

MINUTES FOR THE REGULAR MEETING OF THE
CAPE CORAL CITY COUNCIL

April 16, 2018

Council Chambers

4:30 p.m.

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

Invocation/Moment of Silence – Councilmember Williams

Pledge of Allegiance – Mecaes Vutsinas - Diplomat Elementary

Roll Call: Mayor Coviello, Council Members Carioscia, Cosden, Gunter, Nelson, Stokes, Stout, and Williams were present.

CHANGES TO AGENDA/ADOPTION OF AGENDA

Mayor Coviello announced Item 11C was withdrawn and requested Item 11B to be moved to directly after Citizen's Input.

Councilmember Williams requested Item 11A to be moved immediately following 8 F(1).

Councilmember Nelson moved, seconded by Councilmember Stokes to adopt the agenda, as amended.

Council polled as follows: Williams, Carioscia, Cosden, Coviello, Gunter, Nelson, Stokes, and Stout voted "aye." Eight "ayes." Motion carried 8-0.

RECOGNITIONS/ACHIEVEMENTS

Recognition for Leadership Efforts by Senator Benacquisto and Representative Eagle during the 2018 Legislative Session and Appreciation for supporting the City's Appropriation requests.

Mayor Coviello recognized the Leadership Efforts by Senator Benacquisto and Representative Eagle.

Representative Eagle explained the successes achieved in reference to the Pipeline Project and the Mobile Command Center.

APPROVAL OF MINUTES

Strategic Planning Meeting – March 20, 2018

Councilmember Williams moved, seconded by Councilmember Gunter to approve the minutes for the March 20, 2018 Strategic Planning Meeting as presented. Voice Poll: All "ayes." Motion carried.

Regular Meeting – April 2, 2018

Councilmember Gunter moved, seconded by Councilmember Cosden to approve the minutes for the April 2, 2018 regular meeting as presented. Voice Poll: All "ayes." Motion carried.

BUSINESS

PUBLIC COMMENT - CONSENT AGENDA

No speakers.

CONSENT AGENDA

- 1) Resolution 69-18 Approve Contract PB-CW18-63/AP piggybacking the State of Florida Department of Management Services Participating addendum #43190000-18-NASPO-ACS-1 awarded to Motorola Solutions, Inc. via the lead agency, State of Washington Contract/NASPO Master Agreement #06913 for the purchase of Portable Radios, Mobile Radios, and accessories, at the unit price awarded, not to exceed budgetary limits; And authorize the City Manager, or designee, to sign the contract, amendments and any renewals. The contract was competitively solicited and awarded; Department: Police/Fire; Estimated Annual Dollar Value \$90,000; (General Fund)
- 2) Resolution 70-18 Approve piggybacking Fresno Unified School District Agreement #17-21 with Interline Brands dba SupplyWorks for the purchase of Cleaning Supplies, Equipment and Custodial Related Products to include Paper Goods, at the unit prices bid, at an estimated annual cost of \$204,000 not to exceed budgetary limits, and authorize the City Manager or Designee to execute the contract, amendments and any renewals; Citywide: Lead Department Public Works/Facilities; Dollar Value: \$204,000; (General Fund)
- 3) Resolution 76-18 Approval of a Local Agency Program Agreement between the Florida Department of Transportation and the City of Cape Coral for the construction of a sidewalk on both sides of Andalusia Boulevard between Pine Island Road and Diplomat Parkway; Department: Public Works; Dollar Value: N/A; (Fund: N/A - FDOT Grant \$125,000)
- 4) Resolution 77-18 Approval of a Local Agency Program Agreement Between the Florida Department of Transportation and the City of Cape Coral for the construction of sidewalks on the south side of Tropicana Parkway from Burnt Store Road to Chiquita Boulevard; Department: Public Works; Dollar Value: N/A; (Fund: N/A - FDOT Grant \$478,081)
- 5) Informed Consent/Potential Conflict of Interest for the Law Firm of Manson Bolves Donaldson Varn; Department: City Attorney; Dollar Value: N/A; (Fund: N/A)
- 6) Resolution 84-18 FDEP Settlement Agreement-Hurricane Irma; Department: Utilities; Dollar Amount: \$500; (Water and Sewer Fund)
- 7) Resolution 87-18 Approve the Waiver of the Procurement Procedures for the Security Measures Capital Purchases identified for the Charter School, authorize the use of undesignated reserves and authorize the City Manager or Designee to execute the contract, amendment, renewals and any other related documents; Department: Police Department; Estimated Dollar Value: \$530,650; (Undesignated Reserves)

Councilmember Williams moved, seconded by Councilmember Stout to approve items 8(B)(1), (2), (3), (4), (5), (6), and (7), as presented.

Council polled as follows: Williams, Carioscia, Cosden, Coviello, Gunter, Nelson, Stokes, and Stout voted "aye." Eight "ayes." Motion carried 8-0.

CITIZENS INPUT TIME

Lori Haus-Bulcock appeared on behalf of the Cape Coral Wildlife Trust. She voiced particular concerns with changes to the Eagle Ordinance based on Federal and State authority changes. She explained the negative impacts from noise and changing the habitat.

Donna Germain, President and CEO of the Chamber of Commerce, and Joseph Francioni, Chairman, Board of Directors, Chamber of Commerce, shared Chamber highlights this year which included hosting the 29th Annual Golf Tournament at Coral Oaks Golf Course, raised more than \$1500 to help the Gallagher family; 25th Anniversary of the Leadership Program; and preparation of the Freedom 5K on July 4th. They will be presenting monthly to showcase their highlights.

Mary Anne Sweeney commended the Council and City staff during the transition of the new Council, discussing grants, advancement of utilities, technology, communications, and vehicle improvements. She addressed the Council and City Manager about the status of the Assistant City Manager who was placed on Administrative Leave.

Cheryl Anderson, Member of the Board of Directors, Cape Coral Friends of Wildlife, and Board of Directors of the newly formed Cape Coral Wildlife Trust, appeared to address the potential Eagle Ordinance change. She discussed the history of the item, back from 8 years ago. She categorized the Cape Coral Eagles as urban Eagles and they should have a study done in Cape Coral similar to the urban Gopher Tortoise study. This is a step back and does not promote eco-tourism in Cape Coral.

Bob Renshaw appeared to discuss the Eagle Ordinance. He referenced watching a bald eagle family daily from his back yard. He expressed concern to the changes affecting the eagles in Cape Coral.

Resident and Educator appeared to discuss the Bald Eagle mascot at two Cape Coral schools. She wanted to know how to explain to students that the City is reducing their living space for our national symbol.

Jim Collier discussed the pristine nature of Cape Coral and Lee County. He discussed his career as a builder. It makes you plan and schedule building appropriately. Keep the same buffer zones as you have now. Those who cannot plan appropriately should not be building; it is all in the planning. He urged Council not to amend the Eagle Ordinance.

Ralph A. Santillo, CEO and Chairman of the Board of Invest in America's Veterans Foundation, and the Southwest Florida Military Museum and Library, appeared to discuss a booklet he dropped off to all of Council to give them an idea as to where things are at with the museum. Due to growth, a Jacksonville operation has been opened. This is a national organization with over 300 veterans with more on the way. He invited Council to visit the museum.

Dan Sheppard appeared to discuss the beautification of the medians in our City. He learned about roadblocks such as the budget. He learned the median at the foot of the Cape Coral Bridge which ends at Del Prado is taken care of by the County. It looks rough. One of the group's aspirations was to make that look nice, but there is no control over that accomplishment. Can Council assist in receiving funding to make improvements? He also asked to remove roadblocks for the median improvement program in place.

Pascha Donaldson, Vice President, Cape Coral Friends of Wildlife, appeared to oppose changing the Eagle Ordinance. She reviewed the presence of Eagle nests around Cape Coral. She discussed the animal instincts that have affected the Eagles moving their nests. This year the eaglet population was not successful, several deaths have occurred. Please protect the eagles with the 1,100 feet.

Jim McCormick discussed attending Council meetings for 20 years. He has always been an advocate for more parks in Cape Coral. He noted over 20 years ago Council authorized the Tourism Industry Promotion Committee which included people from all areas of entertainment. Parks are essential to the public in Cape Coral. He offered support to any open land agreement and addition to parks. Keep our taxes low, safety is essential, and be careful with financial liabilities.

Councilmember Williams thanked the speakers this evening on the Eagles, the public hearing is set for May 14, 2018; he also thanked Ralph Santillo and invited members of the public to visit the Military Museum; and he asked the City Manager to address the Assistant City Manager position.

City Manager Szerlag explained that the matter is under investigation, and he is not permitted to discuss it with the public.

Councilmember Stokes requested the City Manager address the median question entering the City.

Councilmember Gunter noted entering the Veterans Bridge is also in need of being addressed with the County to see if they are willing to participate in a beautification project. If they are not willing, offer for the City to take a look at that.

City Manager Szerlag agreed to address this with the County, such as toll money.

Mayor Coviello agreed.

Councilmember Nelson discussed the upcoming Eagle Ordinance. How many properties or businesses have been inhibited to develop? Does it warrant a need for change? If wildlife representatives can share statistics, has the population improved the statistics?

Mayor Coviello echoed the request for the number of eagle nests and was looking for more information. Is the distance just during mating season or all year round? He also reviewed the Old Golf Course property and Sirenia Vista Park; and addition of pickleball courts in the future.

City Manager Szerlag provided an update on the Old Golf Course property. He was not confident that a conditional contract for purchase will be achieved by hiatus, but he is confident that there will be a terms sheet. It revolves around the cleanup of the site at this time.

Resolution 89-18 Request to County Board of Commissioners to Carve Out Cape Coral from any Straw Ballot Measure related to Consolidation of Fire Districts

City Manager Szerlag explained what this Resolution would accomplish. As the 10th largest city in Florida, we want to be in control of our level of service. This bill would essentially increase the level of service outside of Lee County and decrease the level of service inside of our County. We would be the largest financial contributor to a County-wide system, our assets are estimated at \$37 million; and read a letter about pension contribution issues.

Interim Fire Chief Russell reviewed taking away Home Rule with the passing of this. The City will lose control of the Fire Program.

Joe Mazurkiewicz explained the independent district system. He listed the missing questions. This asks the County Commission to circumvent their own policies. We want the City of Cape Coral opted out.

Mayor Coviello inquired as to what we are asking.

City Manager Szerlag responded there are two things being asked.

1. Carve out Cape Coral
2. In addition, should they proceed, that they do a study before this goes to the voters.

Councilmember Stokes reviewed mutual aid and the systems in place that works. This would cost the City of Cape Coral in service and the pension topic. This is a bad idea, do not include City of Cape Coral Fire Rescue Services.

Councilmember Williams moved, seconded by Councilmember Stokes to approve Resolution 89-18, as presented.

Council polled as follows: Williams, Carioscia, Cosden, Coviello, Gunter, Nelson, Stokes, and Stout voted "aye." Eight "ayes." Motion carried 8-0.

PERSONNEL ACTIONS

Selection of Legislative Executive Assistant to Council

Council Office Manager Williams discussed the need to select a third Legislative Executive Assistant to Council. The list included five potential candidates: Steven Smith, James Anderson, Lance Pate, Cheryl Mackowski, and Wendy Phillips.

Discussion held in reference to the qualifications for the applicants and a preference for the internal candidates.

City Clerk van Deutekom compiled a tally for applicants James Anderson, Cheryl Mackowski, Lance Pate, Wendy Phillips, and Steven Smith. The results were as follows:

***Williams - Philips
Carioscia - Mackowski
Cosden - Phillips
Coviello - Mackowski
Gunter - Mackowski
Nelson - Mackowski
Stokes - Mackowski
Stout - Mackowski***

Councilmember Williams moved, seconded by Councilmember Cosden to extend the offer of employment to Cheryl Mackowski as the Legislative Executive Assistant to Council at the minimum pay range.

Council polled as follows: Williams, Carioscia, Cosden, Coviello, Gunter, Nelson, Stokes, and Stout voted "aye." Eight "ayes." Motion carried 8-0.

Resolution 78-18 Approval to reinstate the second Deputy Chief position in June 2018 ahead of the approved start date of October 1, 2018; Department: Police Department; Dollar Value: \$55,820; (General Fund)

Chief of Police Newlan explained what this Resolution would accomplish.

Councilmember Stokes moved, seconded by Councilmember Gunter to approve Resolution 78-18.

Council polled as follows: Williams, Carioscia, Cosden, Coviello, Gunter, Nelson, Stokes, and Stout voted "aye." Eight "ayes." Motion carried 8-0.

Petition to Council

Request to Waive Delinquent Water Bill from Prior Owner

Andy Ritums, the petitioner, requested a waiver of the prior owner's unpaid utility bill balance. He reviewed his history working with the City of Cape Coral for previous unpaid utility bills and an Ordinance change in 2016. The City has never foreclosed on a property for an unpaid water bill.

Fletcher Reynolds appeared to discuss a purchase he made of an abandoned duplex. The City refused to turn on the water until he paid a \$5,000 existing water bill. He described the neighborhood improvement.

Councilmember Carioscia inquired if this appeared as a lien when a title search was done.

Mr. Ritums responded the property was liened. Based on his experiences since 2013, the City was not collecting for these.

Discussion held in reference to the monthly fees; the property being purchased with a certificate of title; level playing field; advantages of buying foreclosed property; and changes in 2016.

Councilmember Nelson explained an experience she encountered with the purchase of her home. How many other people has this affected?

Councilmember Gunter inquired about the research completed, did he see the lien?

Dr. Reynolds responded in the affirmative.

Discussion about the policy change.

Customer and Field Services Manager Boyd addressed Council about the purchase of the property with the lien. City of Cape Coral Water and Sewer Revenue Bond Resolution 98-86 section 5.09 specifies the City will not render free services. By operation of Florida Statute 159.17, the City shall have a lien on locations served by the Water and Sewer System for all service charges. The active accounts belonged to the landlord, the City liened the locations for the past two balances on those accounts. The City first liened the location for the balances due on the water accounts on April 15, 2009. Those liens were updated periodically, most recently on December 18, 2017. The entire balance due has been paid as of February 22, 2018. The liens were released on March 2, 2018. Ordinance 34-16 included changes to Chapter 19 of the City of Cape Coral's Code of Ordinances. There was a provision to withhold service where there is a balance due until it is settled in full. Payoffs are updated daily on the City website. On a daily basis, we provide payoffs to an average of 78 customers.

Discussion on the impact financially for every account if this was approved.

Councilmember Carioscia inquired if we have waived these delinquent liens prior to a certain date.

Mr. Boyd responded that was the basis for the City not following through with collection in 2013 if we had not recorded a lien.

Discussion held regarding the minimum based charges for services availability; how other municipalities deal with this system; and the bond covenant and ordinance that states the minimum monthly charges.

City Attorney Menendez stated this is an owner situation.

Assistant City Attorney Griffin responded that he concurs with the statements made by Mr. Boyd. State Statute 180.13.2 states our Council and other municipalities can fix

rates, charge a fair amount for the services provided, and recover them through some process. Each lien is good for 5 years. It does not matter who owns the property, the lien runs with the property like a tax bill. Your charges become a lien. We complete the liens so that the documentation supports the amount owed. Home Rule applies, we could do this under our authority.

Councilmember Williams commented on the monthly billing for having the water available. How long does it take for the City to turn off the water? Mr. Boyd replied as early as 46 days from the first bill not paid.

Councilmember Williams inquired why are you billing them? Mr. Boyd explained it is based on each customer that can benefit from the service.

Discussion held about updating the Ordinance to perfect the lien.

Utilities Director Pearson reviewed the fixed rate covers costs that never go away such as electricity, chemicals, labor, etc. The variable cost is how much water they use.

Councilmember Gunter pointed out the property is a duplex so the fee is incurred times two. He questioned Mr. Boyd about the waiver that had been requested and was it given to previous properties.

Mr. Boyd stated he was familiar with a 2013 case, the balance was written off because the lien had not been perfected.

John Carney, Carney Properties & Investment Group, discussed in 2009 there was a change where purchasers are responsible for past due water bills. He paid approximately \$200,000 in past due water bills. He would like these accounts to be capped at \$200 per property. He reviewed the history of accounts, please consider looking into this. We are the only city that does it.

Councilmember Carioscia recused himself from the vote as Fletcher Reynolds is his doctor.

City Attorney Menendez announced the reason to preclude would be for financial gain. She inquired if his reason was the appearance of impropriety.

Councilmember Carioscia stated he would feel more comfortable with recusing himself from the vote.

Mr. Ritums replied he has several properties and can provide details at a future date.

City Manager Szerlag recommended denial of the waiver. He can contact Steven Miller of our Bond Counsel, Nabors Giblin, to discuss the issue with our City Attorney. Then, provide information on the methodologies that were used for the past couple of decades on how and why we assess a ready to serve charge.

Councilmember Williams moved, seconded by Councilmember Gunter to deny the request for a waiver of prior owner's unpaid utility bill balance.

Council polled as follows: Williams, Cosden, Coviello, Gunter, Nelson, Stokes, and Stout voted "aye." Carioscia "recused himself." Seven "ayes." One abstention. Motion carried 7-0.

APPOINTMENTS TO BOARDS / COMMITTEES / COMMISSIONS

Councilmember Williams stated that Council will be appointing seven junior seats and explained the purpose and role of the members of the Youth Council.

City Clerk van Deutekom reviewed the vacancies on the Youth Council due to member expirations. The term expires 5/1/18; new expiration date is 5/1/2020. Ten applications were received from students in Cape Coral High School, Island Coast High School, Mariner High School, and Oasis High School. There were no applications received from Ida S. Baker High School, North Fort Myers High School, and At Large.

Youth Council –Vacancies

Applicants:

Amanda Benitez – Cape Coral High School
Garrett Forro – Cape Coral High School
Isabella Fe Ico – Cape Coral High School

Brittney Curulli – Island Coast High School
Brianna Shelly – Island Coast High School
Hope Sullins – Island Coast High School (withdrew)

Javier A. Orozco – Mariner High School
Marissa Gibbs – Mariner High School
Sarah Gerega – Mariner High School

Jake Zivkovic – Oasis High School

City Clerk van Deutekom asked the Council to give their preferences by school.

City Clerk van Deutekom compiled a tally for applicants Amanda Benitez, Garrett Forro, and Isabella Ico of **Cape Coral High School**.

Cape Coral High School

Williams – Ico
Carioscia – Ico
Cosden – Ico
Coviello – Ico
Gunter – Ico
Nelson – Ico
Stokes – Ico
Stout – Ico

The results were as follows: Eight for Isabella Fe Ico.

Councilmember Williams moved, seconded by Councilmember Gunter to appoint Isabella Fe Ico to the Youth Council as Cape Coral High School Rising Junior member.

Council polled as follows: Williams, Carioscia, Cosden, Coviello, Gunter, Nelson, Stokes, and Stout voted “aye.” Eight “ayes.” Motion carried 8-0.

City Clerk van Deutekom compiled a tally for applicants Brittney Curulli and Brianna Shelly of **Island Coast High School**.

Island Coast High School

Williams – Curulli
Carioscia – Curulli
Cosden – Curulli
Coviello – Curulli
Gunter – Curulli
Nelson – Curulli
Stokes – Curulli
Stout – Curulli

The results were as follows: Eight for Brittney Curulli.

Councilmember Cosden moved, seconded by Councilmember Nelson to appoint Brittney Curulli to the Youth Council as Island Coast High School Rising Junior member.

Council polled as follows: Williams, Carioscia, Cosden, Coviello, Gunter, Nelson, Stokes, and Stout voted "aye." Eight "ayes." Motion carried 8-0.

City Clerk van Deutekom compiled a tally for applicants Sarah Gerega, Marissa Gibbs, and Javier A. Orozco of **Mariner High School**.

Mariner High School

***Williams – Orozco
Carioscia – Gibbs
Cosden – Orozco
Coviello – Gerega
Gunter – Orozco
Nelson – Orozco
Stokes – Orozco
Stout – Orozco***

The results were as follows: Six for Javier A. Orozco, One for Sarah Gerega, and One for Marissa Gibbs.

Councilmember Williams moved, seconded by Councilmember Nelson to appoint Javier A. Orozco to the Youth Council as Mariner High School Rising Junior member.

Council polled as follows: Williams, Carioscia, Cosden, Coviello, Gunter, Nelson, Stokes, and Stout voted "aye." Eight "ayes." Motion carried 8-0.

Councilmember Cosden moved, seconded by Councilmember Stokes to appoint Jake Zivkovic to the Youth Council as Oasis High School Rising Junior member.

Council polled as follows: Williams, Carioscia, Cosden, Coviello, Gunter, Nelson, Stokes, and Stout voted "aye." Eight "ayes." Motion carried 8-0.

City Clerk van Deutekom compiled a tally for applicants Amanda Benitez, Garrett Forro, Sarah Gerega, Marissa Gibbs, and Brianna Shelly of **At Large**.

***Williams – Gerega
Carioscia – Gibbs
Cosden – Benitez
Coviello – Gerega
Gunter – Benitez
Nelson – Benitez
Stokes – Benitez
Stout – Benitez***

The results were as follows: 5 Benitez, 2 for Gerega, and 1 for Gibbs.

Councilmember Williams moved, seconded by Councilmember Gunter to appoint Amanda Benitez to the Youth Council as At Large Rising Junior member.

Council polled as follows: Williams, Carioscia, Cosden, Coviello, Gunter, Nelson, Stokes, and Stout voted "aye." Eight "ayes." Motion carried 8-0.

Discussion held in reference to allowing a 30 days extension to fill the vacancies for North Fort Myers and Ida S. Baker High School.

Reports from Youth Council - Councilmember Williams (Liaison for the Youth Council)

Youth Council Member Baxter and Youth Council Member Cerretani discussed the makeup of the Youth Council; reviewed topics including Medical Marijuana; School Safety, Gun Reform; Events at City Facilities to give teens more ideas to do; Teen Choice Awards; SWOT Analysis/Strategic Plan; Formal Recommendation for the Old Golf Course Property; Job Shadowing Program; Blessings in a Backpack fundraisers at Movies in the Park; Gardens in Public Schools with produce going to local food pantries; discussing commercial recycling with a future recommendation forthcoming; Special Populations/Guardian Angels aiding program; going forward 2nd Friday in May, attempting to raise \$5,000 to have a program in a school; work closer with City Council in order to coordinate our projects and concerns of mutual interest.

Member Cerretani gave kudos to all of the applicants that were interviewed this evening.

Council recessed at 7:05 p.m. and reconvened at 7:27 p.m.

ORDINANCES/RESOLUTIONS

PUBLIC HEARINGS

Resolution 64-18 (VP 17-0014*) Public Hearing

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

WHAT THE RESOLUTION ACCOMPLISHES:

A resolution providing for the vacation of plat for a portion of Eternity Canal right-of-way and the underlying public utility and drainage easements located adjacent to property located at 2730 SW 51st Street; providing for the vacation of plat for public utility and drainage easements associated with the property located at 2730 SW 51st Street. (Applicant: Roy and Marilyn Dirkmaat)

Hearing Examiner Recommendation: The Hearing Examiner recommends that City Council approve the application for the requested vacations, subject to the conditions set forth in VP HEX Recommendation 4-2018.

City Management Recommendation: City Management recommends approval.

City Clerk van Deutekom read the title of the Resolution and administered the oath.

Planning Team Coordinator Struve explained what the Resolution would accomplish. He discussed the power point presentation which included the following slides:

- Resolution 64-18 VP 17-0014
- Applicants, Rep, Requests, Location
- VP 17-0014 site
- Current Zoning Map
- Background
- Requested Variations
- Analysis (LUDR, Section 8.11)
- Recommendations

Public Hearing opened.

No speakers.

Public Hearing closed.

Councilmember Gunter moved, seconded by Councilmember Stout to approve Resolution 64-18, as presented.

Council polled as follows: Williams, Carioscia, Cosden, Coviello, Gunter, Nelson, Stokes, and Stout voted "aye." Eight "ayes." Motion carried 8-0.

Ordinance 24-18 (AX 17-0002) Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance providing for the annexation of a tract of land lying in Sections 17, 20 and 21, Township 43 South, Range 23 East, Lee County, Florida; providing for the redefinition of City boundaries. (Applicant: GA-Pinnacle Cape Coral, LLC)

City Clerk van Deutekom read the title of the Ordinance.

Planning Team Coordinator Daltry explained what the Ordinance would accomplish. He discussed the power point presentation which included the following slides:

- Ordinance 24-18 AX 17-0002 Summary
- AX 17-0002, Applicant, Location, Urban Services Area, Request
- Subject Properties
- Facts About Annexations
- Background
- Conclusion
- Staff Recommends Approval

Public Hearing opened.

No speakers.

Public Hearing closed.

Councilmember Stout moved, seconded by Councilmember Gunter to adopt Ordinance 24-18, as presented.

Council polled as follows: Williams, Carioscia, Cosden, Coviello, Gunter, Nelson, Stokes, and Stout voted "aye." Eight "ayes." Motion carried 8-0.

Ordinance 29-18 Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending Ordinance 54-17, which adopted the City of Cape Coral Operating Budget, Revenues and Expenditures, and Capital Budget for Fiscal Year 2018, by increasing total Revenues and Expenditures by a total of \$7,460,181. (Applicant: Brought forward by City Management.)

City Clerk van Deutekom read the title of the Ordinance.

Financial Services Director Bateman explained what the Ordinance would accomplish. She discussed the power point presentation which included the following slides:

- Ordinance 29-18
- Distribution of Amendment by Fund Type
- Summary by Fund Type
- Summary of FY 2018 Budget Amendment #1 – All Funds
- Summary of FY 2018 Budget Amendment #1 – General Fund

Public Hearing opened.

No speakers.

Public Hearing closed.

Councilmember Williams moved, seconded by Councilmember Stout to adopt Ordinance 29-18, as presented.

Council polled as follows: Williams, Carioscia, Cosden, Coviello, Gunter, Nelson, Stokes, and Stout voted "aye." Eight "ayes." Motion carried 8-0.

Ordinance 31-18 (VP 17-0011*) Public Hearing

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

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance providing for the release of the Right-of-Way Easement within the Quitclaim Deed recorded in Official Record Book 2443, Pages 778-782 of the Public Records of Lee County; providing for the vacation of plat for a portion of Eternity Canal Right-of-Way and the underlying public utility and drainage easements located adjacent to the property located at 2802 SW 51st Street; providing for the vacation of plat for public utility and drainage easements associated with the property located at 2802 SW 51st Street. (Applicant: Steward Gibboney IV)

Hearing Examiner Recommendation: The Hearing Examiner recommends that City Council approve the application for the requested vacations, subject to the conditions set forth in VP HEX Recommendation 3-2018.

City Management Recommendation: City Management recommends approval.

City Clerk van Deutekom read the title of the Ordinance and administered the oath.

Planning Team Coordinator Struve explained what the Ordinance would accomplish. He discussed the power point presentation which included the following slides:

- Ordinance 31-18 VP 17-0011
- Applicants, Requests, Location
- VP 17-0011 site
- Current Zoning Map
- Background
- Requested Vacations
- Analysis (LUDR, Section 8.11)
- Request of Release of Easements
- Analysis
- Recommendations/Correspondence (Four phone calls – all informational)

Public Hearing opened.

No speakers.

Public Hearing closed.

Councilmember Gunter moved, seconded by Councilmember Stokes to adopt Ordinance 31-18, as presented.

Council polled as follows: Williams, Carioscia, Cosden, Coviello, Gunter, Nelson, Stokes, and Stout voted "aye." Eight "ayes." Motion carried 8-0.

INTRODUCTIONS

Ordinance 26-18 Set Public Hearing for May 7, 2018

WHAT THE ORDINANCE ACCOMPLISHES:

The ordinance amends Chapter 2, Administration, Article VI, Pensions, Division 2, Firefighter Pension of the Code of Ordinances, to amend Sections 2-122.1, Definitions; 2-122.6, Benefit Amounts and Eligibility; 2-122.8, Disability; 2-122.9, Vesting; 2-122.10, Optional Forms of Benefits; 2-122.15, Maximum Pension; 2-122.27, Deferred Retirement Option Plan (DROP); 2-122.28, Prior Fire Service; 2-122.29, Reemployment after Retirement; and establishing Section 2-122.30, Defined Contribution Component (Share Plan). (Applicant: Brought forward by City Management)

City Clerk van Deutekom read the title of the Ordinance.

The public hearing was scheduled for May 7, 2018 in Council Chambers.

Ordinance 27-18 Set Public Hearing for May 7, 2018

WHAT THE ORDINANCE ACCOMPLISHES:

The ordinance amends the Code of Ordinances, Chapter 2, Administration, Article VI, Pensions, Division 1, Police Pension, to amend Section 2-121.1, Definitions; Section 2-121.4, Finances and Fund Management; Establishment and Operation of Fund; Section 2-121.6, Benefit Amounts and Eligibility; Section 2-121.9, Vesting; Section 2-121.10, Optional Forms of Benefits; Section 2-121.15, Maximum Pension; Section 2-121.27, Deferred Retirement Option Plan (DROP); Section 2-121.28, Prior Police Service; and Section 2-121.9, Reemployment after Retirement. (Applicant: Brought forward by City Management)

City Clerk van Deutekom read the title of the Ordinance.

The public hearing was scheduled for May 7, 2018 in Council Chambers.

Ordinance 28-18 Set Public Hearing for May 7, 2018

WHAT THE ORDINANCE ACCOMPLISHES:

The ordinance amends the Code of Ordinances, Chapter 2, Administration, Article VI, Pensions, Division 3, General Employees Pension, to amend Section 2-123.1, Definitions; Section 2-123.4, Finances and Fund Management; Establishment and Operation of Fund; Section 2-123.6, Benefit Amounts and Eligibility; Section 2-123.7, Death Benefits; Section 2-123.8, Optional Forms of Benefits; Section 2-123.9, Vesting; Section 2-123.13, Maximum Pension; Section 2-123.24, Deferred Retirement Option Plan (DROP); Section 2-123.25, Purchase of Nonqualified Service Credit; Section 2-123.26, Prior Government Service; and Section 2-123.27, Reemployment After Retirement.

City Clerk van Deutekom read the title of the Ordinance.

The public hearing was scheduled for May 7, 2018 in Council Chambers.

Ordinance 32-18 Set Public Hearing Date for May 14, 2018

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending Cape Coral Code of Ordinances, Chapter 23, Protected Species, Article I, Bald Eagle Protection, to amend definitions; to reduce the size of the Eagle Nest Management Zone; to provide that any development, other than a single-family home or duplex within an Eagle Nest Management Zone shall require the submission of an Eagle Nest Management Plan; to reduce the distance from an active eagle nest prohibiting any development to occur during nesting period; to provide for removal of nest trees if authorized by federal permits; to update the Monitoring Protocol to the current United States Fish and Wildlife Service Bald Eagle Monitoring Guidelines dated September 2007. (Applicant: Brought forward by City Management)

City Clerk van Deutekom read the title of the Ordinance.

The public hearing was scheduled for May 14, 2018 in Council Chambers.

Ordinance 33-18 Set Public Hearing for May 7, 2018

WHAT THE ORDINANCE ACCOMPLISHES:

The ordinance amends the Code of Ordinances, Chapter 12, Offenses and Miscellaneous Provisions, by establishing Article XII, Parking on Public Property, to provide regulations for parking trailers in City-owned or controlled parking lots in the South Cape Downtown District. (Applicant: Brought forward by Councilmember Gunter)

City Clerk van Deutekom read the title of the Ordinance.

The public hearing was scheduled for May 7, 2018 in Council Chambers.

UNFINISHED BUSINESS

Water Quality – Update

Public Works Director Clinghan reviewed the memo provided to Council and gave the most current update on Lake Okeechobee.

Follow Up Items Requested by Council:

Councilmember Gunter inquired as to the Regional Planning Council topic, discussed at the April 2, 2018 meeting. We are not as a City under contractual obligation to participate in the program. We were given an opinion from the Florida Attorney General that it is mandated that the Counties participate but not as a municipality. He requested additional discussion. It was his recommendation to withdraw from the program.

Councilmember Gunter moved, seconded by Councilmember Carioscia to withdraw from the Regional Planning Council.

Councilmember Cosden stated this should appear on an agenda prior to making a motion, expecting more information from staff. She was not in favor of making decisions like this without it appearing on the agenda.

Discussion held in reference to staff using the Regional Planning Council for reports.

CT Business Manager Murphy reviewed the use of the Regional Planning Council report for the sea level rising. This was used as a transit method, it was to pass through the money from the State of Florida using your budget line item to issue a check request to send to the Regional Planning Council.

Discussion held regarding the members as Council being paid from the Council's budget.

Councilmember Stokes reiterated he was not in favor of continuing the membership. He was in favor of making the decision tonight in order to not incur other bills.

City Attorney Menendez reviewed the importance to have items on an agenda, unless they are urgent or ministerial. Some headings on the agenda may be causing problems. The heading is supposed to indicate items that are not resolved.

Mayor Coviello reviewed the need for the public to be aware of the items on the agenda.

City Manager Szerlag agreed with the City Attorney. Follow up items for Council should be identified as part of the agenda explanation.

Mayor Coviello inquired about the research to pay the \$24,000.

Mr. Murphy explained an email was sent in Council's Friday packet that responded to this amount.

Councilmember Stout supported the motion to discontinue the membership based on the topic being addressed at a previous meeting and discussions with County Commissioners last year plus the fact that it is not mandatory for the City to belong to the RPC.

Councilmember Cosden reiterated the need for public notice and preparation time for items for transparency purposes.

Councilmember Williams explained he was not in favor of addressing the topic this evening. He was interested in the facts and what benefits we have derived from the Regional Planning Council in the past and in the future.

Discussion held regarding the item appearing in the future.

Councilmember Gunter withdrew his motion. The second agreed to withdraw the initial motion.

Councilmember Gunter moved, seconded by Councilmember Stokes to place the Regional Planning Council membership consideration on the May 7, 2018 meeting agenda.

Council polled as follows: Williams, Carioscia, Cosden, Coviello, Gunter, Nelson, Stokes, and Stout voted "aye." Eight "ayes." Motion carried 8-0.

Resolution 5-18 Interlocal agreement between the Green Corridor Property Assessment Clean Energy (PACE) District and the City of Cape Coral; Department: Community Development; Dollar Value: N/A; (Fund: N/A)

Resolution 80-18 Membership Agreement between the Florida Resiliency and Energy District and the City of Cape Coral; Department: Community Development; Dollar Value: N/A; (Fund: N/A)

Resolution 81-18 Interlocal Agreement between Florida Green Finance Authority and the City of Cape Coral; Department: Community Development; Dollar Value: N/A; (Fund: N/A)

Resolution 82-18 Interlocal Subscription Agreement between the City of Cape Coral and Florida PACE Funding Agency; Department: Community Development; Dollar Value: N/A; (Fund: N/A)

CT Business Manager Murphy explained what these four Resolutions would accomplish. Residents would be able to select one of the four vendors to take advantage of low interest rate loans to provide for energy efficiency, wind mitigation, and sustainability for their structures. The current market rate was in the five percent range.

Councilmember Gunter inquired if seawalls are included.

CT Business Manager Murphy stated that seawalls were not included. A different legal opinion has been determined and sent to staff and our City Attorney that they are no longer interested in providing this service.

City Manager Szerlag reviewed the study session was over a year ago prior to the seawall problem. It is for more energy efficient improvements on homes. After the Hurricane, PACE was looked at for seawalls. The initial review of the program was to look at energy efficiency for homes.

Councilmember Williams requested an explanation as to why this is being brought to the City. The new members need to know more about the program before a vote can be taken.

Finance Director Bateman explained the program comes through the City for the purpose of putting the assessments for the loans on to the property tax bill.

Councilmember Williams inquired as to why we need to be involved and expressed concern for the liens being placed on the property.

City Attorney Menendez explained the pledging of real estate for the program and repair.

City Manager Szerlag explained if this needs to be revisited at a future Committee of the Whole meeting to reach a consensus on where to go with the program. It is a resource for residents when they cannot get a bank loan.

Councilmember Stokes inquired about the purpose of the PACE loans and the City's responsibility.

CT Business Manager Murphy stated the City accepts no responsibility for the indebtedness. We are a conduit to apply the lien to the tax roll.

Housing Coordinator Yearsley stated the program is not necessarily marketed for low to moderate income families as they have other resources. This provides an alternate financing mechanism. There is an education component. When we offer this program, we also supply other options.

Councilmember Nelson explained she thought this was focused around seawalls and now realizes it is not. It supplies another option for residents. She does not have a problem recommending another option for residents.

Mayor Coviello inquired about a cap for how much can be loaned.

Devesh Murlow, Ygrene Energy Fund, Clearwater, FL, explained that by State Statute a minimum 10% equity from the just value listed on the property appraiser's site is required. He stated the length of the term is based on the useful life of the product; wind mitigation credits are big. He noted the main criteria to qualify besides equity is payment history and no recent bankruptcy. There is no income qualification, and they are only allowed to finance products for minimum performance that should deliver a savings.

Mayor Coviello requested statistics for what the program has and performance.

Mr. Murlow explained Ygrene has the longest history with about 17,000 projects. He noted five properties where owners had stopped making payments were resolved before it could go to a tax certificate. This is better than prime default rates; these are high quality projects which creates property value.

Mayor Coviello explained this should be an opportunity made available to residents as long as we are not financially involved.

Councilmember Stout moved, seconded by Councilmember Nelson to approve Items 10(C), 10(D), 10(E), and 10(F), as presented, Resolutions 5-18, 80-18, 81-18, and 82-18, respectively.

Council polled as follows: Carioscia, Cosden, Coviello, Gunter, Nelson, Stokes, and Stout voted "aye." Williams voted "nay." Seven "ayes." One "nay." Motion carried 7-1.

NEW BUSINESS

Reports from Youth Council - Councilmember Williams (Liaison for the Youth Council)
- MOVED TO DIRECTLY AFTER YOUTH COUNCIL APPOINTMENTS

Resolution 89-18 Request to County Board of Commissioners to Carve Out Cape Coral from any Straw Ballot Measure related to Consolidation of Fire Districts **-MOVED TO DIRECTLY AFTER CITIZEN'S INPUT**

WITHDRAWN - Military Tribute Banner Program - AMMILVETS (Brought forward by Councilmember Cosden)

NEW BUSINESS (continued)

Councilmember Gunter reviewed working with the City Attorney's Office about the trailer parking on City owned parking lots. Back in December he made a motion to take a look

at that particular issue and try to come up with a solution to a problem down in the CRA area on parking lots. As a result, another area that could be a problem, especially if this Ordinance is passed at our next meeting, are the trailers or commercial vehicles moving out to the street location. Staff recommended that we probably should take a look at that particular Ordinance as well as the parking of commercial vehicles and trailers on residential streets in the City. He requested a second to continue to work with staff involving this issue.

Councilmember Stout seconded that.

City Attorney Menendez explained there are already regulations dealing with this. Staff has identified certain streets where this type of parking is already not allowed. Some of those are in the South Cape but they are only portions. This would be an opportunity to refine this and maybe increase some of the areas where that parking is not allowed. There is no vote necessary this evening. This would be an Ordinance brought forward to you. The Introduction could be on the same night that you hear the Ordinance concerning the parking. It was recommended that the effective date would not be until there was adequate time to post the signs and make the public aware. In that timeframe, Council would have an opportunity to adopt the Ordinance concerning the on-street parking that would go hand in glove with the restrictions on the South Cape Parking Lot Regulations.

Mayor Coviello inquired if that would require a separate Ordinance.

City Attorney Menendez stated it would be a separate Ordinance that would be brought forward very soon but not at the same hearing as the parking lots. Council has already received these provisions, this is just an expansion of them. These are not in the LUDR's but in the City Code.

REPORTS OF THE MAYOR AND COUNCIL MEMBERS

Councilmember Williams – Topics: Attended Sirenia Park Dedication; Interviewed applicants for the Cape Coral Mayors Scholarship Fund; CCCIA Dinner Meeting; and Youth Council Meeting.

Councilmember Carioscia – Topics: No report

Councilmember Cosden – Topics: No report

Councilmember Gunter – Topics: No report

Councilmember Nelson – Topics: Attended Lizbeth Benacquisto's luncheon last week at Babcock Ranch and Imaginarium Gala.

Councilmember Stokes – Topics: Attended the Touch-a-Truck Rally; Charter School Foundation Rally; Sirenia Vista Ribbon Cutting; Annual Post Legislative Session; CCCIA Dinner Meeting; and CCPD Swearing in Ceremony.

Councilmember Stout – Topics: Attended Women of Distinction, Winner was Deputy Chief Lisa Barnes; Opening of Coralina Apartments.

Councilmember Nelson congratulated Councilmember Stout who was nominated for Women of Distinction.

Mayor Coviello – Topics: Attended Bimini Basin Mooring Field informational meeting; Met with former Mayor Feichthaler; Sirenia Vista Ribbon Cutting; Touch-a-Truck; CCCIA Family Picnic; Charter School Fundraiser; invited to the Taste of the Cape as a food judge; Symphony in the Park; issued a Proclamation for the Telecommuters Week in the Police Department; attended Coralina Grand Opening; CCPD Swearing in of 3 officers and new Metro Diner in Cape Coral and Bike Night. Will issue a proclamation at Cape

Coral Civic Association meeting; attending CPAC meeting, Do the Right Thing, and MPO Meeting.

REPORTS OF THE CITY ATTORNEY AND CITY MANAGER

City Attorney – Topic: No Report

City Manager – Topic: Staff's report on pros and cons on the RPC did make the packet last week, but it will re-appear on the May 7, 2018 meeting agenda. A PDP extension is needed until September 1, 2018 to give staff time to evaluate the financial obligations that are inherent to the existing PDP, as well as the Tax Increment Financing (TIF) agreement. He discussed the need for Council to consider the approval of Resolution 91-18.

Walk On Item - Resolution 91-18 A Resolution of the City Council of the City of Cape Coral, Florida, Providing an Extension to the Downtown Village Square Planned Development Project to September 1, 2018 to Commence Substantial Construction; Providing Consideration for the Extension; Providing Evidence of Continued Economic Viability of the Project; Providing an Effective Date.

City Attorney Menendez explained this matter and asked if anyone wants to provide input.

Discussion held in reference to the need for items to appear on the agenda for public notice.

Councilmember Carioscia questioned if all the taxes and fees on this property were all up to date.

City Manager Szerlag explained this came up in a hurry, and it is important to consider to determine all the aspects and see if we want to proceed. If it is not extended, the PDP will expire.

Councilmember Gunter reviewed support but was concerned about transparency.

Councilmember Stout explained the timing would cost the applicant another PDP fee.

Annette Barbaccia, AMB Planning Consultants, reviewed the fact that if this was not approved for this short period of time, it would be a big financial consequence to the project.

Councilmember Cosden inquired about the financial impact. Is it on the City's side or the Developer side?

Ms. Barbaccia responded it would be on both sides; staff may come up with different recommendations than what has already been approved.

Councilmember Cosden requested the addition of items on the agenda even if we will not have back up.

City Attorney Menendez suggested providing the entire audience the opportunity to speak.

Public Input opened.

No speakers

Public Input closed.

Councilmember Stokes suggested having a special meeting at 3:30 p.m. on April 23, 2018 to address the topic.

Councilmember Williams expressed his support for the item. He requested an explanation be given to the new Council.

Ms. Barbaccia explained that Village Square was approved in 2010. The City started the initiative through the CRA and encouraged people to assemble for a block area which her client did. TIF was worked through with the CRA. The PDP was approved which entails 152 multi-family units, a six-story public parking garage, and about ¼ million square feet of commercial, retail, restaurants, etc. Her client obtained the EB5 Regional Center Designation which is based on the percentage of unemployment relative to the national average. She noted that of the \$130 million project, \$66 million is associated with EB5.

Councilmember Williams requested that Ms. Barbaccia meet with the new councilmembers individually.

City Manager Szerlag discussed this with the Mayor last Friday and at that point the agenda was closed. It was agreed that it could be walked on as an item for disposition of City Council. That was different from the RPC issue that does not have a sense of urgency. Staff recommended approval for the extension on behalf of City's management. He was agreeable to a special meeting if Council desired one.

Discussion held regarding clarification for the extension is September 1, 2018.

Councilmember Gunter agreed to have a special meeting at 3:30 p.m. on 4/23/2018.

Councilmember Cosden moved, seconded by Councilmember Nelson to approve Resolution 91-18, as presented.

Discussion held in reference to an annual update from the applicant.

Councilmember Stout expressed support for the Resolution.

Discussion held in reference to the September 1, 2018 deadline.

Discussion held regarding the options available if Council decided against continuing the project.

Councilmember Stout voiced her support for this project, especially since it would provide downtown parking.

City Attorney Menendez explained why the date of September 1, 2018 was chosen which was a 120-day extension. August 1, 2018 was based on 90 days. She mentioned the Council meeting schedule where the last meeting in August would be on the 20th, and the next meeting would be on September 17th.

Councilmember Williams called the question.

Council polled as follows on calling the question: Williams, Carioscia, Cosden, Coviello, Gunter, Nelson, Stokes, and Stout voted "aye." Eight "ayes." Motion carried 8-0.

City Clerk vanDeutekom restated the motion to approve Resolution 91-18 and called the roll.

Council polled as follows: Williams, Carioscia, Cosden, Coviello, Gunter, Nelson, Stokes, and Stout voted "aye." Eight "ayes." Motion carried 8-0.

TIME AND PLACE OF FUTURE MEETINGS

A Committee of the Whole Meeting was scheduled for Monday, April 23, 2018 at 4:30 p.m. in Council Chambers.

MOTION TO ADJOURN

There being no further business, the meeting adjourned at 9:05 p.m.

Submitted by,



Rebecca van Deutekom, MMC
City Clerk