

CITY COUNCIL
CITY OF BONITA SPRINGS
WEDNESDAY, SEPTEMBER 18, 2019
9:00 A.M.
CITY HALL
9101 BONITA BEACH ROAD
BONITA SPRINGS, FLORIDA 34135
MINUTES

I. CALL TO ORDER:

Mayor Peter Simmons called the meeting to order at 9:00 A.M.

II. INVOCATION:

Father Hans Jacobs with St. Peters Orthodox Church, furnished the invocation.

III. PLEDGE OF ALLEGIANCE:

At the request of Mayor Simmons, Mayor Kevin Ruane, with the City of Sanibel, furnished the invocation.

IV. ROLL CALL:

Mayor Simmons and all Council Members were in attendance, except for Council Member Amy Quaremba.

V. PUBLIC COMMENT ON AGENDA ITEMS

9:04:30 AM Former Council Member Richard Ferreira was in attendance to address the proposed tax rate. He feels that the utility tax is a good thing. He next addressed the need for a regional transit authority and to keep the Bamboo parcel as open space. He doesn't believe selling it is a good idea.

9:08:10 am Anthony Perfetto, President of the Bonita Springs Little League, addressed the Waldrop Engineering presentation for the design plan for the community park, and thanked Waldrop Engineering and City Manager Arleen Hunter for all their help and for always being there to assist.

9:10:09 am Westley Weidenmiller, Chair of the Everglades Wonder Gardens Board of Directors, addressed a proposal they have, as they are interested in leasing the building for their use as an environmental learning center. They feel their focus should be on education.

9:13:49 am Attorney Francesca Passidomo stated she represented Bonita Grande LLC, and was here to ask for a clarification on whether and to what extent these changes will affect her client's property with regard to use, density, intensity and site standards. They also object to the Coastal Management Element, which would reduce density on their property significantly.

9:16:28 AM Dwight Esmon, a resident of Paradise Road, referred to CBRE and asked if they have an estimate of the boundary of the land that the city owns downtown. He asked if there was a consensus for what should be done with that land. He also addressed previous discussions about placing City Hall downtown.

VI. CONSENT AGENDA: (NOTE: ITEMS ON THE CONSENT AGENDA WILL BE CONSIDERED AS ONE UNLESS A SPECIFIC ITEM AS REMOVED BY A COUNCIL MEMBER FOR SEPARATE DISCUSSION.)

9:17:56 am Council Member Peter O'Flinn pulled item A.

Council Member Greg DeWitt motioned approval of the remainder of the Consent Agenda; Council Member Laura Carr seconded; and the motion carried unanimously.

Council Member O'Flinn explained that he pulled item A., because he does not feel the City should be paying over \$100,000 per year to Lee County for Transit Services. He feels there is a need to have more conversations with Lee County to make this more consistent with other municipalities.

Council Member O'Flinn motioned approval of Item A.; Council Member DeWitt seconded; and the motion carried unanimously.

- A. APPROVE THE INTERLOCAL AGREEMENT WITH LEE COUNTY FOR FIXED ROUTE TRANSIT SERVICES WITHIN THE CITY OF BONITA SPRINGS. (GREENSHEET NO. 19-09-294)
- B. APPROVE BUDGET RESOLUTION TO TRANSFER BUDGET AMONG GENERAL FUND ACCOUNTS. (GREENSHEET NO. 19-09-281) **ADOPTED RESOLUTION NO. 19-75**
- C. APPROVE BUDGET RESOLUTION TO TRANSFER BUDGET AMONG CAPITAL PROJECTS FUND ACCOUNTS. (GREENSHEET NO. 19-09-279) **ADOPTED RESOLUTION NO. 19076**
- D. REVIEW OF AUGUST 2019 MONTHLY CAPITAL PROJECTS STATUS REPORT. (GREENSHEET NO. 19-09-278)
- E. APPROVE A LEASE AGREEMENT FOR LILES HOTEL OFFICE SPACE WITH THE BONITA SPRINGS HISTORICAL SOCIETY UNDER SAME TERMS AS THE PREVIOUS FIVE YEAR LEASES. (GREENSHEET NO. 19-09-283)
- F. APPROVAL OF JOINT PARTICIPATION AGREEMENT BETWEEN THE CITY OF BONITA SPRINGS AND BONITA SPRINGS UTILITIES (BSU) FOR THE WEST TERRY STREET MULTI-USE PATHWAY PROJECT. (GREENSHEET NO. 19-09-282)
- G. ACCEPT HIDDEN LAKES LAND DEDICATION OF ROW TO THE CITY OF BONITA SPRINGS AND AUTHORIZE THE ISSUANCE OF IMPACT FEE CREDITS FOR THE ASSOCIATIVE COSTS IN THE AMOUNT OF \$11,005.00 (GREENSHEET NO. 19-09-287)
- H. APPROVE A RESOLUTION ACCEPTING PAVEMENT MAINTENANCE, LLC (PMI) AS THE LOWEST RESPONSIVE, RESPONSIBLE BID FOR THE WEST TERRY STREET MULTI-USE PATH PROJECT RFB 19-09 IN THE AMOUNT OF \$4,003,664.18 FOR PROJECT TOTAL TO INCLUDE BASE BID, ALTERNATE BID B & ALTERNATE BID C (ASPHALT PATH & BSU) UPON APPROVAL OF ALL DOCUMENTS. (GREENSHEET NO. 19-09-295) **ADOPTED RESOLUTION NO. 19-77**

- OPPORTUNITY FOR CITY COUNCIL COMMENTS ON CONSENT AGENDA ITEMS

VII. PROCLAMATIONS AND PRESENTATIONS:

ADDENDUM: APPEARANCE BY CITY OF SANIBEL MAYOR KEVIN RUANE TO ADDRESS WATER QUALITY LEGISLATIVE PRIORITIES AND TRIP TO WASHINGTON D.C. (GREENSHEET NO. 19-09-299)

9:19:42 AM Mayor Kevin Ruane was in attendance to address City Council on water quality legislative priorities and an upcoming trip to Washington D.C. He explained that what they are trying to do is to take the priorities for both water quality and water quantity to Washington.

At the request of Mayor Ruane, Council Member Carr motioned to approve the priorities; Council Member DeWitt seconded; and the motion carried unanimously.

A. PRESENTATION BY WALDROP ENGINEERING ON THE DESIGN PLAN FOR BONITA SPRINGS COMMUNITY PARK BASEBALL COMPLEX MASTER PLAN PHASE I DESIGN. (GREENSHEET NO. 19-09-280)

9:34:54 AM Parks and Recreation Director Nicole Perino furnished a brief overview, addressing work with Waldrop Engineering on preparing a Master Plan for the Community Park.

9:36:09 am Bill Price, with Waldrop Engineering, furnished a Powerpoint presentation (copy in Clerk's file) on plans for the park.

9:51:36 AM Council Member O'Flinn stated he would like a presentation on what the whole thing will look like aesthetically. He stated that cost is an issue, but in his view this should be a well class local sports facility. Also, Chris Corrie brought a bunch of people from Bonita Bay who participated in some other fund raising around town, and the notion was not to promise too much hopefully on the back aspirational presentation of what this will look like, we could get private money to help support it. Overall, that's his request to City Management – that they have a presentation, and referred to a presentation that was made when he was away on Logan, renderings that they could have something that is like “wow” that when you go in this is what it's going to look like, and what it's going to cost. It's something he would like to see rather sooner than later.

In response to Council Member Carr who addressed a previous presentation by FPL, Director Perino stated that was something she can look into.

9:55:34 am City Manager Hunter informed Council that City staff member Elly McKuen is continuing to work with the Minnesota Twins on the completion of the ballfield grant, to which by September 30, 2019 they are planning on having that project complete. She would like to plan something with the Council with the little league and possibly with the wounded warriors when they are visiting for a groundbreaking ceremony. The understanding is that the Minnesota Twins would like to participate with us in that as well.

B. PRESENTATION BY DPZ CODESIGN ON FORM-BASED CODE AND UPDATED RENDERINGS FOR THE BAMBOO PARCEL (GREENSHEET NO. 19-09-284)

9:56:52 am Galina Tachieva, with DPZ CoDesign, furnished a PowerPoint presentation to present renderings and the final draft of the form-based code.

10:10:38 am City Manager Hunter, in response to Council Member O'Flinn, explained that at this point, this is the final draft from DPZ. She explained that we would like the opportunity with staff to continue to make any changes and review as well. She explained that we do need to do a Comprehensive Plan Amendment to adopt these LDC changes. Later in today's meeting Council will have the State mandated changes for the Comprehensive Plan, which are required before any other changes can be done. Staff has been working with Dr. Banyan on the downtown as well and so the hope is we should hopefully hear back some time in November from the State on the approval of the State mandated changes, and we would plan to come to the very next meeting with a Comprehensive Plan amendment for the downtown. The hope is that they can simultaneously review the LDC at the same time so we can move forward to an adoption together through the process.

Council Member O'Flinn motioned to approve the City Manager's explanation on the process; Mayor Simmons seconded.

Council Member Forbes addressed parking garages and said that you can get at least one and maybe two more stories in the area that 4-story buildings are allowed. He stated that they may want to consider, at least in parking garages, coming up with an exception that they're limited by an overall height or something like that. Ms. Tachieva stated they will clarify that – that parking garage(s) can be four stories with 5 levels of parking.

10:18:17 am City Manager Hunter stated that there are two phases here – 1) City Council is receiving the draft of the form-based code, and secondly, you have some proposals of renderings for the Bamboo parcel for Council's consideration. There is a second presentation coming next from CBRE as to how we're going to market the property, as Council may want to discuss at that point what flexibility Council wants in an RFP, include all proposals in. It's a policy decision, but at this point, these are the recommendations from DPZ, which are all draft forms and you would want to continue to get feedback from a potential developer on those.

The motion carried unanimously.

- C. RECEIVE PRESENTATION BY CBRE TO PREPARE AND MARKET A RFQ/RFP FOR THE DEVELOPMENT OF THE BAMBOO PARCEL, TO ANALYZE RECEIVED SUBMITTALS, AND TO PROVIDE RECOMMENDATIONS AS TO THE BENEFITS AND CONCERNS OF EACH PROPOSAL AND PROVIDE DIRECTION TO STAFF. (GREENSHEET NO. 19-09-285)

10:21:20 am City Manager Hunter introduced this item, which is under the direction of City Council for Staff to bring forward a consultant. This organization has a state contract that is current that has language within it that was reviewed by the Assistant City Attorney has reviewed and a direct contract can be done under the existing state contract, so there is no additional RFP to bring forward. Mike McShell, Executive Vice President of CBRE's public sector practice, stated that also with him are two colleagues, which he introduced. He next provided information on their firm and addressed how they would approach this project. Jeff Gage, also with CBRE, addressed the property, values and uses. Ms. Lyann, also with CBRE, addressed the process of taking the project to market and a project they have done in Cape Coral.

She addressed the timeline if approved today, in which they will prepare marketing materials from October through November, issue those marketing materials November/December, and get word out that the Bamboo site is an opportunity, then they would have the RFP ready to go after the holidays - in early January.

Council Member O'Flinn motioned to approve; Council Member DeWitt seconded.

10:50:41 am Mayor Simmons stated that he doesn't see the advantage of doing this piece by piece, as if they have whatever the number of pieces available while they are doing this, they can entertain those as well.

10:50:36 am Mayor Simmons motioned to roll in other pieces, and identify those. City Manager Hunter explained that staff would like to bring back a map to do that at Council's next meeting. Mayor Simmons wanted to have this discussion on all parcels, as he does not want to do this piecemeal, and will do this at the next meeting. City Attorney Rooney asked if it was Council consensus to add all downtown parcels to that. Council Member O'Flinn stated they have to have a conversation and decide what parcels they are talking about. Mayor Simmons stated he wants to table approving this right now, and will vote against it until we are ready to have the discussion. City Attorney Rooney stated that they can come back at the next meeting. Mr. McShell noted that their fee doesn't change by adding more parcels.

10:52:00 am Council Member O'Flinn stated that he thinks they should go forward with this today, and that he agrees with the Mayor that they should look at other parcels as well, and do that at the next meeting. He doesn't know what the five or six is, so that's why he would like to hear about it as he is very interested in that. From memory he knows they've talked about the Levin parcel, and discussions about Lemon Tree and holding that. He doesn't know what the other parcels are, so he feels what they are suggesting makes a lot of sense, but he feels they should move ahead and approve this then move on.

10:53:48 am Council Member Forbes stated he would think that if we can get what Bamboo Village is supposed to look like, and have that as soon as we narrow in on which one of these proposals we like the best, and that would be the time to market the rest of the block as a block, which he further addressed.

10:54:46 am Mayor Simmons agreed with Council Member O’Flinn that this is important, and wants to be ready at the next meeting for a full discussion. With that he will support this piecemeal.

The motion unanimously.

City Manager Hunter stated that staff will have the contract for Council’s approval under the State process, and a map of all the downtown properties for Council’s next meeting.

VIII. MAYOR AND COUNCIL MEMBER ITEMS:

- A. DISCUSSION OF A WATER TOWN HALL MEETING SCHEDULED FOR OCTOBER 16, 2019 AT 6:30 P.M., AT CITY HALL, WITH SOUTH FLORIDA WATER MANAGEMENT BOARD CHAIRMAN, CHAUNCEY GOSS. (MAYOR SIMMONS; GREENSHEET NO. 19-09-296)

10:57:18 AM Mayor Simmons introduced this agenda item, informing all that it will be held October 16, 2019 at City Hall at 6:30 P.M. In attendance will be SFWMD Chauncey Goss, Dr. Parsons from FGCU and Sanibel Mayor Kevin Ruane, to address waterways and water quality.

Council Member O’Flinn motioned to approve; Council Member DeWitt seconded; and the motion carried unanimously.

- B. DISCUSSION OF FIRST ANNUAL CLAWS VS. JAWS VARSITY FOOTBALL GAME BETWEEN ESTERO HIGH SCHOOL AND BONITA SPRINGS HIGH SCHOOL. (MAYOR SIMMONS; GREENSHEET NO. 19-09-298)

10:57:34 am Mayor Simmons also addressed this agenda furnishing an overview for the football game, which is scheduled for October 4, 2019.

Council Member O’Flinn motioned to approve; Council Member Carr seconded.

IX. PUBLIC HEARING TO COMMENCE THE TRANSMITTAL PROCESS TO AMEND THE BONITA SPRINGS COMPREHENSIVE PLAN RELATED TO THE REMAINING EAR STATE MANDATED CHANGES:

AN ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA, AMENDING THE CITY OF BONITA SPRINGS COMPREHENSIVE PLAN, AS ADOPTED BY ORDINANCE NO. 02-16, AS AMENDED, CONSIDERING THE REMAINING STATE MANDATED AMENDMENTS ON THE EVALUATION AND APPRAISAL REPORT; SO AS TO AMEND THE FUTURE LAND USE ELEMENT, COASTAL/CONSERVATION MANAGEMENT ELEMENT, AND THE CAPITAL IMPROVEMENTS ELEMENT; TO REVISE AND UPDATE THE REMAINING EXISTING GOALS, OBJECTIVES, AND POLICIES, AND DATA AND ANALYSIS IN ACCORDANCE WITH THE MANDATES SET FORTH IN CHAPTER 163, FLORIDA STATUTES; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY, PROVIDING A CONFLICTS CLAUSE AND SEVERABILITY CLAUSE, AND PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES. (GREENSHEET NO. 19-08-293)

11:02:05 am Dr. Margaret Banyan addressed the state mandated changes by furnishing a Powerpoint presentation on the state mandated changes. Discussion was held.

Council Member Gibson stated that we can choose Option 1, CMA stays exactly how it's always been, and then the orange that extends east only affects evacuation and none of Policy 5. Dr. Banyan stated that was correct. Council Member Gibson motioned to choose Option 1; Council Member O'Flinn seconded, with that condition – the mandate only applies with respect to evacuation; not with respect to Policy 5. Plus keep what we have.

City Attorney Rooney requested that the public comments that were heard at the beginning of the meeting today be included in the record to be transmitted to the State planning agency.

11:34:23 am Council Member O'Flinn clarified what was voted on. Option 1 is what exists plus the state mandated, plus the stub up north, with Mike's caveat that the extension of the state required only relates to the state requirement for evacuation; not for policy 5. That's what we voted on. Dr. Banyan confirmed that is Option 1, which is the blue map and the other map, as separate maps.

11:41:05 am Dr. Banyan explained that the last time she addressed Council they wanted them to do the State required and the transportation elements together. However, because of the State required they are not able to do that. She asked if Council would like to have the transportation element brought before Council in November? City Manager Hunter stated that staff can talk with Dr. Banyan and she feels they could keep them together, however, she would like to give Council opportunity one on one to meet planning staff and Dr. Banyan so everyone is on the same page, and if there are any concerns they would come back in November, and if it has to be separated we could do that. Council consensus yes.

PUBLIC COMMENTS:

11:43:23 AM Attorney Passidomo stated she sincerely appreciates the concerns during the discussion on the coastal element and the impacts that it will have on development rights, and hopes that Council affords the same concerns for her client's property and the development impacts that expanding the CMA may have. She would ask Council that during their review period, that they clarify and confirm for all developers and for members of the public that the CHHA will have no impact on development rights. Additionally, the expansion of the CMA is limited to the option 1 or further limited as was raised by Council Member Gibson. She further addressed, stating that if their application is not grandfathered the economic impact would be significant.

11:46:28 am City Attorney Rooney stated that there's a motion on floor to transmit, but limiting the CMA to the existing Coastal High Hazard. He further explained, and Council Member Gibson stated they are not expanding the CMA, as they are keeping the current map, and having the Coastal High Hazard map separate for evacuation purposes only. Option 1 had the annexed area in it too.

The motion carried unanimously.

- X. SECOND READING AND PUBLIC HEARING OF THE FOLLOWING ORDINANCES (PUBLIC COMMENT ALLOWED):
- A. AN ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA, PROVIDING FOR RETAIL GAS PUMP SECURITY MEASURES; ESTABLISHING SECURITY MEASURE REQUIREMENTS FOR OWNERS AND OPERATORS OF RETAIL GAS PUMPS; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION, SCRIVENER'S ERRORS; AND PROVIDING FOR AN EFFECTIVE DATE. (CONTINUED FROM 08/21/19; GREENSHEET NO. 19-09-286)

11:48:20 AM City Attorney Rooney read the title block of the Ordinance into the record, after which he addressed concerns previously addressed by Council Member Mike Gibson. Discussion followed, with the City Attorney to revise as discussed.

11:51:21 am Council Member Gibson addressed a concern which he addressed, and suggested that in Item (2) (of section 26-71) that states “a device or system that encrypts” to place TRSM (Tamper Resistant Security Module). That is the industry standard which means that the device cannot be removed.

Council Member O’Flinn motioned to approve, as revised by Council Member Gibson; Council Member DeWitt seconded.

No public comments were made.

The motion carried unanimously. **ADOPTED ORDINANCE NO. 19-08**

XI. PUBLIC COMMENT:

No public comments were made.

XII. CITY ATTORNEY’S ITEMS: No items.

XIII. CITY MANAGER’S ITEMS:

- A. **ADDENDUM WITH DRAFT PROPOSAL SCOPE: REVIEW AND APPROVE THE SCOPE FOR THE WONDER GARDENS CAFÉ REQUEST FOR PROPOSALS.** (GREENSHEET NO. 19-09-297)

11:53:37 am City Manager Hunter provided an overview, referring to earlier public comments and information from Wonder Gardens, noting that should City Council choose to consider that proposal, that Council does it in tandem with the application process of the RFP.

11:54:20 am Elly McKuen, Senior Project Manager, furnished an overview of the draft RFP, renovations to ensure ADA compliance, and that the building code requirements are met. Staff would like to send out in the next two weeks. To date she has been contacted by seven or eight people who are interested.

12:03:04 pm City Attorney Rooney, in response to Council Member O’Flinn, stated his recommendation is to disclose in the RFP that the current/adjacent tenant may also submit a bid and not restrict to restaurants. It will entail a committee recommendation and then it will come back to City Council.

12:05:27 pm Council Member Forbes stated he thinks it is a good thing to open it up. Also, he suggested also getting comments to the firm they just hired (CBRE) and let them provide their comments. He wants emphasis on what’s going will work the best, the highest and best use, and financially sound. In response to Council Member DeWitt on his advice, City Attorney Rooney stated that depending on where Council wants to go, they may have to pull this back and have it redrafted because right now it’s prepared for restaurants. He further explained, noting that from what they are proposing now as a learning center, he would recommend that Council allow that to be an alternative bid, and they would get a separate recommendation.

Council Member DeWitt stated he feels it should stand on its own, and to let the committee look at it, and recommend the best use of it as a restaurant, but here’s what the Wonder Gardens wants to do. He further explained. He doesn’t agree with changing the RFP, as you can slow it down.

Council Member O’Flinn stated that if we’re going to go forward as amended with the disclosure, the point is that once that RFP starts Council doesn’t talk to anyone about this. City Manager Hunter stated if Council decides to keep the process and move forward, staff can still reach out to CBRE for assistance with the process. The policy point is that we’re open to the Wonder Gardens to be considered and people are going to be advised of that.

Council Member Gibson motioned to accept the RFP, as amended to also allow the Wonder Gardens to also submit; Council Member O’Flinn seconded; and the motion carried unanimously.

XIV. MAYOR AND COUNCIL REPORTS:

12:14:17 pm Council Member O’Flinn informed Council that he will not be in attendance tomorrow for the Budget Hearing. He further reported on a meeting he had with the new County Commissioner on Saturday and that the topics of discussion were sunshine and water.

12:14:57 pm Council Member Carr reported that there was a great turnout at their last meeting, and it was great to hear from the public. She addressed the tax bill for City of which the City gets only 5%. She urged everyone to write their Commissioner that Bonita Springs no longer wants to be the piggy bank for Lee County.

12:15:57 pm Council Member DeWitt thanked everyone who attended the Patriot Day service at the fire station.

XV. APPROVAL OF MINUTES: 09/04/19, 09/09/19 JOINT MEETING

Council Member Forbes motioned approval of the Minutes; Council Member DeWitt seconded; and the motion carried unanimously.

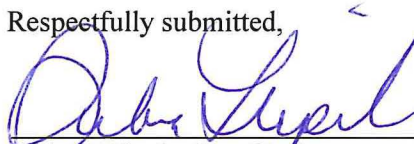
XVI. PUBLIC COMMENT:

12:16:48 pm Mr. Weidenmiller thanked City Council for considering them as well as part of the RFP process.

XVII. ADJOURNMENT.

There being no further items to discuss, the meeting adjourned at 12:19 P.M.


Respectfully submitted,


Debra Filipek, City Clerk

APPROVED:
CITY COUNCIL

Date: 10/2/19

AUTHENTICATED:


Peter Simmons, Mayor