

CITY COUNCIL
CITY OF BONITA SPRINGS
MONDAY, SEPTEMBER 17, 2018
5:30 P.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 5:30 P.M.

II. INVOCATION:

Pastor Riley Grandell, with Gulf Shore 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

[5:34:47 pm](#) An unidentified resident was in attendance to thank Council for the PACE program.

[5:37:47 pm](#) Rick Steinmeyer stated he was happy about the budget.

[5:37:59 pm](#) Martha Simons thanked Audrey for all her hard work over the years. She also addressed impact fees for Habitat for Humanity. She also supports the request for \$1,000 for the State of the Bay Report work. She also informed Council that there are still FPL poles laying around in her neighborhood. She also feels that outsourcing the legal department is going to cost more money.

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.)

Pulled Items L. and R.

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

A. APPROVE BUDGET RESOLUTION TO TRANSFER FY 2018 GENERAL FUND BUDGET FROM THE BICYCLE PEDESTRIAN SAFETY ADVISORY BOARD TO ASSIST WITH FUNDING FOR A BICYCLE/PEDESTRIAN PROJECT. (GREENSHEET NO. 18-09-0326)
ADOPTED RESOLUTION NO. 18-67

B. REVIEW OF CASH POSITION. (GREENSHEET NO. 18-09-0321)

- C. REVIEW OF UPDATED FIVE YEAR FINANCIAL PLAN. (GREENSHEET NO. 18-09-0320)
- D. REVIEW OF FUND BALANCE POSITION. (GREENSHEET NO. 18-09-0322)
- E. REVIEW OF AUGUST 2018 MONTHLY CAPITAL PROJECTS STATUS REPORT. (GREENSHEET NO. 18-09-0328)
- F. APPROVE BUDGET RESOLUTION TO INCREASE THE BUDGET FOR A GRANT RECEIVED FROM THE USDA, NATURAL RESOURCES CONSERVATION SERVICE FOR WATERWAY DEBRIS REMOVAL. (GREENSHEET NO. 18-09-0319) **ADOPTED RESOLUTION NO. 18-68**
- G. APPROVE COMBINATION OF THE REGIONAL PARK IMPACT FEE FUND AND THE COMMUNITY PARK IMPACT FEE FUND INTO ONE PARK IMPACT FEE FUND. (GREENSHEET NO. 18-09-0318) **ADOPTED RESOLUTION NO. 18-76**
- H. APPROVE THE THIRD ADDENDUM TO THE AGREEMENT BETWEEN THE CITY OF BONITA SPRINGS, FLORIDA AND PARTNERSHIP IN HOUSING, INC., TO EXTEND THE TIME PERIOD FOR EXPANSION OF PUEBLO BONITO COMMUNITY CENTER. (GREENSHEET NO. 18-09-0317)
- I. REQUEST APPROVAL OF THE INTERLOCAL AGREEMENT BETWEEN LEE COUNTY AND THE CITY OF BONITA SPRINGS FOR WEST COAST INLAND NAVIGATION DISTRICT GRANT FUNDING FOR MARINE LAW ENFORCEMENT. (GREENSHEET NO. 18-09-306)
- J. AUTHORIZE THE CITY MANAGER TO EXTEND THE AGREEMENT TO ALLOW THE BONITA SPRINGS LIONS CLUB TO OPERATE AN ANNUAL FARMERS MARKET ON WEDNESDAYS FROM 8:00 A.M. – 1:00 P.M. AT DEPOT PARK COMMENCING OCTOBER 1, 2018 – SEPTEMBER 30, 2019. (GREENSHEET NO. 18-09-0285)
- K. CONSISTENT WITH THE RECOMMENDATION OF THE BONITA SPRINGS OUTREACH ADVISORY COMMITTEE; APPROVE THE RESOLUTION TO AMEND THE BONITA SPRINGS OUTREACH ADVISORY COMMITTEE FOR THE CITY OF BONITA SPRINGS TO REMOVE THE ONE-YEAR TERM. (GREENSHEET NO. 18-09-0323) **ADOPTED RESOLUTION NO. 18-69**
- L. ADOPT A RESOLUTION APPROVING FOUR SEPARATE PACE AGREEMENTS AND AUTHORIZING THE MAYOR TO EXECUTE SAME. (GREENSHEET NO. 18-09-0340)

5:44:22 pm Council Member Amy Quaremba pulled this agenda item, to address concerns she has with this program.

Council Member Mike Gibson motioned to approve; Council Member Greg DeWitt seconded; and the motion carried 5-2 (Council Member Quaremba and O’Flinn opposed) **ADOPTED RESOLUTION NO. 18-70**

- M. APPROVE EXTENSION TO THE EMERGENCY RESOLUTIONS OF THE CITY OF BONITA SPRINGS DECLARING A STATE OF LOCAL EMERGENCY RESULTING FROM RED TIDE (HARMFUL ALGAL BLOOMS AND DRIFT MACROALGAE) AND LAKE OKEECHOBEE DISCHARGE (ALGAE BLOOMS). (GREENSHEET NO. 18-09-0332) **ADOPTED RESOLUTION NOS. 18-71 AND 18-72**

- N. REQUEST MAYOR TO SIGN RESOLUTION TO APPROVE TWO PROPOSALS FROM SEMINOLE GULF RAILWAY (SGLR): 1) OLD US 41 RAILROAD CROSSING TEMPORARY REPAIRS AT \$205 PER RAILROAD TIE REPLACED, AND \$1,590 PER DAY OF ACTIVITY. 2) BERNWOOD PARKWAY RAILROAD CROSSING REHABILITATION AT \$113,790. (GREENSHEET NO. 18-09-0338) **ADOPTED RESOLUTION NO. 18-73**
- O. APPROVE BUDGET RESOLUTION TO TRANSFER FY 2018 BUDGETS AMONG CAPITAL IMPROVEMENT PROJECT ACCOUNTS AND TO ACCOUNTS WITHIN THE FUND FROM WHICH THE FUNDING WAS APPROPRIATED. (GREENSHEET NO. 18-09-0334) **ADOPTED RESOLUTION NO. 18-74**
- P. APPROVE THE INTERLOCAL AGREEMENT WITH ESTERO FIRE RESCUE DISTRICT FOR FIRE PREVENTION, FIRE SAFETY AND FIRE CONTROL WITHIN PARTS OF THE CITY OF BONITA SPRINGS THAT ARE WITHIN THE JURISDICTION OF THE ESTERO FIRE RESCUE DISTRICT. (GREENSHEET NO. 18-09-0335)
- Q. AUTHORIZE MAYOR SIMMONS TO SIGN THE TWELFTH AMENDMENT TO THE AGREEMENT BETWEEN CITY OF BONITA SPRINGS AND CH2M HILL FOR PROVISION OF COMMUNITY DEVELOPMENT SERVICES. (GREENSHEET NO. 18-09-0336)
- R. APPROVE AWARD TO ANTONIO CORREIA FOR CONSULTING SERVICES FOR GOVERNMENT ACCESS CABLE CHANNEL BTV98 PURSUANT TO RFP 18-012. (GREENSHEET NO. 18-09-0331)

5:46:35 pm Mayor Simmons pulled this item to address neighborhoods that are getting new cable service, and the large number of residents who cannot watch cable access TV because the new providers do not offer that. He asked City Manager Hunter and Assistant City Manager Matt Feeney to look into this, and provide an update. Council Member Quaremba supports the Mayor's suggestion. She feels if they agree to try to ask Hot Wire to expedite that transition to a community. City Manager Hunter stated they can check with the communications department and see what information they have, and then maybe look at some outreach to Hot Wire and get an inventory. Also, looking at maybe doing a letter to them to ask how they can better partner with the City.

Mayor Simmons motioned to approve the agreement with Antonio Correia; Council Member O'Flinn seconded; and the motion carried unanimously.

- OPPORTUNITY FOR CITY COUNCIL COMMENTS ON CONSENT AGENDA ITEMS

VII. PROCLAMATIONS AND PRESENTATIONS:

- A. CERTIFICATE OF RECOGNITION PRESENTED TO FIORELA PAPAPIETRO FOR HER OUTREACH, INVOLVEMENT AND DEDICATION TO THE HISPANIC COMMUNITY AND IN CELEBRATION OF HISPANIC HERITAGE MONTH.

Mayor Simmons next presented a Certificate of Recognition to Fiorela Papapietro for out outreach, involvement and dedication to the Hispanic Community, and in celebration of Hispanic Heritage month.

VIII. MAYOR AND COUNCIL MEMBER ITEMS:

- A. DISCUSS BONITA SPRINGS FERTILIZER ORDINANCE, CONSIDERING RED TIDE (HARMFUL ALGAL BLOOMS AND DRIFT MACROALGAE) AND LAKE OKEECHOBEE DISCHARGE (ALGAE BLOOMS), (MAYOR SIMMONS; GREENSHEET NO. 18-09-0333)

5:53:20 pm Mayor Simmons introduced this agenda item, addressing enforcement. He requested a discussion on where we are, where we aren't, what we have going on and what we don't have going on. City Attorney Vance furnished an overview of the fertilizer ordinance. She suggested better enforcement and informing residents of the Ordinance. She also suggested signage, and potentially extending into the dry season, on seven day increments, the ban, which she wasn't sure was necessary since we were now entering dry season. The main thing is public education and enforcement.

5:58:30 pm Council Member Quaremba referred to the Ordinance and stated that the things that concerned her are exempted. Every gated community in the City has an annual planting program, and her belief is that they are planting with fertilizer. She would recommend that outreach be done to every gated community and every CDD and inform them about the nuances of those instances when they can and can't use fertilizer. Overall, she feels there is a need to do outreach on what is and what isn't allowed.

5:59:17 pm Council Member Laura Carr agrees that the real key is education.

6:00:13 pm City Manager Hunter stated that at staff level they can work with Neighborhood Services Department to do more outreach with the community associations and with the management companies to get the information to them as well. City Attorney Vance added that certification is required by the professional landscapers, who is required to have one person who is certified. She feels the bigger concern is where people have control over their own yards that might be more "mom and pop" oriented. Outreach can be done.

6:01:37 pm Council Member Forbes stated that the biggest exemption is agriculture, which is where a lot of this is coming from. He feels Council should let Mayor Simmons, when he meets with Mayor Ruane, write a big letter to Florida League of Cities and inform them that they want them to make it a priority in their legislative body - to pass laws to crack down on what can be done in the agriculture business.

Council Member DeWitt stated that another concern relates to the golf courses, noting that in the city there are more golf courses than there is agriculture. He feels they need to look at them all.

- B. RATIFY MAYOR SIMMONS SIGNING TO INCLUDE THE CITY OF BONITA SPRINGS IN THE ATTACHED SEPTEMBER 11, 2018 LETTER TO THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT, STRONGLY URGING THE DISTRICT TO NOT ADOPT PROPOSED CHANGES TO THE CALOOSAHAATCHEE MFL (MINIMUM FLOWS AND LEVELS) RULE. (GREENSHEET NO. 18-09-0337)

6:04:38 pm Council Member Laura Carr motioned approval; Council Member O'Flinn seconded; and the motion carried unanimously.

- C. SCHEDULING OF BUDGET RETREAT AND THE NOVEMBER 21, 2018 CITY COUNCIL MEETING (MAYOR SIMMONS)

6:10:45 PM Budget retreat was scheduled for Tuesday, November 13, 2018 at 9:00 a.m. City Manager Hunter, in response to Mayor Simmons on whether this would be the retreat only, or the Council meeting as well, explained that staff can see how pending items come along, and if need be, it can be advertised as a Council meeting, that way it can include any voting items that need to be addressed.

- D. DISCUSS REQUEST FROM HABITAT FOR HUMANITY TO UTILIZE THE CITY'S BANKED WATER AND SEWER CREDITS FROM BONITA SPRINGS UTILITIES AS WELL AS DEVELOPING A DEFERRAL PROGRAM FOR CITY IMPACT FEES. (MAYOR SIMMONS; GREENSHEET NO. 18-09-0329)

[6:14:57 pm](#) Council Member O’Flinn motioned to approve; Council Member DeWitt seconded. Discussion followed.

[6:25:28 pm](#) Council Member O’Flinn split his motion to approve the BSU credits; Council Member Quaremba seconded; and the motion carried unanimously.

[6:25:59 pm](#) Council Member O’Flinn next motioned to 2) to deferral the impact fees; Council Member DeWitt seconded. City Manager Hunter clarified that the request is for two years, and five to eight houses per year. The motion carried unanimously.

- E. REQUEST FUNDING OF \$1,000 FOR 2019 OPERATIONS OF ESTERO BAY AGENCY FOR BAY MANAGEMENT (EBABM) (FORBES; GREENSHEET NO. 18-09-0339)

[6:28:52 pm](#) Council Member Forbes explained that this request is to provide a little bit of money to help the Estero Bay Management be able to operate. They get free space and staff from the RPC, noting that the RPC budget is very tight, and so the request is for \$1,000.

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

[6:29:51 pm](#) Council Member Quaremba stated that although the backup addresses the other entities that they are doing outreach for, she would request a report on that and whether they are successful, so that Council knows for next year, and if it turns out that the others are not responsive, the City might consider our Council doing outreach for them, so all those who are affected would help with their fair share.

The motion carried unanimously.

IX. SECOND READINGS AND PUBLIC HEARING OF THE FOLLOWING ORDINANCES (PUBLIC COMMENT ALLOWED):

[6:31:19 pm](#) City Attorney Vance read the title blocks for both Ordinances into the record.

- A. AN ORDINANCE OF THE CITY OF BONITA SPRINGS, AMENDING BONITA SPRINGS CODE §34-94, RELATED TO THE ART IN PUBLIC PLACES PROGRAM; PROVIDING FOR ADDITIONAL MEMBERS TO THE ART IN PUBLIC PLACES ADVISORY BOARD; ESTABLISHING QUORUM CRITERIA; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION, SCRIVENER’S ERRORS AND AN EFFECTIVE DATE. (GREENSHEET NO. 18-09-0325)

City Attorney Vance explained that explained that the intent of this Ordinance is to change from seven to eleven members, with nine voting members.

Council Member O’Flinn motioned adoption of the Ordinance; Council Member DeWitt seconded.

No public comments were made.

The motion carried unanimously. **ADOPTED ORDINANCE NO. 18-16**

- B. AN ORDINANCE OF THE CITY OF BONITA SPRINGS AMENDING ORDINANCE NO. 00-08; ADJUSTING THE RATE OF THE FLORIDA POWER AND LIGHT COMPANY NON-EXCLUSIVE ELECTRIC UTILITY FRANCHISE, PROVIDING FOR PAYMENTS TO THE CITY OF BONITA SPRINGS, AND PROVIDING FOR AN EFFECTIVE DATE. (GREENSHEET NO. 18-09-0324)

6:37:01 PM City Attorney Vance explained that Charlotte Miller and Patrick Ryan are here from FPL to respond to questions.

6:37:07 PM Council Member Quaremba motioned to adopt the Ordinance; Council Member DeWitt seconded.

6:37:28 PM Council Member O'Flinn explained that he requested this be deferred as he was looking for information on what Council Members views are on things they will need to allocate money to for FEMA mitigation.

6:39:12 PM Council Member DeWitt provided the example of the A/C at City Hall that needed to be fixed last year, and also is concerned where funds are going to come from that just pop up. This Ordinance does include a sunset provision.

6:42:09 PM Finance Director Anne Wright responded to the Mayor on funding. A lengthy discussion ensued.

The motion failed 3-4 (Mayor Simmons and Council Members Carr, Gibson and Forbes)

X. PUBLIC COMMENT: No public comments were made.

XI. CITY ATTORNEY'S REPORT: No items

ADDITIONAL ITEM:

Mayor Simmons next presented City Attorney Audrey Vance with a plaque in appreciation of her 18 years of service to the City of Bonita Springs, and in recognition of over 30 years of public service to Southwest Florida - 2000-2018.

XII. CITY MANAGER'S REPORT:

A. ADOPT A RESOLUTION TO ESTABLISH THE CITY OF BONITA SPRINGS CHARTER REVIEW COMMITTEE FOR THE 2020 CITYWIDE ELECTION. (GREENSHEET NO. 18-09-0330)

6:57:17 pm City Manager Hunter next furnished an overview of this agenda item, explaining that at Council's next meeting Staff will be looking for an appointment of citizens to the Charter Review Committee. She also addressed the appointment process used previously. Previously the committee consisted of seven members with two alternates.

B. APPROVE THE LETTER OF ENGAGEMENT WITH GRAY ROBINSON LAW FIRM FOR SERVICES AS THE CITY ATTORNEY. (GREENSHEET NO. 18-09-0341)

6:57:17 pm City Manager Hunter addressed this item, addressing the intent of Council, which was to look at retaining the additional legal staff we have. They have looked at an opportunity for the Assistant City Attorney to become a staff attorney, and keep the legal assistant with coordinating efforts with the outsourced attorney as well as with other administrative duties. The amount was reduced by \$50,000. Staff would recommend to Council should they move forward to Option C, which looks at the retainer of \$300,000, but there's a potential cost savings depending on the utilization of the attorney.

Attorney Derek Rooney addressed the two options – a fixed fee, reducing it from \$350,000 to \$300,000, which would be inclusive with the exception of litigation. This would guarantee the city savings over the current budget, however, they felt that if they can go to the incentive structure where both the firm

and the city are incentivized to be as efficient as possible, then they think there could be additional savings, and whatever those savings are, they would remit 70% of that back to the city. The idea being that his firm can boost its hourly rate by being efficient as possible, and so he is confident they are going to come in under that \$300,000 figure.

Council Member O'Flinn motioned approval; Council Member Quaremba seconded; and the motion carried unanimously.

C. REMINDER OF DOWNTOWN BONITA SPRINGS INTRODUCTION TO FORM-BASED CODE PUBLIC WORKSHOP ON TUESDAY, SEPTEMBER 25, 2018 FROM 5:30 P.M. TO 7:00 P.M.

Informational.

ADDITIONAL ITEM:

7:13:38 PM City Manager Hunter informed Council of correspondence Mayor Simmons has been receiving from Mosaic, who have been addressing concerns regarding their impact fees. They did start the process in 2016 looking forward to moving downtown and working through their processes. Since that time, impact fee studies have changed between Lee County as well as updates that the City has received. They provided the Mayor with a number of approximately \$600,000, which was a difference in what they anticipated to originally pay. There is an administrative process that would allow them to hire a traffic engineer to do an independent fee calculation. They are asking is if there's an opportunity for them to move forward so that their building permits are not any further delayed to be able to pay the original amount of that they were thinking when they started their process in 2016, which was approximately \$1,271,907 up front now to be able to get their building permits. She believes the City Attorney will say that they need to bring back some sort of formal contract for Council's October 3, 2018 meeting, allowing that little bit of day and so they can move forward and pull their building permits, and in essence, the City can work through a process to determine if there is any fee reduction in the impact fees. If they move forward through that process, and the independent fee calculation is not where they think it is, they might be asking Council for further direction, but that's not at this step right now.

7:15:41 pm John Dulmer, Community Development, explained that impact fees are due at time of building permit. They are getting close to where their development order will be approved, which means their building permits, which have been reviewed, will be issued, and that payment will be due. They have had an interesting time with this property in terms of fits, starts and entitlements, but they have been active in their application since their zoning, and at this point they have made contact because they've been focused on construction, and have not focused on what the impact fee rates were, which were in a memo/letter that was written in September of 2014. It is a position where they have been focusing on other things, and were ready to write a check, and looked at impact and realized the rate has increased. City Manager Hunter clarified this is only for road impact fees. The original letter in September of 2014 was \$1,271,902. If the new impact fee rate and schedule, based on the updates provided by Lee County, currently they would owe \$1,669,668. Once the new impact fees go into effect in November they would be at \$1,829,919, with the 30% reduction. City Manager Hunter explained that Staff was requesting 60 days, which would be part of an extension, with an agreement brought to City Council on October 3, 2018. Council Member O'Flinn stated that Staff was just looking for Council to say they understand, that they are going to pay the original amount, and then Staff will discuss with them for 60 days what the new amount is. City Manager Hunter stated that was correct. Council consensus yes. City Manager Hunter stated that Staff will go with the direction with Attorney Rooney on what Staff will bring back for October 3, 2018 so that they can move through the process.

XIII. MAYOR AND COUNCIL REPORTS:

7:21:07 pm Council Members Quaremba, DeWitt, Carr reported that the Patriot's Day celebration was very good! They thanked all Staff and everyone involved.

7:23:17 pm Council Members O'Flinn, Gibson, Forbes and Mayor Simmons thanked Audrey for all her hard work over the years and her years of public service. They also commended everyone involved and attended the wonderful Patriot's Day service.

XIV. APPROVAL OF MINUTES: 09/05/18 & 09/05/18 (BUDGET)

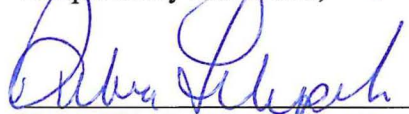
Council Member DeWitt motioned approval of the Minutes; Council Member O'Flinn seconded; and the motion carried unanimously.

XV. PUBLIC COMMENT: None

XVI. ADJOURNMENT.

There being no further items to discuss, the meeting adjourned at 7:26 P.M.

Respectfully submitted,


Debra Filipek, Deputy City Clerk

APPROVED:
CITY COUNCIL ZONING BOARD

Date: 10/10/18

AUTHENTICATED:


Peter Simmons, Mayor