

CITY COUNCIL
CITY OF BONITA SPRINGS
WEDNESDAY, OCTOBER 16, 2019
9:00 A.M.
CITY HALL
9101 BONITA BEACH ROAD
BONITA SPRINGS, FLORIDA 34135
MINUTES

NOTE: THE CITY COUNCIL WILL ADJOURN THEIR REGULAR MEETING FOR THE MAYOR TO ANNOUNCE THE COMMENCEMENT OF THE EXECUTIVE SESSION SCHEDULED FOR 11:00 A.M. IN ROOM 118 OF CITY HALL.

I. CALL TO ORDER

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

II. INVOCATION:

Father Christian with St. Leo's Catholic Church furnished the invocation.

III. PLEDGE OF ALLEGIANCE

At the request of Mayor Simmons, Council Member Laura Carr led in the Pledge of Allegiance.

IV. ROLL CALL

Mayor Simmons and all Council Members were in attendance.

V. PUBLIC COMMENT ON AGENDA ITEMS

9:03:09 am Dawn Koncikowski addressed concerns she had with the Bonita Beach Overlay Ordinance.

9:06:30 am Barbara Ogle commended Council Member Peter O'Flinn for his service, and asked that Council hold a special election. She also addressed Greensheet 19-10-328 regarding the \$25,000 annual investment to the South Lee EDC.

9:07:34 AM Dwight Esmon, resident in the area of Paradise Road, addressed relocating City Hall downtown. He also asked that Council not consider putting up for sale three downtown properties – the Community Hall lot, the Banyan Tree lot, and the two vacant lots next door. He also addressed a Consent Agenda item for the \$67,000 contract for a new HVAC and lighting plan, and suggested having CBRE an estimate on this building would sell for as is and postpone the improvements. Lastly, he stated that he hopes that the special election can be held within 60-90 days to fill the District 4 seat.

9:09:53 am Deb Nesselhoff, a resident of District 4, addressed Greensheet 19-10-321 relating to the special election and stated that she needs representation from her district. She urged Council to set a special election as soon as possible to fill that vacant seat.

9:10:45 am Paula McMichael with Hole Montes addressed Agenda item X.,

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

9:11:58 AM Council Member Fred Forbes motioned approval of the Consent Agenda; Council Member Mike Gibson seconded; and the motion carried unanimously.

ADDENDUM: APPROVE AN AGREEMENT WITH FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (FDEP) FOR EXCESSIVE TURBIDITY SAMPLES DURING THE SPRING CREEK DREDGING PROJECT. (GREENSHEET NO. 19-10-329)

ADDENDUM 2 : AUTHORIZE STAFF TO ADVERTISE REQUEST FOR PROPOSALS FOR FIESTA BONITA SPRINGS. (GREENSHEET NO. 19-10-330)

- A. ADOPT RESOLUTION APPROVING THE LOCALLY FUNDED AGREEMENT BETWEEN THE CITY OF BONITA SPRINGS AND FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) FOR JOINT PARTICIPATION FOR THE PROJECT DEVELOPMENT AND ENVIRONMENTAL STUDY (PD&E) OF THE US 41 AND BONITA BEACH ROAD INTERSECTION. (GREENSHEET NO. 19-10-314) **ADOPTED RESOLUTION NO. 19-82**
- B. APPROVE THE PARKS AND RECREATION AGREEMENT BETWEEN THE CITY OF BONITA SPRINGS AND BONITA SPRINGS LITTLE LEAGUE. (GREENSHEET NO. 19-10-317)
- C. APPROVE A RESOLUTION OF THE CITY OF BONITA SPRINGS DETERMINING THAT THE PROPERTY IDENTIFIED ON THE ATTACHED LIST IS SURPLUS AND SHOULD BE REMOVED FROM THE CITY'S INVENTORY, AUTHORIZING THE CITY MANAGER TO DISPOSE OF THE SURPLUS PROPERTY. (GREENSHEET NO. 19-10-318) **ADOPTED RESOLUTION NO. 19-83**
- D. APPROVE SUPPLEMENTAL TASK AUTHORIZATION NO. 1 AND RESOLUTION TO THE PROFESSIONAL SERVICES AGREEMENT WITH MATERN PROFESSIONAL ENGINEERING INC., INCORPORATED FOR MISCELLANEOUS PLANNING SERVICES IN THE AMOUNT OF \$67,500.00 FOR CITY HALL HVAC REDESIGN. (GREENSHEET NO. 19-10-325)
- E. INFORMATIONAL ITEM – REVIEW OF ANNUAL INVESTMENT IN THE SOUTH LEE EDC. (GREENSHEET NO. 19-10-328)

• OPPORTUNITY FOR CITY COUNCIL COMMENTS ON CONSENT AGENDA ITEMS

9:12:40 AM Council Member Amy Quaremba addressed item E., above and stated that she felt it would be good if they had more interplay with the EDC so they understand what they're doing and how they're integrating with Council's vision and objectives. She feels they need closer interaction and asked if Staff would facilitate that.

VII. PROCLAMATIONS AND PRESENTATIONS:

- A. PRESENTATION FROM STREETS ALIVE OF SWFL ON "BIKE ON STREET GIVE 3 FEET" STICKER PROGRAM AND DIRECTION TO STAFF. (GREENSHEET NO. 19-10-322)

9:13:32 AM Diane Diago, President/Co-Founder and CEO of Streets Alive of SWFL, furnished a brief overview of the program, noting that today she is here to present the City with the "Bike on the Street give

3 feet” stickers for safety. In 2016 the City was provided with generic stickers. She also provided the City with a Certificate of Appreciation.

B. PRESENTATION BY STAFF ON BIO-REACTOR.

9:17:40 AM Assistant City Manager Matt Feeney, along with Greg Rawl, furnished a PowerPoint presentation (copy in Clerk’s file) to address the project to date and next steps. They addressed the result of testing and addressed next steps, which was to look for grants.

9:38:20 AM Council Member Forbes congratulated both Greg and Matt on their hard work, and suggested looking at other potential sites, some of which we may already own, and suggested putting one by the Imperial River on the park immediately west of the canoe launch. He’s excited about this and believes we can clean up the water in Bonita Springs if this works out. Mr. Rawl stated that if that can be done, then the City can start selling credits to other entities.

VIII. MAYOR AND COUNCIL MEMBER ITEMS:

A. DISCUSSION ON AMENDING LAND DEVELOPMENT CODE (LDC) CHAPTER 4, DIVISION 11, RELATING TO WIRELESS COMMUNICATION FACILITIES. (CARR; GREENSHEET NO. 19-10-319)

9:42:05 am Council Member Carr addressed this item and furnished an overview. She explained that the original decision was made in the code to have it 75 feet or lower; however, new technology is for taller towers but fewer towers. The Zoning Board was adamant, as one person voted against it so that Council would do something about it. People come in and ask for taller towers, but they can’t get them because of how the code is written. They need to tweek the code so that it’s in sync with our constituents so they are able to get reliable, consistent, good cell reception.

9:43:21 am City Attorney Rooney stated that the Zoning Board is required to ask a question – is the request such that it’s going to be a constant issue, and should be addressed through policy, legislative changes to the code rather than constantly being heard as a variance. It was Ms. Craig on the Zoning Board that said it seems to that the code provisions at 75 feet are inadequate because based on the testimony at that particular hearing, and the request was that maybe the Council take a look at maybe raising the height. Mr. Dulmer stated that even since these regulations were written, how towers are developed has changed. He would have not doubt that if they make an amendment here, they may be back in a couple more years because tower development will have changed. He explained that they have gone from a situation where it was basically carriers building their own towers; now it’s companies that specialize in towers who lease the space out to carriers and try to get as many carriers on each of those towers as possible. We’ve gone from a situation where you have a single carrier looking to provide service through a series of towers within your community, to a series of tower companies looking to provide all carriers on those towers. As a result of that the Zoning Board picked up on that change in development pattern and asked that we bring this to Council. The rule right now is that Council has determined that the policy is to permit more smaller towers at a height of 75 feet. Above 75 feet is a special exception, and over 125 feet needs a variance. A 150 foot tower essentially needs two specific approvals from City Council.

9:47:17 am Council Member Quaremba stated that when the original regulation was written, there was a notion of having these height restrictions so that they would not interfere with residential areas, and even if it’s not in place in the residential area, most of the towers above 100 feet are visible, and that there are some concerns about the effect you are going to have on the other areas. Additionally, there was a belief that you can provide adequate and very good service using the lower height if just one provider is housed on each tower. Whether you have a high tower or a low tower, you’re not foreclosing the service to a certain community. Also, what we’ve been talking about about 5G, 5G is not going to be on towers; it’s going to be low to the ground, but thousands of them all over the communities, and Council doesn’t have

an ability to control that, so this is an evolving technology, and she doesn't think that it's really possible for us to have a regulation that handles all these things that are happening all at the same time. She has a concern with not requiring either a special exception or a variance in that you foreclose the input from the neighborhoods. Once it goes as a matter of right, then they will not see this and neither will the neighborhood. So if you are going to change this, she feels they should try to incorporate some kind of outreach to neighborhoods within a reasonable time so they are protected. She feels there needs to be work on this. Mr. Dulmer stated he would not be so presumptuous as to start changing approval processes at this point; he feels right now they are discussing the philosophy of how Council would like towers to develop in the City, and then start talking about how they permit those towers.

9:51:14 am Council Member Forbes another factor is that the county, in mid-September, awarded a big contract to Motorola to re-do all the radio communication in Lee County, and they will be building 300-foot towers, and on those towers they will be leasing out space for cell phone receivers and transmitters. Mr. Dulmer suggested Council hear the Zoning case and at the conclusion Council decide whether they want to change the regulations. Council Member Quaremba asked if they have the ability to require them to take them down, to which Mr. Dulmer stated that funds have to be set up. Council Member Quaremba stated she would like to pursue that. Mr. Dulmer stated that is something he has discussed with Council Member Carr – that if there is going to be a change that would need to be a part of it.

9:53:38 am Council Member Gibson stated he felt they should look at it now and addressed the Technology Advisory Board. It one of those things where there are too many hoops to go through and makes it too hard to do, and makes it not as feasible moneywise for these companies to do. It's the reason we're lacking in service right now.

9:55:17 am Council Member Quaremba stated that she's not against 125-foot tower, as she just wants to make sure that the community has a chance to be aware and react. If protections can be written in, it's fine with her.

9:58:44 am Council Member O'Flinn stated he feels Staff should go ahead and research. He would be interested in knowing what Collier County does.

9:59:06 am Council Member Forbes stated that next time Council discusses this, he wants Community Development to have the best information they can get on where all these big 300-foot towers are going to go in our neck of the woods, cause that will change the dynamics of this.

B. DISCUSSION ON POTENTIAL AMENDMENTS TO SECTION 4-1892 – MEASUREMENT; PERMITTED ENCROACHMENTS. (CARR; GREENSHEET NO. 19-10-323)

10:00:15 am Council Member Carr addressed this item and referred to Bonita Lakes, and addressed the code as it relates to setbacks for pool equipment, generators, etc. John Dulmer, Community Development, explained that this is another very recent regulation, and involves a second community that has come forward to modify the regulation for their specific planned development, which was to allow for mechanical pads to go into that setback area when you have 5-foot setbacks for single family house. He further explained. He explained that now we are starting to see some of the existing pds come back in and modify that standard just for their community. The statement from the Zoning Board was, if we can do something for these specific communities, should we also look at doing this city-wide for these same situations.

10:02:42 am Council Member O'Flinn referred to the City Attorney and stated that what Mr. Dulmer was talking was put in 2011; it wasn't 500 years ago. He referred to Bonita Lakes who came together and said that they don't mind the noise next to their bedroom windows, and they requested an exemption from that. If they said that pds can do that under their rules and make it easier for them, what happens to the rest of the City. City Attorney Rooney explained that the problem is exacerbated by the communities where you have flood elevation changes, which he further explained, noting that it's a problem where you have older homes next to newer homes. He stated one solution may entail an administrative process for pds so

they don't have to come in and get a whole rezoning, and for the older communities you might want to look at some kind of codes that deal with non-conformities. Council Member O'Flinn asked if this can be done for gated communities that have their own governance. City Attorney Rooney stated that he would treat it as a voluntary item where gated communities can come in for an administrative approval if they want that changed. Mr. Dulmer suggested considering an exception to that where if there's a requirement for elevated or cantilever pads because of changes in flood regulations, that those do go through a hearing – if there is not a requirement then that would be fine to go through administratively, if they go through the similar conditions.

In response to Council Member Quaremba, Mr. Dulmer explained that his suggestion is that if you have an existing pd and you wish to come in through this administratively, that would be fine. However, some of pds are older where flood elevations have changed, and if you now require a higher elevation where you would have to elevate or candilever those pads, that comes back to the same situation they dealt with on Little Hickory Island, which he believes is what this Council wants to avoid. So if everything's at grade then there's no problem with the process. If you start looking at a requirement where FEMA has changed the elevation where those have got to be higher than they were before, he feels that Council may at least want to see those applications as part of a specific public hearing request.

10:07:18 am Council Member Forbes stated that he would be very cautious about assuming that all HOA's have the same degree of how they interpret and regulate things, as they don't. Bonita Bay is a model; Pelican Landing is a model, and there are some that are not. He feels they need to be cautious and make some of these accommodations and take a little time to think on it.

10:09:43 am City Manager Hunter explained that there is a little bit of a similar model to this, as a few years ago Highland Woods contacted the City because they had an over abundance of trees, i.e., trees that were in the right of way that actually were not required and were causing damage to the existing sidewalks and root damage. A process was created by Resolution for gated communities through the Master Association, so if there's conflict between sub associations the master of the sub could discuss it. It had to come through the Master. There was an application form filled out for the mitigation program for the trees, and there was an administrative process for the removal of some of those trees. That was a program that was created by Resolution with a form and application, which set requirements that it has to be administered by the Master Association with the final approval. It's up to the resident of that neighborhood to go to their sub-committee to get that signed off, which she further explained, noting that way the City was ensured as staff that there was a consistent view of everyone in the community when it came forward. We can look at how we created that program, and if you wanted to look at this for gated communities you have to have sign off forms by the Master Association and that way we can conclude that they have vetted it through their neighborhood association.

10:10:41 am Mr. Dulmer stated he felt that Council has given Staff good input, and that the conditions from Bonita Lakes are something that Council generally agrees to that they would put as the basis of this. Now comes to wrapping the process around that, which a little bit of the tree removal hearing process in Bonita Lakes and good outreach as well, and morph those two into something they can bring forward to Council.

IX. SECOND READING OF THE FOLLOWING ORDINANCE:

- A. AN ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA, CALLING FOR AND ORDERING A BINDING REFERENDUM TO BE HELD IN THE CITY OF BONITA SPRINGS ON MARCH 17, 2020; TO DETERMINE WHETHER A MAJORITY OF THE ELECTORS VOTING IN SUCH REFERENDUM ARE IN FAVOR OF CERTAIN PROPOSED CHARTER AMENDMENTS; ESTABLISHING THE DATE OF THE REFERENDUM FOR THE CHARTER AMENDMENT TO BE HELD ON MARCH 17, 2020; REQUESTING THAT THE LEE COUNTY SUPERVISOR OF ELECTIONS CONDUCT THE ELECTION IN ACCORDANCE WITH THE APPLICABLE LAWS AND REGULATIONS; PROVIDING

BALLOT LANGUAGE; DIRECTING THAT THE NOTICE OF ELECTION BE PREPARED AND PUBLISHED; PROVIDING FOR INCLUSION IN THE CHARTER; PROVIDING FOR SEVERABILITY, SCRIVENER'S ERRORS AND AN EFFECTIVE DATE. (GREENSHEET NO. 19-10-316)

10:11:11 AM City Attorney Derek Rooney read the title block of the Ordinance into the record, addressing Section 47 relating to the abandonment clause. He asked that any motion include a provision in saying that if the Supervisor of Elections, for some reason, requests a change to clarify something on the ballot question issue, that this can be done administratively and not have to restart the public hearing process.

Council Member O'Flinn suggested doing this like the Consent Agenda, and motioned to approve; Council Member Carr seconded. Council Member Gibson suggested addressing them one at a time. Council Member O'Flinn withdrew his motion.

Charter Amendment One: Council Member O'Flinn motioned to approve; Council Member Forbes seconded; and the motion carried unanimously.

Charter Amendment Two: Council Member O'Flinn motioned to approve; Council Member DeWitt seconded. Council Member Carr suggested addressing those there are issues with, as there is a timeframe issue. Council Member Gibson suggested discussing the ones they want to discuss and change those and do one vote at the end. Discussion followed. Council Member Quaremba stated she felt three should be like a consent.

Charter Amendment Four: Council Member Gibson stated that four states that meetings where no action is undertaken would require 24 hours; however the text that's below it is not what it states (in Section 24. Meetings), which states "Nothing herein shall prohibit the Council from holding workshops or other meetings where no action is taken upon less than 24 hours." It's saying nothing will prohibit Council from doing it in less than 24 hours. But the actual question on the ballot says you can't do it in less than 24 hours. The question is fine; it's the text that's in Section 24 that doesn't match. He's fine with the 24 hours – he's fine with the question.

10:17:08 am Charter Amendment Five: Council Member Gibson stated there is an alternative there. He thinks they are both not straightforward. City Attorney Rooney explained that the Alternative language was the language that was proposed in 2010 and was voted down, so rather than just using the ballot language, in case there was concern that the ballot language itself was the issue that brought concern, they proposed new language for the question. The Alternative language is from 2010; the language above is the new request. Council Member Gibson stated that he would go with the new language; not the Alternative. Council consensus yes.

Charter Amendment Eight, Lapse of Appropriations: City Attorney Rooney, in response to Council Member Quaremba, explained Amendment Eight. Council Member Quaremba stated she didn't realize it applied to CIP. Council Member O'Flinn stated that the language indicates "non-capital." City Attorney Rooney to remove "non" to read "... unexpended capital appropriations..."

Council Member Quaremba stated Nine is fine, and then referred to Charter Amendment Ten, Code of Ethics, and discussion was held. City Attorney Rooney addressed and discussion was held. Council Member O'Flinn motioned to approve, noting he has some wording suggestions. Council Member Forbes stated if they are going to do this, he also has an amendment – he wants a list kept by the staff of everybody on this Council that talks to them about projects. It will be kept in the Clerk's office. City Attorney Rooney explained that the obligation of communication is on the Council. Staff keeps records of all the emails that come in, etc., to place in the file, but they're not keeping tabs on communications of the Council. Council Member Carr stated that the responsibility should fall on Council. Council Member Forbes stated he is not

in favor of this item, as he feels it will set up situations. Council Member O’Flinn suggested wording to make “ex parte” more clear for the public.

10:35:31 am Council Member DeWitt stated he is opposed to this right now, some of which is based on staff time. We’re government light now, and for everyone of these meetings that Council may take on themselves, they are going to have to inconvenience staff, and lining up schedules. Council Member O’Flinn stated there are cities in Florida that do not permit ex parte, which he explained.

The motion failed 2-5 (Mayor Simmons, and Council Members Gibson, Forbes, DeWitt, Carr opposed)

10:35:31 am Charter Amendment Eleven – Political Activities by Officers and Employees: Discussion was held, with City Attorney Rooney explaining that this language is in line with the State elections code and the code on ethics.

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

No public comments were made.

Council Member O’Flinn motioned to approve, subject to the item that was removed (the Alternative language in Charter Amendment Five), and other revisions; Council Member DeWitt seconded; and the motion carried unanimously.

X. SECOND READING AND PUBLIC HEARING OF THE FOLLOWING ORDINANCE (PUBLIC COMMENT ALLOWED):

- A. AN ADDITION TO THE BONITA SPRINGS LAND DEVELOPMENT CODE CHAPTER 3 (DEVELOPMENT STANDARDS); CREATING A NEW SECTION UNDER ARTICLE V, DIVISION 2, THE BONITA BEACH ROAD DESIGN STANDARDS; CHAPTER 4 (ZONING) ARTICLE V DIVISION 11, CREATING A NEW SUBDIVISION ESTABLISHING THE BONITA BEACH ROAD CORRIDOR OVERLAY; AMENDING CHAPTER 4 (ZONING) ARTICLE V DIVISIONS 5, 6, 7 AND 8, USE TABLES; AMENDING CHAPTER 4 (ZONING) ARTICLE III DIVISION 1 PLANNED DEVELOPMENTS; PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER’S ERRORS, INCLUSION IN CODE AND AN EFFECTIVE DATE. (GREENSHEET NO. 19-10-327)

10:45:14 am City Attorney Rooney read the title block into the record, noting that the public comments that were given at the beginning of the meeting be incorporated so it’s all part of the same record.

10:47:52 am Jackie Genson, Community Development, explained that her presentation was to highlight the table she included in the Greensheet package. She also addressed changes that were made since the first reading. They are not changing the land use map, or density and intensity at all.

Council Member O’Flinn stated he would like to know from Staff what the implicit increase is in density – implicit in the fact that the uses are changing, and those uses are more dense or intense than what was previously allowed. If it’s minimal fine, but if it’s not. . . he would vote no until he understands that.

Council Member Forbes questioned what happened to projects that are already in the pipeline when they adopt this. He referred to the people that have control of the 70 acres at the corner of Bonita Grande and Bonita Beach Road who submitted something. Are they included this as Horizon Park. City Attorney Rooney stated there are comments from parties who participated in the process since they started with the Bonita Beach Road Vision. He proposed three changes. Everyone who came in during the moratorium agreed to come into compliance voluntarily with the Bonita Beach Road Vision. He further explained.

PUBLIC COMMENTS:

[11:03:25 am](#) Paula McMichael, Director of Planning for Hole Montes, representing Linx, Zuckerman at Bonita Grande LLC, who submitted a mixed use planned development application for property located at the northwest corner of Bonita Beach Road and Bonita Grande. The southern portion of the site, along Bonita Beach Road, is within the Interstate zone portion of the overlay. There was an initial pre-app with Staff in February, and several additional meetings, including with DPZ, and they submitted on July 26. They understand the most important elements of the vision for Bonita Beach Road are the inter-connectivity, improving the street network, and the overall design built form to be implemented through urban design regulations. Understanding the importance of that design element, her client hired a site planner who used to work for DPZ so that they know that what they were proposing would be consistent with the vision. However, the final version of the LDC amendments also includes that schedule of uses and lists certain uses as requiring a special exception. The special exception process requires all the same public hearings that they are going to be going through for the planned development rezoning. So, it's unclear how that applies. Her client was aware that there were going to be design regulations when they decided to move forward with this rezoning, but they were not aware that there were going to be use restrictions. Therefore, her first request would be that the application is grandfathered in under the current regulations and reviewed under those current regulations. They will be providing interconnection to the properties to the west; they'll be consistent with the design guidelines proposed by DPZ, but they have concerns with the Schedule of Uses and how that fits in with the planned development rezoning process. If the petition cannot be grandfathered in, they are requesting an explanation of how those uses listed as special exceptions will be handled for properties that are requesting an amendment to an existing planned development.

[11:06:04 am](#) Neale Montgomery, representing Horizon Park, stated that there is a section in the proposed amendment – 4-897, applicability, and (d) states that if you're more than 50% built out then these don't necessarily apply. She referred to equitable estoppel, which states that if the government gives approval and they move forward and spend money on reliance of that approval, it's not right to take that approval away. She is worried about Horizon because Ordinance 17-12 they were mentioned as not being subject to the temporary moratorium, to which she further addressed. Her hope is that the exemption/exception will be included.

[11:08:57 am](#) Dawn Koncikowski referred to her concern regarding the highway layout, and explained that what she mentioned was that the beach zone probably should start on the east side of the bridge, rather than the west side where Bonita Beach Road connects with Hickory Island, because if you had the 100-foot wide road that starts where Bonita Beach Road hits Hickory Boulevard and just goes to the bridge, then it has to narrow down because the bridge isn't 100 feet wide. If it starts on the west side of the bridge then you would not run into that problem. Her other concern was, and she is glad that Staff added, that they're going to review the Comprehensive Plan for each application, because it's required by State law. Goal 5, Policy 511, 513 and 514 need to be taken into consideration for every application they review.

[11:10:35 am](#) Mike Liggins, with Horizon Park, stated they own the property at the southeast corner of I-75 and Bonita Beach Road. They are currently working on the infrastructure, digging the lake, putting in the roads, and so they are looking to provide a nice property for their users. They currently have zero percent of the PD constructed, and they are in progress of developing the infrastructure and so this would apply to them and it has the potential to wipe out their CPD, which is what they are concerned about.

The regular Council meeting adjourned at 11:11 A.M. to hold the WCI Executive Session.

The regular meeting reconvened at 12:18 P.M. Council Member Greg DeWitt left the meeting.

[12:19:44 pm](#) Discussion followed.

Council Member O'Flinn motioned to continue the Ordinance to November 6, 2019; Council Member Quaremba seconded; and the motion passed 5-1 (Mayor Simmons dissenting).

XI. PUBLIC COMMENT:

[12:47:38 PM](#) Kathy McGrath informed Council of awards BSU has recently received.

XII. CITY ATTORNEY'S ITEMS:

A. INFORMATIONAL ITEM ON DISTRICT 4 SPECIAL ELECTION AND DIRECTION TO STAFF. (GREENSHEET NO. 19-10-321)

[12:48:05 pm](#) City Attorney Rooney informed Council of a discussion he had with Supervisor of Elections Tommy Doyle, and Council's request that Staff look into a special election. The issue with Council Member O'Flinn's departure is the City Charter requires that if there is not an already scheduled election for that seat within six months, that the City will hold a special election. The election for that seat is set for November 2020. The Charter Amendments will go in March. In speaking with Supervisor Doyle, he does not believe that anything this year is possible because he's given his staff significant time off since there was no election this Fall and he doesn't have the resources to put it together. He did not feel the resources were available to put it together before March, and so his recommendation was March or August. Because after March there are some other cities holding special elections, including the City of Cape Coral, his office would then be gearing up for the Primaries and Fall election. The Charter requires a qualifying period that's at least 67 days out, which would push whatever date Council decide to meet the qualifying conditions. Staff is looking for recommendation from Council on how to proceed.

City Manager Hunter informed Council that the last election the City had was for the March 20, 2018 municipal election and cost \$23,138. Staff spoke with staff in the Supervisor of Elections Office, who informed her that at the high end their estimate with no early voting for a special election is \$25,000. With early voting their high end estimate would be \$45,000. It would also entail two precincts, which is based on the population estimate. City Attorney Rooney explained that there would be no cost involved if held March or August.

[12:53:47 pm](#) Council Member O'Flinn suggested sometime in January, which is almost four months since the date he indicated. He stated that this year Naples was able to do an election for one seat in 74 days. The reason he gave 60 days notice was to minimize the gap in the seat.

[12:56:06 pm](#) Council Member Gibson stated he wouldn't be comfortable with anything shorter than March, as he feels there has to be enough time for people that are interested in the position to get things going. He is fine with March or August as he would prefer not to pay for the election, but feels March would give enough time.

[12:56:54 pm](#) Mayor Simmons informed Council of discussions with Derek, Matt, Arleen and the Supervisor of Elections. The options in Mr. Doyle's mind really are March or August, based on his capacity to run an election. He agrees with Council Member Gibson, as in his mind, it's extremely foolish to pay for an election, especially when there are two options coming up for elections where it wouldn't cost us anything. He doesn't feel comfortable making a decision on when we are going to have this with the individual that is resigning here being part of the process. When his resignation is effective, then they make a final decision.

[12:58:57 pm](#) Council Member Quaremba stated that she feels they should vote on an option, and motioned that the election be held in March. The motion failed for the lack of a second.

XIII. CITY MANAGER’S ITEMS:

A. UPDATE ON LETTER OF ENGAGEMENT – SERVICE AGREEMENT WITH THE LAW FIRM OF GRAYROBINSON. (GREENSHEET NO. 19-10-326)

1:00:24 pm City Manager Hunter introduced this item, regarding the update on the Letter of Engagment with the Law Firm of GrayRobinson (copy in Clerk’s file). City Attorney Rooney provided an overview.

ADDITIONAL ITEM:

1:03:21 pm City Manager Hunter next informed Council that CBRE would be at their next meeting to address the Bamboo parcel and additional parcels.

XIV. MAYOR AND COUNCIL REPORTS:

1:04:00 pm Council Member Quaremba informed Council of communications from her community about the great Taco Fest! She also attended the ribbon cutting for the Wonder Gardens for one of their glass houses.

1:05:43 pm Council Member O’Flinn informed Council that he is stepping down from the MPO, and that they would need to appoint someone.

1:06:49 pm Council Member Forbes informed Council that he will be bringing forward an item from the Tree Committee regarding landscaping and maintenance requirements.

1:07:53 pm Mayor Simmons reported on a focus group he took part in last week at Lee Health, looking for feedback, reporting that they are very committed to that building and making it work and being successful. They will be coming back with information on what’s working and what’s not. He next reported that he, along with the Vice-Chair of the Outreach Committee, Tony Lee, have started a mentorship program at the Bonita Springs Elementary school. He concluded by reporting that he along with Council Member Jim Bosch of Estero went to speak to the Lee County Commissioners regarding the 2020 land that was purchased that has been named Larry Kiker Park. They went up to speak to the Commissioners about starting a non-profit to raise money to improve the 2020 land with paths, bridges, etc.

XV. APPROVAL OF MINUTES: 10/02/19

Council Member Forbes motioned approval; Council Member Gibson seconded; and the motion carried unanimously.

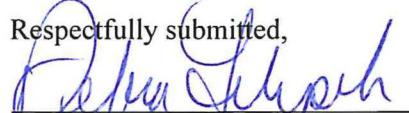
XVI. PUBLIC COMMENT:

1:10:54 PM Dwight Esmon stated that he didn’t think that the costs for an election was that outrageous.

XVII. ADJOURNMENT.

There being no further items to discuss, the meeting adjourned at 1:12 P.M.

Respectfully submitted,


Debra Filipek, City Clerk

APPROVED:
CITY COUNCIL

Date: NOVEMBER 12, 2019

AUTHENTICATED:

A handwritten signature in blue ink, appearing to read "Peter Simmons". The signature is written in a cursive style with a large initial "P" and "S".

Peter Simmons, Mayor