5.11.15., "Mobile Food Vendors," regarding the establishment of zoning regulations for mobile food vendors; creating Section 5.11.16., "Mobile Food Courts," regarding the establishment of zoning regulations for mobile food courts; and by amending Article 11, "Definitions," Chapter 1, "General Provisions," Section 11.2., "Definitions," regarding mobile food vendors and mobile food courts.

Staff Recommendation: Approval

Planning and Zoning Commission Recommendation: Approval

City Clerk Bruns read the title of the Ordinance.

Senior Planner White discussed the following displayed slides:

- Mobile Food Dispensing Vehicles
- Background (three slides)
- Structure of the Code
- Important Definitions (two slides)
- Mobile Food Vendors (two slides)
- Mobile Food Vendors – Proposed Code (three slides)
- Mobile Food Court – Celebration Park, Naples
- Mobile Food Court – Exposition Park, Disney Springs
- Mobile Food Court – Village Garden, St. Augustine
- Proposed Code
- Enforcement
- Staff Recommendation: Adoption of the ordinance to establish clear and consistent regulations for this industry

Public Hearing opened.

Gary Aubuchon appeared representing the group that would be bringing forward the food courts and was in support of the Ordinance as presented by Staff.

Public Hearing closed.

***Councilmember Hayden moved, seconded by Councilmember Welsh, to adopt Ordinance 89-22, as presented.***

City Manager Hernandez discussed the effectiveness date in 90 days from the adoption of the Ordinance and if an applicant would need to wait the 90 days to start permits for the food courts.

City Attorney Menendez noted that the Ordinance does not take effect until 90 days.

Mayor Gunter inquired if Council could inform the City Manager that with any food court permits, they could move forward with the process and if this should be included in the motion or could Development Services issue the permit under the 90 days.

City Attorney Menendez stated the City will agree to review an application with the understanding that it will not be issued until after the 90 days if the applicant meets the qualifications of the Ordinance. An alternative would be if the Ordinance takes effect in 30 or 60 days, it would be with the understanding that Staff would engage people to have an opportunity to come into compliance. Use the time to primarily educate the food truck vendors on their options and how they can comply. Council has the discretion to amend the language as desired.

Discussion held regarding:

- Food Court permitting review plan
- 6 months total process for site plan approval
- 90 days might not be a factor due to length of time of the application process
- Offering shortening the timeframe from 90 days to 60 days
- Educating vendors in the City, giving them 90 days to become compliant

Mayor Gunter would support reducing the 90 days to 60 days and let Staff use the discretionary measures for educating the vendors.

Councilmember Cummings stated that options of small businesses are about to be affected. She questioned placing all the food trucks in a food court.

Deputy Director Caetero provided background information and explained the following:

- Different versions of the Ordinance since 2013
- Public Hearings held and revised based on Council recommendations
- Stakeholder Committee met over a year
- Another version of the Ordinance held in abeyance
- Ordinance allows both food trucks and courts or semi-permanent facilities
- Owner would need to move facility/structure and permanent placing if they go under site plan process
- Provisions under the new version of the Ordinance
- Food Court requires zoning process, site plans, and building permits
- Food Truck/Cart requires different criteria and receive an approval based on Ordinance whether it is a site plan or site permit, will receive a Business Tax Receipt if their business office was in Cape Coral
- Hotdog cart under old Code only required BTR and there was no zoning approval
- 10 years later need to address the zoning approval component

Councilmember Cummings discussed the following:

- Respecting the small business owners
- Getting permission from business owners stationed on their property
- Abiding by current BTR regulations, etc.
- Not a pro-business approach
- Not in favor of Ordinance

Councilmember Steinke was in favor of the Ordinance as it sets rules and regulations. The Ordinance makes separation from mobile food vendors and mobile food courts. He suggested making effective dates different for each; 90 days to the mobile food vendors, and the mobile food courts could go into effect immediately.

City Attorney Menendez stated that Council has the discretion to make the effective date for the mobile food courts immediately.

Mayor Gunter clarified that there is only one mobile food court, and the application process would take about six months; there is no problem needing a solution.

Councilmember Welsh suggested moving 90 days to 60 days. He clarified that the mobile food vendor would need to move from location to location. He was in favor of the Ordinance.

Councilmember Cummings stated that it should be an option if the mobile food vendor wants to go to the food courts. There are other financial factors affecting the vendors and now they are being limited to 60 or 90 days to relocate their business. She opined that this was bad timing. There needs to be other ways to solve this issue. Leave the vendors on a property with permission of the property owner alone.

Councilmember Sheppard clarified that food carts do not need to relocate to the courts, they need to move each night and be mobile. Vendors need to comply with regulations and rules for running their business in the City. He was in favor of the Ordinance.

Councilmember Cosden was not in favor of the Ordinance as it makes mobile vendors move every night even though they have permission from the property owners and now will need to incur the cost of storage. She suggested separating the mobile food court concept from this Ordinance as a separate item.

Councilmember Cummings questioned where do the vendors go as they cannot park at home, and storage units are expensive.

***Councilmember Hayden called the question.***

Mayor Gunter explained the process of called the question.

***Councilmember Welsh seconded.***

***Council polled as follows: Gunter, Hayden, Steinke, and Welsh voted "aye." Cosden, Cummings, Long, Sheppard voted "nay." Four "ayes." Four "nays." Motion failed 4-4.***

Councilmember Long was not in support of the Ordinance as written and suggested that Mobile Food Courts be separate from Mobile Food Vendors. He did not agree with having them move overnight which would affect their livelihood.

Councilmember Sheppard added that his issue was related to safety where there are food vendors permanently stationed with busted tires and lacking the necessary mobility as a mobile food vendor.

Mayor Gunter stated that the goal is to set clear and precise regulations. If you look at neighboring Cities' regulations, they are similar to this Ordinance. The definition of "mobile" means to move easily and quickly. The Ordinance is telling them that they need to move each day. As a business owner, he pays for the storage fees to run his business. We are not asking them more than we are asking of any other business owner. Some of the food vendors have been there for years. He supported the Ordinance as written.

Councilmember Steinke agreed that mobile is mobile. During an event, the business attends, but must leave when the event is over. He discussed the differences between fixed and mobile businesses.

Councilmember Cosden clarified her issue was for them to move every day.

Councilmember Cummings reiterated her comments if they are mobile with permission from the property owner to leave them alone.

***Council polled as follows: Gunter, Hayden, Long, Sheppard, Steinke, and Welsh voted "aye." Cosden and Cummings voted "nay." Six "ayes." Two "nays." Motion carried 6-2.***



Ordinance 2-23 (RZN22-000026\*) Public Hearing

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

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Official Zoning District Map of all property within the limits of the City of Cape Coral by rezoning property described as Lots 1-6, Block 1842, Cape Coral Subdivision, Unit 45, Part 1, from Commercial (C) to Residential Multi-Family Low (RML) zone; property is located at 3103, 3107/3109 and 3111/3113 SW Santa Barbara Place.

Case# RZN22-000026\*

Applicant: City of Cape Coral

Acreage: 0.8

City Planning Staff Recommendation: Approval

Hearing Examiner Recommendation: Approval

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

Planning Team Coordinator Struve discussed the following displayed slides:

- Ordinance 2-23 RZN22-000026
- Applicant, Owners, Request, and Location
- 2022 Aerial Map
- Background
- Future Land Use Map
- Official Zoning Map
- Proposed Zoning Map
- Analysis (LDC, Section 3.4.6, and Article 4)
- Staff and HEX Recommendation – Approval
- Correspondence: None

Public Hearing opened.

No speakers.

Public Hearing closed.

***Councilmember Hayden moved, seconded by Councilmember Welsh, to adopt Ordinance 2-23, as presented.***

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

Ordinance 4-23 Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

The ordinance amends Ordinance 81-22, which adopted the City of Cape Coral operating budget, revenues and expenditures and capital budget for Fiscal Year 2023, by increasing the total revenues and expenditures by a total of \$61,658,994.

City Clerk Bruns read the title of the Ordinance.

Financial Services Director Mason presented the following displayed slides:

- FY2023 City of Cape Coral Budget Amendment #1
- Ordinance 4-23 FY2023 Budget Amendment #1 – Purpose
- Summary
- Council Action Items
- Other Adjustments – General Fund
- General Fund – continued, Special Revenue Funds, Debt Service Fund
- Capital Projects Funds, Enterprise Fund
- Expenditures (four slides)
- Hurricane Ian

Public Hearing opened.

No speakers.

Public Hearing closed.

***Councilmember Hayden moved, seconded by Councilmember Cosden, to adopt Ordinance 4-23, as presented.***

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

Ordinance 7-23 Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

The ordinance amends Chapter 29, "Economic Development and Business Incentive Programs" of the Code of Ordinances by establishing Article III, "Economic Development Ad Valorem Tax Exemption", Sections 29-11 through 29-21; provides for purpose, intent, and authority; provides definitions; establishes an economic development ad valorem tax exemption; provides for consideration of applications and criteria for an exemption; provides for continuing performance and annual filings; and provides for revocation and a sunset date.

City Clerk Bruns read the title of the Ordinance.

City Manager Hernandez explained how this Ordinance codified the results of the election last year.

Public Hearing opened.

No speakers.

Public Hearing closed.

***Councilmember Hayden moved, seconded by Councilmember Sheppard, to adopt Ordinance 7-23, as presented.***

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

Ordinance 8-23 Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

The Ordinance authorizes and directs the City Manager to enter into a Permissive Use License Agreement with United Way of Lee County, Inc. for the lease of property owned by the City of Cape Coral being a portion of Block 56, Cape Coral Unit 6, Part 3, Cape Coral Subdivision, as described herein.

City Clerk Bruns read the title of the Ordinance.

Property Broker Andrews explained that United Way is partnering with the Cape Coral Caring Center to utilize a portion of the City's platted parking area located on the west side of Leonard Street to distribute furnishings and goods to Cape Coral residents who were affected by Hurricane Ian. She displayed the Site Location Map and Vicinity Map.

Public Hearing opened.

Angela Fischler, Senior Community Impact Manager, United Way, appeared in support of this Ordinance and provided background information.

Public Hearing closed.

***Councilmember Cummings moved, seconded by Councilmember Steinke, to adopt Ordinance 8-23, as presented.***

Councilmember Hayden inquired if there was enough room on the site for two pods.

Property Broker Andrews explained the size of the pod and area, there were no specifics as to the number of pods.

Discussion held regarding:

- Possibility of having more than one pod to provide better accessibility for restocking
- Pickup and accessibility process with appointment requirement
- Site Location Map and sufficient room for side-by-side pods

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

#### Ordinance 10-23 Public Hearing

##### WHAT THE ORDINANCE ACCOMPLISHES:

The ordinance amends the Cape Coral Code of Ordinances by repealing Chapter 2, "Administration," Article V, "Boards and Commissions," Division 6, "Cape Coral Construction Regulation Board," Sections 2-120.3 through 2-120.11 in its entirety, regarding abolishing the Cape Coral Construction Regulation Board; and amends Chapter 6, "Contractors and Construction Regulation Board," regarding contractors performing work in the City.

City Clerk Bruns read the title of the Ordinance.

Development Services Deputy Director Cautero explained what this Ordinance would accomplish. The State of Florida has preempted the entire area involving the licensing of occupations, except as authorized by law. The City of Cape Coral currently regulates certain contractors and has a Construction Regulation Board in place as the regulatory body for contractors and violations brought by the City against licensed contractors. Due to the change in Florida law, the City will abolish the Construction Regulation Board as of February 1, 2023. The Staff suggested following suit as Fort Myers has to comply with the State laws.

Public Hearing opened.

No speakers.

Public Hearing closed.

***Councilmember Hayden moved, seconded by Councilmember Welsh, to adopt Ordinance 10-23, as presented.***

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

#### Ordinance 11-23 Public Hearing

##### WHAT THE ORDINANCE ACCOMPLISHES:

The Ordinance approves and grants to Lee County Electric Cooperative, Inc., a perpetual easement for a right-of-way to be used for the construction, operation, and maintenance of one or more overhead and underground electric distribution lines across property owned by the City that is the area of the Sands Park located at 2718 SW 43rd Terrace, as more particularly described herein and authorizes and directs the Mayor to execute the easement.

City Clerk Bruns read the title of the Ordinance.



Property Broker Andrews explained what this Ordinance would accomplish. Sands Park is located at 2718 SW 43<sup>rd</sup> Terrace and is currently under construction. As part of the Sands Park construction, the City has provided LCEC conduit centered within the easement for LCEC to run its lines underground. The Easement will provide LCEC the ability to route primary power to the restroom transformer at the park.

Public Hearing opened.

No speakers.

Public Hearing closed.

***Councilmember Hayden moved, seconded by Councilmember Cummings, to adopt Ordinance 11-23, as presented.***

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

#### Introductions

Ordinance 3-23 (FLUM22-000025) Set Public Hearing for February 15, 2023

#### WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the city of Cape Coral Comprehensive Plan by amending the Future Land Use Map from Light Industrial (I) to Public Facilities (PF) for property described as Lots 24-29, Block 1548, Cape Coral Unit 17, and Lot 15, Southwind Commercial Center. The property is located at 2025 NE 6<sup>th</sup> Street and 671 Stonecrest Lane.

Applicant: City of Cape Coral

Acreage: 1.18

City Planning Staff Recommendation: Approval

Planning and Zoning Commission Recommendation: Approval

City Clerk Bruns read the title of the Ordinance.

The public hearing was scheduled for February 15, 2023, in Council Chambers.

Ordinance 5-23 (LU21-0017) Set Public Hearing for February 15, 2023

#### WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Comprehensive Plan by amending the Future Land Use Map from Commercial Activity Center (CAC) to Burnt Store Road District (BURST) land use for property located in Section 7, Township 43 South, Range 23 East; Section 29, Township 43 South, Range 23 East; Section 32, Township 43 South, Range 23 East; and Section 20, Township 43 South, Range 23 East, Lee County, Florida, as more particularly described herein; amending the Future Land Use Map from Commercial Professional (CP) to Burnt Store Road District (BURST) land use for property described as Lots 1-24, Block 4291, Cape Coral Unit 61, for property described as Tract A, Block 6114, Cape Coral Unit 97, and for property located in Section 7, Township 43 South, Range 23 East, Lee County Florida, as more particularly described herein; amending the Future Land Use Map from Multi-Family (MF) to Burnt Store Road District (BURST) land use for property described as Blocks 6171, 6172, 6173, 6174, and 6175, Cape Coral Unit 98; amending the Future Land Use Map from Mixed Use (MX) to Burnt Store Road District (BURST) land use for property described as Lot 31, Block 5522, Cape Coral Unit 91; Tract A, South Forty Subdivision; Lots 16-20, M-2, 6, 10, 14, and Tracts A and B, Westchester Estates; Lots 1, 2, 3, 4, 5, and 6, Block 5523, Cape Coral Unit 91; and for property located in Section 18, Township 43 South, Range 23 East; Section 19, Township 43 South, Range 23 East; and Section 30, Township 43 South, Range 23 East, Lee County, Florida, as more particularly described herein; amending the Future Land Use Map from Open Space (OS) to Burnt Store Road District (BURST) land use for property located in Section 20, Township 43 South, Range 23 East, Lee County, Florida, as more particularly described herein; amending the Future Land Use Map from Public Facilities

(PF) to Burnt Store Road District (BURST) land use for property described as Lots 27-30, Block 5522, Cape Coral Unit 91; amending the Future Land Use Map from Single-Family (SF) to Burnt Store Road District (BURST) land use for property described as Blocks 6169 and 6170, Cape Coral Unit 98; and Tracts C & D and Lots 21-54, Westchester Estates; amending the Future Land Use Map from Single-Family/Multi-Family (SM) to Burnt Store Road District (BURST) land use for property described as Lots 28-33, Block 4303, Cape Coral Unit 61; Lots 17-46, Block 6300, Cape Coral Unit 83-1; Lots 1-51, Block 6301, Cape Coral Unit 83-1; Lots 1-71, Block 6303, Cape Coral Unit 83-1; Tracts 1-5, Block 5520, Cape Coral Unit 91; Lots 1-26, Block 5521, Cape Coral Unit 91; Lots 1-26, Block 5522, Cape Coral Unit 91; and for property located in Section 7, Township 43 South, Range 23 East; Section 19, Township 43 South, Range 23 East; and Section 30, Township 43 South, Range 23 East, Lee County, Florida, as more particularly described herein; providing severability and an effective date.

Applicant: City of Cape Coral

Acreage: 1,206.66 acres

City Planning Staff Recommendation: Approval

Planning and Zoning Commission: Approval

City Clerk Brunns read the title of the Ordinance.

The public hearing was scheduled for February 15, 2023, in Council Chambers.

Ordinance 9-23 (FLUM22-000027) Set Public Hearing for February 15, 2023

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Comprehensive Plan by amending the Future Land Use Map from Commercial Professional (CP) to Multi-Family Residential (MF) land use for property described as Lots 21-29, Block 1073, Cape Coral Unit 23; property located at 706, 712 and 718 SE 7<sup>th</sup> Street.

Applicants: Gasparilla Investments, LLC, PJC Investments, LLC, Lottie Jo, LLC, and Financial Managers, Inc.

Acreage: 1.09 acres

City Planning Staff Recommendation: Approval

Planning and Zoning Commission Recommendation: Approval

City Clerk Brunns read the title of the Ordinance.

The public hearing was scheduled for February 15, 2023, in Council Chambers.

## **REPORTS OF THE MAYOR AND COUNCIL MEMBERS**

Councilmember Cosden – Topics: Attended MPO meeting on 1/20/2023.

Councilmember Cummings – Topics: Attended MPO meeting on 1/20/2023. Went to the RO Plant today with Utilities Director Pearson. She inquired about the UEP Project and Federal Grant Funding. She spoke with Congressman Byron Donalds to sign off on a congressional letter of approval if the funding was available.

Mayor Gunter discussed his communication with Congressman Byron Donalds to seeking information from our Federal lobbyist to identify if there are funds or programs available to offset the UEP and future projects. Once applied, then Congressman Donalds would have no problem with signing a letter in support. He requested that the City Manager have a discussion with our Federal lobbyist and bring information back to Council.

City Manager Hernandez stated that the only Federal funding for UEP projects was through WIFIA (Water Infrastructure Finance and Innovation Act) low interest loans, and then ARPA came along as a result of COVID for infrastructure projects. Federal money requires regulations and dollars could increase or delay the project. The UEP 1 North West already bid out and need to look for UEP 1 North East. He discussed the various components such as limitations to only buying from American businesses. He has been in communications with our Federal lobbyist Amanda Wood in DC, as well as Nick and



Ellen in Florida to identify any type of funding that becomes available through the Federal Government or through the State of Florida. There is a Federal Infrastructure Bill that was passed several months ago but has not seen details about what money will be made available for utility infrastructure projects.

Mayor Gunter requested that our Federal lobbyist be asked what was needed to apply for Federal funding.

City Manager Hernandez responded in the affirmative.

Councilmember Hayden – Topics: No report.

Councilmember Long – Topics: No report.

Councilmember Sheppard – Topics: No report.

Councilmember Steinke – Topics: Discussed with our Public Policy Department who confirmed there are dollars available for a program called Septic to Sewer. The Governor Affairs Director for the Local Realtor Association has volunteered to assist in the coordination of connecting our City officials with those in charge of getting grants approved from the dollars available. Might be too late to reduce the annual obligation but might be available for potential future rebates through the Department of Economic Opportunity.

Councilmember Welsh: Topics: No report.

Mayor Gunter requested a Special Meeting next week on Wednesday, February 1, 2023, at 2:00 p.m. in Conference Room 220A. Topics of discussion will be the City Manager's Contract Extension, City Attorney Contract, and Firms to utilize for City Attorney search.

***Consensus agreed to scheduling the meeting and requested that the City Clerk set the meeting.***

Mayor Gunter: Topics:

- 1/12 Met with Senator Jonathan Martin along with the City Manager and other Staff Members to discuss our legislative priorities and strategies for this legislative session
- 1/12 Met with Representative Spencer Roach to discuss the same
- 1/12 Attended John Michaels Jewelry Store Ribbon Cutting
- 1/13 Attended the SWFL League of Cities Meeting along with Councilmembers Steinke, Sheppard, and Cummings
- 1/18 Attended Monarca's Mexican Restaurant Ribbon Cutting
- 1/19 Participated in a Walking Tour in the southern part of the City with Senator Rick Scott who offered assistance in our recovery efforts
- 1/20 Attended the Metropolitan Planning Organization meeting
- 1/21 Guest Speaker at the 50<sup>th</sup> Year Celebration for Friends of Cape Coral Library
- 1/21 Guest Speaker at the 23<sup>rd</sup> Annual Kiwanis Kids Fest

## REPORTS OF THE CITY ATTORNEY AND CITY MANAGER

City Attorney: No report.

City Manager: No report.

## TIME AND PLACE OF FUTURE MEETINGS

Cape Coral City Council Retreat (2 Day event) to be held on Thursday, January 26, 2023, and Friday, January 27, 2023, beginning each day at 9:00 a.m. at the Nicholas Annex, 815 Nicholas Parkway, Conf. Room A200/Green Room, Cape Coral, FL 33990.



A Regular Meeting of the Cape Coral City Council was scheduled for Wednesday, February 1, 2023, beginning at 4:30 p.m. in Council Chambers.

Special Meeting of the Cape Coral City Council on Wednesday, February 1, 2023, at 2:00 p.m. in Conference Room 220A.

**MOTION TO ADJOURN**

There being no further business, the meeting adjourned at 8:27 p.m.

Submitted by,



Kimberly Bruns, CMC  
City Clerk