

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

May 17, 2023

Council Chambers

4:30 p.m.

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

INVOCATION/MOMENT OF SILENCE - Memorial Day Tribute - Mayor Gunter

PLEDGE OF ALLEGIANCE – National Anthem - Emily Miller from Oasis High School

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

CHANGES TO AGENDA/ADOPTION OF AGENDA

Mayor Gunter requested to remove item 9.C.(1). He inquired if there were any other changes to the agenda. There were none.

Councilmember Hayden, seconded by Councilmember Steinke, to adopt the agenda, as amended.

Discussion held regarding the Pledge of Allegiance substituted with the National Anthem.

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

RECOGNITIONS/ACHIEVEMENTS

Presentation to City Employees for Years of Service By Mayor Gunter

Mayor Gunter recognized Daniel Frantz for his outstanding service and dedication to our City. He thanked the employee for being such a valuable member of our team.

City Clerk Bruns read the name of the employee who was not present who reached 26 years of service.

Community Recognition Award: Andrea Samuels and Gabby

Interim City Manager Ilczyszyn stated that Staff was looking to recognize Cape Coral residents at future Council meetings.

Mayor Gunter and Interim City Manager Ilczyszyn presented Andrea Samuels and her AKC National Agility Championship Winner, Gabby, with a Community Recognition Award.

APPROVAL OF MINUTES

Regular Meeting - May 3, 2023

Councilmember Hayden moved, seconded by Councilmember Cummings, to approve the minutes for the May 3, 2023, Regular Meeting, as presented. Voice Poll: All "ayes." Motion carried.

CITIZENS INPUT TIME

Ralph Huber, member of Next-Door Neighborhood and NWN Communications Chairman, appeared to speak in opposition to Case No. VAC22-000033 which was heard

at the recent Hearing Examiner meeting on May 16th. He mentioned the issues with the notice to nearby property owners.

Mayor Gunter suggested that Mr. Huber send an email to City Council.

George Starner, current Budget Review Committee (BRC) Member, appeared in favor of the BRC remaining active and opposed its sunseting.

Pat Merchant, four-year Member of the BRC, appeared in favor of the BRC and explained its purpose and benefits.

John Binns appeared to speak about an Ordinance regarding pervious surface parking. He explained that he used shells instead of concrete for his single car driveway and that the extension of his driveway was installed prior to the approval of the Ordinance.

Bob Lauson voiced opposition to the demolition of the Yacht Club. He provided copies of Ordinance 2-120.17 to 2-120.23 to Council as well as Resolution 15-98 declaring the Yacht Club a historic place by the City. He asked when power will be restored and when residents and local news media can get a tour of the building.

Lou Navarra appeared to register complaints about the City Council's performance, noting the money spent by taxpayer dollars for lawsuits as well as the removal of City Boards. He was in favor of increasing pay for employees.

Bartholomew Mazzara appeared to speak about the Yacht Club and marina lease agreement opportunities. He voiced concern about evacuation and suggested building a new bridge south from Pelican, Skyline, or Chiquita in a loop with access to the Interstate.

Tom Shadrach, BRC Member, appeared to speak about keeping citizen involvement on Boards. He noted that most of the BRC's recommendations were based on good financial decisions. He added that Board Members provide a valuable service to the City with their talents.

Chuck Warren, Coral Ridge Funeral Home and Cemetery, announced the 42nd Annual Memorial Day Remembrance Ceremony on Memorial Day, Monday, May 29, 2023, at 10:00 a.m.

BUSINESS

CONSENT AGENDA

- 1) Resolution 61-23 Award Request for Proposal #RPW22137MM and corresponding contract(s) for Roofing Inspection, Maintenance and Repair Services to Advanced Roofing, Inc (Primary) and ORB Roofing Solutions (Secondary), to provide roofing inspections, maintenance, and repair services to City and Charter School facilities. The contract term is for three years with two optional one-year periods, in the estimated annual amount of \$115,000 for an estimated three-year contract term total of \$345,000; And authorize the City Manager or designee to execute the agreement, renewals, and purchase orders; Department: Public Works; Estimated annual amount \$115,000; Three-year contract term \$345,000; including renewals \$575,000; (Internal Services Fund)
- 2) Resolution 96-23 Award RFP#RIT22142JM, and corresponding contract, to Magellan Advisors, LLC., for the Design, Engineering and Permitting services for the buildout of the fiber optic network as depicted in the City Master Fiber Optic Plan, in the amount of \$972,080; And authorize the City Manager or designee to execute the agreement, change orders and purchase orders; Department: Information Technology; Dollar Value: \$972,080; (General Fund)
- 3) Resolution 101-23 Approve the Joint Use Interlocal Agreement by and between The School Board of Lee County, Florida and the City of Cape Coral for the use of

premises as described in agreement; Department: Parks and Recreation; Dollar Value N/A; (Fund: N/A)

- 4) Resolution 102-23 Approve Change Order #1 for Contract #RFD219GL-B Work Assignment No. 2022-001 with Tetra Tech for Hazard Mitigation Grant Program Pre-award Support Services (task 4) for a not-to-exceed amount of \$298,029.20 for a total contract not-to-exceed amount of \$398,029.20; Authorize the use of reserves; and authorize the City Manager or his designee to approve the purchase orders and any related documents; Department(s): Citywide; Estimated budgeted dollar value increase: \$298,029.20; (FEMA Reimbursement)
- 5) Resolution 103-23 Award Contract #ACP2263MC for North 1 West Utilities Extension Project (UEP) Construction Engineering and Inspection (CEI) Services to Tetra Tech, Inc. for the CEI services for the not-to-exceed amount of \$11,988,520 with a 5% City-Controlled Contingency of \$599,426 for a total project cost of \$12,587,946; And authorize the City Manager or designee to execute the agreement, certain change orders, and purchase orders; City Manager's Office/Capital Improvement Project; Dollar Value: \$12,587,946; (North 1 West Utilities Extension Fund)
- 6) Resolution 109-23 Award Bid #BUT2328KR, and corresponding contract, for construction of Master Pump Station 100 to TLC Diversified, Inc in the amount of \$11,896,000, with a 10% City-controlled contingency of \$1,189,600 for a project total of \$13,085,600; and authorize the City Manager or designee to execute the contract, purchase orders and certain change orders. Department: Utilities; Dollar Amount: \$13,085,600; (Water and Sewer Capital Project Fund through American Rescue Plan Funding (ARPA))
- 7) Resolution 112-23 Award Bid #BPW2341AS, and corresponding contract, to Pavement Maintenance, LLC. for Local Roads Resurfacing FY 2023 for resurfacing local roads totaling approximately 46.5 lane miles and including other related work such as milling, utility adjustments, limited structural repairs and restriping for an amount of \$3,248,540 with a 5% City-controlled contingency in the amount of \$162,427 for a total amount of \$3,410,967; And authorize the City Manager or designee to execute the agreement, certain change order and purchase orders; Department: Public Works; Estimated Dollar Amount: \$3,410,967; (Transportation Fund, General Fund and Water and Sewer Fund)
- 8) Resolution 114-23 Approve Contract #PPW2331GL with F.H. Paschen, S.N. Nielsen and Associates, LLC., for the repair of the City Hall Fountain utilizing Sourcwell Contract #FL-R9-GC03-111821-FHP in the amount of \$112,793 with a City Controlled contingency in the amount of \$7,207.00 for a total amount of \$120,000; And authorize the City manager or designee to execute the contract, certain change orders and purchase orders; Department: Public Works; Dollar Amount \$120,000; (Government Services – Outside Services)
- 9) Resolution 115-23 Approve Renewal #2 and Amendment #2 to Contract PUT2186MC, which utilized the City of Tarpon Springs Contract #200076-B-JL with Odyssey Manufacturing Co., for the purchase and delivery of Sodium Hypochlorite with an estimated annual cost of \$1,503,600; and authorize the City Manager or Designee to execute Contract Renewal #2 and Amendment #2; Department: Utilities; Estimated Dollar Value: \$1,503,600; (Water and Sewer Fund)
- 10) Resolution 120-23 Approve the 2023 State Farm Insurance Tree Distribution Award Agreement between the City of Cape Coral and the Arbor Day Foundation, together with State Farm Insurance, authorizing the receipt of grant funds in the amount of \$9,000 for the 2023 Tree Distribution Award; authorizing the City Manager or his designee to execute the Agreement and any and all documents related to this grant award; Department: Public Works; Grant Dollar Value: \$9,000; (Fund: N/A))

- 11) Resolution 123-23 Acceptance of South Florida Water Management District and Florida Department of Environmental Protection Alternative Water Supply Grant for Project #LWC-302 - Reclaimed Water Expansion: Cape Coral and Fort Myers Interconnect Phase II: Subaqueous Crossing; Department: Utilities; Grant Funding: \$2,260,000
- 12) Resolution 110-23 Approve change of two classification titles for Telecommunicator Shift Supervisor and Telecommunicator Supervisor in Police; Department: Police; Dollar Value: Zero; (Fund: N/A)
- 13) Resolution 126-23 Approve the creation of one new classification of Records Coordinator in the City Clerk's Department; Department: City Clerk; Dollar Value: \$8,417.14; (General Fund)
- 14) Resolution 128-23 Approve contract for the purchase of 2105 NE 33rd Street (Lots 33 and 34, Block 5673, Cape Coral Unit 85), for future Production Well Site #331, associated with the North RO Production Well Expansion Project, for the purchase price of \$42,000 plus closing costs not-to-exceed \$1,800; Department: Public Works / Property Management; Dollar Value: \$43,800; (Water/Sewer Fund)
- 15) Resolution 129-23 Approve Contract for the purchase of 2325 NE 33rd Terrace (Lots 1 and 2, Block 5672, Cape Coral Unit 85), for future Well Site #332, associated with the North RO Production Well Expansion Project, for the purchase price of \$47,000 plus closing costs not to exceed \$2,000; Department: Public Works / Property Management; Dollar Value: \$49,000; (Water/Sewer Fund)
- 16) Waiver of Conflict of Interest for the Law Firm of Henderson, Franklin, Starnes & Holt, P.A., re Acorn Entrada, LLC
- 17) Resolution 130-23 Authorize the City Manager, or his designee to apply for a grant from the Florida Department of State, Division of Cultural Affairs, in the amount of \$100,000 for renovations to the Cape Coral Arts Studio located in Rubicond Park, with matching funds required by the City; and authorize the City Manager or his designee to execute related documents; Grant Value requested: \$100,000, City Match; \$250,000, City Match-In-Kind; \$30,000; (General Fund)
- 18) Resolution 132-23 Approve Waiver of the Procurement Process to award to Caloosa Site Development, Inc. contract #ACP2387JM for the site and utility improvements for the two modular classrooms for the Oasis Elementary Charter School North project in the amount of \$264,301.56 with a 10% City Controlled Contingency in the amount of \$26,430.16 for a total amount of \$290,731.72; And authorize the City Manager or designee to execute the contract, purchase orders and change orders; City Manager's Office/ CIP; Dollar Amount \$290,731.72; (Charter School Capital Maintenance Fund)

Mayor Gunter asked if anyone had any items to pull. There were none.

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), 9(A)(16), 9(A)(17), and 9(A)(18), as presented.

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

APPOINTMENTS TO BOARDS / COMMITTEES / COMMISSIONS

Voting Delegate for Florida League of Cities (FLC)
Board of Directors - Brought forward by Mayor Gunter

Mayor Gunter stated that each year the Florida League of Cities needs to be notified by June 1st of their recommendation for a delegate. He noted he has been on this Board for the past several years and would continue if Council so desired.

Councilmember Hayden moved, seconded by Councilmember Steinke, to continue with Mayor Gunter in the position as the voting delegate to the Florida League of Cities Board of Directors.

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

UNFINISHED BUSINESS

Follow Up Items for Council
Discretionary Boards - Ordinances that are related discussion
(removed at time of agenda approval)

NEW BUSINESS

None

PERSONNEL ACTIONS

None

PETITIONS TO COUNCIL

None

FOLLOW UP ITEMS FROM CITY MANAGEMENT

Hurricane Ian Recovery Update

Fire Chief and Emergency Management Director Lamb stated there were a few updates including the following:

- Making progress with FEMA on inspection of properties
- Will present at COW meeting on CDBG-DR

Capital Improvements Director Clinghan provided the following update on the Yacht Club:

- Boathouse Restaurant slated to open end of May, could be pushed back to June
- Public Works and Parks were at the Yacht Club on Monday to check on vehicle parking, lighting, temporary fencing, signs
- Boat gas – Public Works checking tanks and lines
- Boathouse responsible for pumps for boat gas
- Boat Ramp still closed
- ACT Environmental responsible for removing derelict boats, still needing the Boat Ramp until August 31st, will check monthly
- Removed 300 vessels from Lee County, 89 from Cape Coral
- Boat Ramp being used by Lee County for repair of navigation aids
- Beach still closed
- Sand refurbishment – waiting for FEMA approval and beach inspector
- Marina and other amenities still closed
- Demolition of existing buildings, FEMA reimbursement, determined to use Kimley-Horn for bid package
- Demolition could start in September or October
- Possible charity auction for some of the ballroom materials, details being planned
- Waterside phase, installation of seawalls, boat ramp, marina, and culvert – still waiting on permits from the Army Corps and DEP
- Landside phase, received a scope for a master plan from Kimley-Horn, being reviewed, will be brought to Council on June 14th

Permitting Process Update

Special Projects Coordinator Grambow presented the following displayed slides:

- Permitting Process Update
- 2023 Tyler Connect Conference

- Update on Current Initiatives – Upcoming New Permit Types: Week of May 29th
- Update on Current Initiatives – Private Provider Registration Streamlining
- Update on Current Initiatives – Private Provider Services – City Plan Reviews

State Legislative Update

Nick Mathews, Becker & Poliakoff, appeared remotely to discuss:

- Pending Budget to go before Governor's Desk for approval
- Ethics Bill will require candidates to use Form 6, signed by Governor
- Heavier items still en route to Governor
- Senate Bill 250 – natural emergencies – sponsored by some members of the Southwest Florida delegation – designed to streamline process; will not prohibit temporary residential structure on property for certain amount of time following natural disaster
- Comprehensive Report being routed to Governor's desk
- Budget still pending
- Continued good working relationship between Governor and Legislature

Interim City Manager Ilczynszyn wanted to make Council aware of Senate Bill 250 regarding language that may impact some major initiatives advanced by City Council which would be blocked such as BURST on Burnt Store, moratorium, and other proposed legislation. He suggested that Council review and reach out to the Governor's Office requesting a veto.

Deputy City Attorney Bartos stated that they would contact FLC to see what the actual legislative intent is pertaining to one section of the Bill and will get back to Council.

ORDINANCES/RESOLUTIONS

Public Hearings - Quasi-Judicial Hearings (Note: There shall be no time restriction on any person wishing to speak.)

Ordinance 36-23 (PDP23-000003*) Public Hearing

*Quasi-Judicial, All Persons Providing Testimony Must Be Sworn In

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending Ordinance 69-06, as amended by Ordinance 1-11, which approved a Planned Development project in the City of Cape Coral, Florida entitled "South Santa Barbara Plaza" on property described as Lots 1 through 6 and Lots 87 through 96, Block 1842, Cape Coral Subdivision, Unit 45, Part 1, as more particularly described herein; property located at 3032-3108 Santa Barbara Boulevard and 3103-3113 SW Santa Barbara Place; approving the removal of property described as Lots 5-6, Block 1842, Cape Coral Subdivision, Unit 45, Part 1, as more particularly described herein, from the planned development project; providing for findings of fact and conclusions of law; providing for action on request and conditions of approval.

Applicant: Reviving Homes LLC c/o Marc Dykes

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 presented the following displayed slides:

- Ordinance 36-23 PDP23-000003
- Owner, Representative, Request, Location, Area
- 2022 Aerial Map
- Official Zoning Map
- Background
- Request
- Analysis (LDC, 3.4.8)
- Recommendation: Staff and HEX recommended approval, no speakers at HEX hearing

- Correspondence: Two informational phone calls

Public Hearing opened.

Michael Fogner, representative of Owner, appeared in agreement with the Staff presentation and was available to answer any questions.

Public Hearing closed.

Councilmember Steinke moved, seconded by Councilmember Sheppard, to adopt Ordinance 36-23, as presented.

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

Ordinance 40-23 (RZN23-000001*) 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 Lots 1-6 and 9-10 and 15-20, Block 1006, Unit 24, Cape Coral Subdivision, from Commercial (C) to Residential Multi-Family Low (RML) zone; property is located at 1342-1348, 1402, 1414-1416 and 1502-1512 SE 1st Place.

Applicant: City of Cape Coral

Acreage: 1.70 acres;

City Planning Staff Recommendation: Approval

Hearing Examiner Recommendation: Approval

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

Associate Planner Forde presented the following displayed slides:

- RZN23-000001/Ordinance 40-23
- Applicant, Owners, Location, Request
- Background
- 2022 Aerial Map
- Official Zoning Map/Future Land Use Map
- Criteria in LDC, Section 3.4.6
- Consistency with the Comprehensive Plan
- Recommendation: Staff and HEX recommended approval
- Correspondence: none

Public Hearing opened.

No speakers

Public Hearing closed.

Councilmember Cosden moved, seconded by Councilmember Cummings, to adopt Ordinance 40-23, as presented.

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

Ordinance 41-23 (RZN23-000002*) 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 Lots 24, 25, 26, 27, 28 and 29, Block 1548, Cape Coral Unit 17, and Lot 15, Southwind

Commercial Center, from Industrial (I) to Institutional (Inst); property is located at 2025 NE 6th Street and 671 Stonecrest Lane.

Applicant: City of Cape Coral

Acreage: 1.18 Acres.

City Planning Staff Recommendation: Approval

Hearing Examiner Recommendation: Approval

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

Associate Planner Santora presented the following displayed slides:

- Ordinance 41-23/RZN23-000002
- Applicant, Property Owner, Address, Location, Size, Urban Services, and Amendment Request
- Background Information
- Official Site Aerial Map
- Current Zoning Map
- Proposed Zoning Map
- Analysis – Land Development Code (3 slides)
- Analysis – Comprehensive Plan (3 slides)
- Analysis – City Impact: Fire and Police
- Recommendation: Staff and HEX recommended approval
- Correspondence: None

Public Hearing opened.

No speakers

Public Hearing closed.

Councilmember Cummings moved, seconded by Councilmember Sheppard, to adopt Ordinance 41-23, as presented.

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

Public Hearings - Legislative Hearings (Note: Input is allowable as follows: 1. City Staff presentations are limited to five (5) minutes; 2. Applicant(s) presentations are limited to five (5) minutes; and 3. Resident input is limited to three (3) minutes per individual with a maximum of sixty (60) minutes total. All three are subject to the following statement: Unless otherwise extended by City Council.)

Ordinance 42-23 Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

The Ordinance authorizes and directs the Mayor to enter into an Agreement for Lease and Management of the Cape Coral Historical Society, Inc., a Florida not for profit corporation, for the lease of a portion of property owned by the City of Cape Coral, property located within Block 1139, Unit 23, Cape Coral, Florida, and terminating the existing lease agreement between the City of Cape Coral and the Cape Coral Historical Society, Inc. dated October 3, 1983. (Applicant: Advanced by City Management)

City Clerk Bruns read the title of the Ordinance.

Property Broker Andrews explained what this Ordinance would accomplish.

- In October 1983, the City Council adopted Ordinance 62-83 granting a 49-year lease in a portion of the City's property in Block 1139 to the Cape Coral Historical Society, Inc., to utilize the building, being relocated from Four Freedoms Park, as a museum and show place for the use and benefit of the citizens of Cape Coral.
- The lease also required the Historical Society to make all improvements and maintain the property at no expense to the City.

- The City and the Historical Society desire to enter into a new Agreement clarifying maintenance and management responsibilities.
- The development of the new Cultural Park GO Bond Park required the legal description of the leased premises to be modified.
- The Agreement includes the City paying an annual management fee of \$45,000.
- Repair cost responsibilities
- Initial term of lease – ten years – with three five-year renewals

Public Hearing opened.

Gloria Tate, President, Museum of History of Cape Coral, appeared with Janel Trull and Chuck Warren. They thanked the City Manager, City Attorney, and Ms. Andrews for the work done to prepare this lease. She stated it was time to solidify to make sure everyone was protected along with all the artifacts. She noted a request to add a cost-of-living expense.

Chuck Warren, Vice President, Museum of History of Cape Coral, appeared in support of Ordinance 42-23.

Janel Trull, Executive Director, Museum of History of Cape Coral, appeared in support of Ordinance of Ordinance 42-23. She explained they were pushing for the agreement in order to have something official besides the lease.

Public Hearing closed.

Councilmember Hayden moved, seconded by Councilmember Cosden, to adopt Ordinance 42-23, as presented.

Interim City Manager Ilczyszyn explained some elements of the lease:

- They requested a small modification to the agreement.
- The previous lease from 1983 was just a land lease which allowed them a portion of area at Cultural Park.
- When designing Cultural Park, they wanted to ensure room for the Museum for future growth.
- There was a request to amend the lease to revise the legal description to incorporate the area where they would eventually expand.
- The City was budgeting discretionary funding to support the operation and maintenance of the Museum itself.
- There was no language in any agreement on who was responsible for what.
- There was no management agreement with the Museum.
- Management Agreement with a for profit company or if the City was running this, it would be expected to have normal and regular increases in the budget to accommodate cost-of-living and inflation
- What is proposed in the draft lease – setting a fixed number and holding it throughout the duration of the agreement
- Beneficial partnership – suggested a small inflation number to budget
- Responsibility of the lessee to fix items \$5,000 or less, if that is not indexed in the future, as costs increase, over time shifting more liability to the City
- Recommended to Council to make a small modification for the maintenance and repair section and the amount for management portion to have some type of cost-of-living increase based on CPI or other of Council's choosing
- Escalator based to a CPI index or flat number 3-4% for cost-of-living in the management aspect and their responsibility for maintenance.

Mayor Gunter commented:

- Lease since October 1983, land lease for 49 years, \$1 yearly rent
- 1.487 acres, Property currently identified .8936 acres
- Both leases appear to be land leases, only identifies property, no mention of any structures or repairs

- Theatre Lease Ord. 49-23; difference in leases
- Having a management style approach, need to have similarities in the leases
- New proposed escalator of 3% in the Theatre lease; should do the same for both
- Theatre getting \$35K per year until this budget cycle
- Historical Society receiving \$60K as well as Theatre
- Since 2017 Historical Society was receiving \$45K
- Need clarity on the \$5,000 maintenance

Assistant City Attorney Naclerio clarified the intent of the maintenance; the City is responsible for anything above \$5,000.

Ms. Trull stated that the understanding was that anything above \$5,000 would be the City's responsibilities entirely.

Mayor Gunter identified other problems with the lease as there was no management plan approach, hours of operations, what is being provided for \$45K as there were no other expectations. In favor of entering into a new lease, it should open the door for both parties to meet expectations and put into the lease. He would not support the Ordinance as written.

Councilmember Steinke addressed section C. item 2 as it relates to adding annual adjustment index over the course of 10 years for compensations. It should outline the \$45K intent. He did not believe that the leases for the Theatre and Museum should be the same depending on the difference of the entities. Consideration needs to be given for both indexing the remuneration for their services in running it, but also in the responsibility for amounts covered by the City versus the entity. He would not be comfortable until all of that was done.

Councilmember Hayden noted he was a volunteer member on their Board. He would not support this Ordinance as written. He explained that \$45K would not cover the expenses of operations. He suggested tabling this Ordinance since more information was needed.

Motion maker withdrew his motion. Second agreed.

Deputy City Attorney Bartos stated there was an exception for Board Members on 501 (c) (3), non-profit, where Councilmember Hayden could vote on this matter.

Councilmember Welsh supported a cost-of-living increase for the Historical Museum and getting more money than the Theatre.

Councilmember Cummings inquired about the financial records on allocation of funds by the City.

Ms. Tate requested clarification on how we would proceed and who would be on the Committee to work out the details. She noted that Ms. Trull's salary is paid by the Museum and fund-raising efforts. Who will work on negotiating the lease? Financial records are available every month to the Board Members. She added that the City was not running the Museum.

Ms. Trull explained how she must show the budget yearly to receive money.

Councilmember Cummings inquired if the City owns the building.

Ms. Trull responded that both are owned by the City and provided background history. Who is responsible for taking care of the building? Who replaces the air conditioner, the City or Historical Society?

Discussion held regarding new roof replacement, gutters, and security system.

Mayor Gunter commented about management and maintenance responsibilities.

Ms. Tate noted the intent was never to be managed by the City.

Councilmember Long commented if this should be discussed at a COW.

Interim City Manager Ilczyszyn suggested to have City Staff (City Manager's Office, Parks and Rec, City Attorney's Office), and the Museum Staff to discuss a term sheet for Council to review at a COW and put it into a lease.

Councilmember Hayden stated that Ms. Trull should be part of the committee and established ahead of time to generate a term sheet to go before a COW on the operations of the Museum. The lease should spell out maintenance and any capital costs.

Interim City Manager Ilczyszyn stated that there is an existing lease with 9 more years. If Council wants to improve it, then City Staff should work together to work out parameters and bring it back to Council for consideration.

Councilmember Steinke stated it seemed that the consensus was to have provisions modified and bring back to Council.

Ms. Tate requested a dialogue with the Mayor to work out the details.

Mayor Gunter agreed if there were no objections from Staff.

Councilmember Long stated that the Mayor did not represent everyone on Council and may have his own opinion.

Interim City Manager Ilczyszyn stated he would speak with each Member of the Council in individual meetings and work with the Historical Society to generate a term sheet to present to City Council for discussion and consideration.

Ordinance 43-23 Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

The Ordinance authorizes and directs the City Manager to enter into a Permissive Use License Agreement with Lee County Electric Cooperative, Inc. a Florida not for profit corporation, for the lease of property owned by the City of Cape Coral being Block 2990B, Cape Coral Unit 43, Cape Coral Subdivision, as described herein. (Applicant: Advanced by City Management)

City Clerk Bruns read the title of the Ordinance.

Property Broker Andrews explained what this Ordinance would accomplish.

- In September 2021, LCEC presented City Council with a planning overview of current electric capacity and reliability considerations together with present and future infrastructure needs forecasted through 2031.
- At this meeting, City Council provided LCEC with a consensus on their preferred route for a new transmission line project to the new Kismet Parkway Substation.
- In association with LCEC's Kismet Parkway Transmission Line project, LCEC has requested permission to utilize a City-owned property at the northwest corner of Kismet Parkway and Nelson Boulevard, as a staging site for its equipment and materials.
- The use of the property will be until the end of the year and may be extended up to three additional months by the City Manager if necessary.

Public Hearing opened.

No speakers

Public Hearing closed.

Councilmember Cummings moved, seconded by Councilmember Steinke, to adopt Ordinance 43-23, as presented.

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

Councilmember Sheppard left the dais at 6:37 p.m.

Introductions

Ordinance 44-23 (RZN22-000025*) Set Public Hearing for June 7, 2023

*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 Lots 6, 7, and 8, Block 1039, Cape Coral, Unit 24, from Professional (P) to Residential Multi-Family Low (RML) Zone; property is located 1213 Academy Boulevard.

Applicant: Ascot Realty Acquisitions USA LLC

Acreage: 0.34 Acres

City Planning Staff Recommendation: Denial

Hearing Examiner Recommendation: Approval

City Clerk Bruns read the title of the Ordinance.

The public hearing was scheduled for June 7, 2023, in Council Chambers.

Ordinance 46-23 Set Public Hearing for June 7, 2023

WHAT THE ORDINANCE ACCOMPLISHES:

The Ordinance amends the City of Cape Coral Code of Ordinances Chapter 19, Water and Sewer Utilities, Article VII, Water Management, provides for applicability, provides for intent and purpose, provides for definitions, establishes permits, establishes design drawings, established irrigation system inspection, establishes irrigation design standards, establishes chemical injection, establishes completion of installation or substantial modification, establishes maintenance of irrigation systems, establishes alternative compliance, establishes exemptions, provides for emergency water conservation plan, provides for variance and provides for penalties. (Applicant: Advanced by City Council)

City Clerk Bruns read the title of the Ordinance.

The public hearing was scheduled for June 7, 2023, in Council Chambers.

Ordinance 48-23 Set Public Hearing for June 7, 2023

WHAT THE ORDINANCE ACCOMPLISHES:

The Ordinance provides for the release of a Permanent Ingress and Egress Easement of a portion of Block 1842, Lots 5 and 6, Unit 45, Part 1, Cape Coral Subdivision. as more particularly described herein and authorizes the Mayor to execute a release of said easement. (Applicant: Brought forward by City Management.)

City Clerk Bruns read the title of the Ordinance.

The public hearing was scheduled for June 7, 2023, in Council Chambers.

Ordinance 49-23 Set Public Hearing for June 7, 2023

WHAT THE ORDINANCE ACCOMPLISHES:

The Ordinance authorizes and directs the Mayor to enter into an Agreement for Lease and Management of the Cultural Park Theatre between the City of Cape Coral and the Cultural Park Theatre Company, Inc. a Florida not for profit corporation, for the lease of a portion of property owned by the City of Cape Coral, property located within Block 1139, Unit 23, Cape Coral Subdivision, and terminates the existing lease agreement between

the City of Cape Coral and the Cultural Park Theatre Company, Inc. dated November 30, 1982. (Applicant: Advanced by City Management.)

City Clerk Bruns read the title of the Ordinance.

The public hearing was scheduled for June 7, 2023, in Council Chambers.

Interim City Manager Ilczyszyn suggested that this item may be premature if the process discussed earlier will be followed.

Mayor Gunter requested the proposed Ordinance for the Theatre be forwarded to all of Council for their review.

Interim City Manager Ilczyszyn noted it was included in the meeting backup for today's meeting.

Councilmember Hayden moved, seconded by Councilmember Steinke, to withdraw Ordinance 49-23.

Council polled as follows: Cummings, Gunter, Hayden, Long, Steinke, Welsh, and Cosden voted "aye." Seven "ayes." Motion carried 7-0.

REPORTS OF THE MAYOR AND COUNCIL MEMBERS

Councilmember Cummings – Topics: No report.

Councilmember Sheppard returned to the dais at 6:42 p.m.

Councilmember Hayden – Topics: Thanked everyone for attending the Mayor's Scholarship Award Celebration and congratulated the Fund for reviving the Program with awarding high school students with 4 year \$1,000 recurring scholarships and the tech students with \$1,000.

Councilmember Long – Topics: Attended the Mayor's Scholarship Award Celebration; attended the Charter School Governing Board as a voting Councilmember, thanked Financial Services Director and his Staff for working on that budget; kudos to Parks and Rec for the Mother and Son Dance which his wife and son attended.

Councilmember Sheppard – Topics: No report.

Councilmember Steinke – Topics: 5/8 Attended BRC meeting, kudos to the Chief of Police on the presentation; 5/11 attended the Tourist Development Council meeting; 5/11 attended the Mayor's Scholarship Award Celebration which included a scholarship to public service; attended a Chamber of Southwest Florida meeting in Ft. Myers and will receive a report on the funding we might garner from \$1.1B coming through the County led by Commissioner Ruane.

Councilmember Welsh: Topics: Attended Mayor's Scholarship Award Celebration, glad that technical schools were included as well as public service.

Councilmember Cosden – Topics: Represented the City at the Continuum of Care Board Meeting; attended the Youth Council Meeting as the Council Liaison for the first time.

Mayor Gunter: Topics:

- Recognized the Finance Department for receiving the Financial Award this year
- 5/4: Attended the Community Development Block Grant - Disaster Recovery Task Force Proposed Projects Meeting
- 5/4: Guest Speaker - St. Andrew Catholic Church Men's Dinner
- 5/5: Attended the Volunteer Appreciation Luncheon
- 5/8: Participated in the FLC University Webinar Series
- 5/8: Participated in the FLC Executive Committee Meeting

- 5/9: Attended the Hurricane Ian Recovery Executive Committee Meeting
- 5/9: Celebrity Waiter for the Pace Funky Fashion Show
- 5/11: Guest Speaker at Mayor's Scholarship Award Celebration
- Next Mayor's Scholarship Ball scheduled for Saturday, September 30th 6-9 p.m.
- 5/12: Governor's Press Conference in Ft. Myers
- 5/12: Guest Speaker at SUN Trail Ribbon Cutting
- 5/17: Issued a Proclamation for Code Enforcement Appreciation Week
- 5/17: Attended the Transportation Advisory Commission meeting
- 5/18: Will be attending the SWFLC luncheon meeting at 11:00 a.m.
- 5/18: Second consecutive year receiving 2023 Home Rule Hero Award for his advocacy in Tallahassee through the legislative sessions

Mayor Gunter requested information on the status of the crosswalk improvements throughout the City and update on the grant with County.

REPORTS OF THE CITY ATTORNEY AND CITY MANAGER

Deputy City Attorney Bartos: Requested to add an Introduction on Ordinance 52-23 about the Boards and Committees as one of the topics at the May 24th Special meeting.

Consensus agreed without any objections.

Interim City Manager Ilczyszyn:

- National Police Week in special recognition in honor of fallen Law Enforcement
- Congratulated Finance Staff for the distinguished award received
- Wednesday, May 31, 2023, City hosting Hurricane Preparedness Expo, from 3:00 p.m. to 7:00 p.m. at Mercola Market, intent is to assist community in getting prepared for the upcoming hurricane season

TIME AND PLACE OF FUTURE MEETINGS

A Committee of the Whole Meeting was scheduled for Wednesday, May 24, 2023, at 9:00 a.m. in Council Chambers.

A Special Meeting of the Cape Coral City Council was scheduled for Wednesday, May 24, 2023, beginning at 12:00 p.m. in Council Chambers.

MOTION TO ADJOURN

There being no further business, the meeting adjourned at 6:56 p.m.

Submitted by,



Kimberly Bruns, CMC
City Clerk