

CITY COUNCIL
CITY OF BONITA SPRINGS
WEDNESDAY, JULY 20, 2016
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 9:05 A.M.

II. INVOCATION.

Pastor Jeff Chitwood, with Anchor Christian Church, was in attendance to furnish the invocation.

III. PLEDGE OF ALLEGIANCE.

At the request of Mayor Simmons, Council Member Steve Slachta led in the Pledge of Allegiance.

IV. ROLL CALL.

Mayor Simmons and all Council Members were in attendance.

V. PUBLIC COMMENT ON AGENDA ITEMS

[9:12:59 am](#) Linda Miller, with Shop Local Productions, stated that she runs the farmers market at Rhodes Restaurant along with three more markets at three area churches. She also donates to those in need. Her goal is to run an upscale market. She is here to ask Council to approve her permit.

[9:16:12 am](#) Bob Hilliard thanked Ms. Miller and her husband for reaching out to them. It's going to be a great partnership for the City and vendors.

[9:16:43 am](#) Kathy McGrath asked that they been required to be true non-profits that have been in the City.

[9:17:25 am](#) Todd Richards, with the Salt Warriors, thanked Council for their consideration of their permit to hold the Bonita Brew Fest event. They are a local non-profit whose money goes to local charities.

VI. PROCLAMATIONS AND PRESENTATIONS:

A. PROCLAMATION PROCLAIMING JULY 26, 2016 AS AMERICANS WITH DISABILITY ACT AWARENESS DAY.

Mayor Simmons next read aloud a Proclamation proclaiming July 26, 2016 as Americans with disability act awareness day. Renee Sluzalis with the Center for Independent Living Gulf Coast, was in attendance to accept the Proclamation and to thank Mayor Simmons and City Council.

B. PRESENTATION OF SPRING CREEK RESTORATION PLAN BY THE SOUTHWEST FLORIDA REGIONAL PLANNING COUNCIL.

9:31:39 AM Jim Beever with the Southwest Florida Regional Planning Council, was in attendance to furnish a PowerPoint presentation (copy in Clerks file) to address the Spring Creek Restoration Plan.

10:11:24 AM In response to Council Member Forbes, Public Works Director Matt Feeney stated that the City doesn't have a lot of wet ponds like the Arroyal Pond. Most of the City's ponds are dry ponds or dry detention – dry areas like those on Shangri-La Road. Council Member Forbes suggested looking into and implement the floating mats in any wet ponds that the City controls, and maybe a schooling for all the gated communities on them. He suggested an incentive to do it. City Attorney Vance informed Council that in February 2015 the City adopted an Ordinance to address excessive vegetation for stormwater ponds. Mr. Feeney explained that the Ordinance was a result of a recommendation from the Water Task Force and allows for some enforcement action. Council Member Forbes stated that the ponds will have to be inspected more often, especially those in the gated communities, for those who don't know they should contact the City to place a complaint. Discussion followed.

10:16:08 AM Mayor Simmons questioned what the best way to move forward would be. Mr. Feeney stated that in the restoration plan, some projects are underway such as the navigation and hydrologic restoration dredging, and some are tied to leveraging opportunity regionally, and so maybe adoption of the plan so that when those opportunities become available the City can use this plan as a backup to get those things incorporated. Also, there are some that are tied to road improvement projects and standalone projects such as increasing culvert sizes in the Imperial Harbor neighborhood and along the railroad track and Old 41 crossings.

10:17:29 AM Council Member Forbes motioned to accept the restoration plan; Council Member Amy Quaremba seconded; and the motion carried unanimously.

VII. 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.)

10:18:45 AM Council Member Steve Slachta referred to item C., and explained that the Director of the American Legion Riders was present to correct the time reflected on the Greensheet. John Rodriguez, with the American Legion Riders, explained that the actual event time is 12:00 p.m. to 4:00 p.m. The set up time is from 8:00 a.m. to noon.

10:19:48 AM Council Member Peter O'Flinn requested items B. and D. be pulled.

Council Member Slachta motioned to approve the remainder of the Consent Agenda (Items A., C., E. and F.); Council Member Greg DeWitt seconded; and the motion carried unanimously.

- A. REQUEST APPROVAL OF SPECIAL EVENT PERMIT FOR THE BONITA ACADEMY OF DANCE, LLC FOR A DANCE RECITAL ON DECEMBER 10, 2016 AT RIVERSIDE PARK. (GREENSHEET NO. 16-07-0223)
- B. REQUEST APPROVAL OF SPECIAL EVENT PERMIT AND CO-SPONSORSHIP FOR THE SALT WARRIORS, INC., BONITA BREW FEST AT RIVERSIDE PARK ON FEBRUARY 4, 2017 FROM 3:00 P.M. TO 7:30 P.M. (GREENSHEET NO. 16-07-0225)

10:20:53 am Council Member O'Flinn pulled item B. to address a question he had about Brew Fest as to who they are. He asked if they were a non-profit, to which Lora Taylor, Communications Director,

explained that they are not a non-profit. They met with Staff who informed them of their options for apply. A brief discussion followed on fees and non-profits.

10:24:38 am Council Member O'Flinn motioned to approve; Council Member DeWitt seconded; and the motion carried unanimously.

- C. APPROVE SPECIAL EVENT PERMIT AND CO-SPONSORSHIP FOR THE AMERICAN LEGION POST 303 "BLESSING OF THE BIKES" ON SUNDAY, JANUARY 29, 2017 FROM 8:00 AM TO 12:00 PM AT 27678 IMPERIAL SHORES BOULEVARD, BONITA SPRINGS. (GREENSHEET NO. 16-07-0224)
- D. APPROVE RESOLUTION OF THE CITY OF BONITA SPRINGS, AUTHORIZING THE CITY MANAGER TO ENTER INTO CONSTRUCTION AGREEMENT WITH THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION ON BEHALF OF THE CITY FOR LIMETREE PARK DRIVE TRAFFIC SIGNAL. (GREENSHEET NO. 16-07-0219)

10:25:14 am Council Member O'Flinn pulled Item D., to thank the City Manager Carl Schwing and Matt Feeney for all their work on this.

10:25:28 am Council Member O'Flinn motioned to approve; Mayor Simmons seconded and also thanked others involved, including Roger Brunswick, John Spear and Jim Wurster.

The motion carried unanimously. **ADOPTED RESOLUTION NO. 16-29**

- E. APPROVE RESOLUTION AWARDDING THE KENTUCKY STREET SIDEWALK PROJECT TO THE LOWEST RESPONSIVE, RESPONSIBLE BIDDER, V & H CONSTRUCTION, INCORPORATED IN THE TOTAL BID AMOUNT OF \$368,937.90, UPON APPROVAL OF DOCUMENTS BY CITY ATTORNEY. (GREENSHEET NO. 16-07-0218) **ADOPTED RESOLUTION NO. 16-30**
- F. ACCEPT THE LETTER FROM LEE COUNTY GOVERNMENT TO CONTINUE THE LEASE FOR 10520 REYNOLDS STREET FOR THE LEE COUNTY SHERIFF'S OFFICE SUBSTATION. (GREENSHEET NO. 16-07-0213)

VIII. MAYOR AND COUNCIL MEMBER ITEMS:

IX. FIRST READING OF THE FOLLOWING ORDINANCES (NO PUBLIC COMMENT):

- A. AN ORDINANCE OF THE CITY OF BONITA SPRINGS APPROVING THE PETITION OF BONITA SPRINGS UTILITIES, INC., MODIFYING ITS WASTEWATER TARIFF TO APPROVE A SPECIAL SERVICE CHARGE FOR THE FOREST MERE AND SPRING LAKES SUBDIVISIONS; AND PROVIDING FOR AN EFFECTIVE DATE. (GREENSHEET NO. 16-07-0215)

10:27:14 AM City Attorney Vance read the title block of the Ordinance into the record.

10:28:07 AM Council Member Forbes motioned to move forward with a second reading and public hearing of the Ordinance on Wednesday, August 3, 2016; Council Member Quaremba seconded; and the motion carried unanimously.

- B. ORDINANCE AMENDING ORDINANCE NO. 14-13, THE OUTDOOR FLEA MARKET ORDINANCE; AMENDING LOCATION AND PERMITTING REQUIREMENTS AND REMOVING THE SUNSET PROVISION; AMENDING §12-322; PROVIDING FOR

CONFLICTS OF LAW, SEVERABILITY, INCLUSION IN CODE, SCRIVENER'S ERRORS AND AN EFFECTIVE DATE. (GREENSHEET NO. 16-07-0220)

[10:28:54 am](#) City Attorney Vance read the title block of the Ordinance into the record.

[10:29:32 am](#) Communications Director Lora Taylor addressed revisions made in the form of simple changes to accommodate the non-profits to be able to have the flea market on the same road segment for multiple days.

[10:29:50 am](#) Council Member O'Flinn stated that the Flea Market Ordinance states that there could be two in town – one on Bonita Beach Road and one on U.S. 41. This simply gives flexibility to have them both on one road or the other. County Attorney Vance, in response to Council Member Slachta, stated she can include language on page 2 to make it is more restrictive as to existing local non-profits utilized from Bonita Springs. Council Member O'Flinn wants to keep it simple. Council Member DeWitt stated his only issue is with the existing non-profits, addressing the Kiwanis. His issue is "existing." Council Member Forbes suggested moving it forward to the next meeting and then Council Member O'Flinn can converse with the City Attorney. He feels it should be an existing non-profit that has done some similar things. City Manager Schwing stated that for purposes of administering this Ordinance, Staff is concerned about what "existing" means. Existing as of when – the date of application, the date of the Ordinance is effective. Also, what happens if an additional non-profit comes into the City after the passage of the Ordinance and they want to be a part of the community and do a fundraiser. Staff would like a clarification. Council Member O'Flinn stated that if he was going to tweak it, which he doesn't suggest they do, he would tweak it towards the lines of a pre-existing market. He feels if they get into that now, it's going to complicate it. He suggests just moving forward and in the future figure out whether or not to tweak it. Council Member Quaremba feels they need to talk about their policy decisions in regard to the green market and this.

Council Member Forbes motioned to move forward with the second reading and public hearing of the Ordinance on Wednesday, August 3, 2016. Discussion followed.

Council Member Gibson addressed the issue of timing of application – whoever comes in first gets it. Discussion followed.

Council Member Gibson seconded the motion; and the motion carried unanimously.

Council Member Quaremba provided direction to Staff to come up alternatives and review/procedure where non-profits could register – solutions.

X. SECOND READING AND PUBLIC HEARING OF THE FOLLOWING ORDINANCES:

- A. AN ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA, AMENDING THE BONITA SPRINGS FALSE ALARM ORDINANCE; SECTIONS 18-20 THROUGH 18-29; REVISING TO CONFORM WITH STATUTORY CHANGES; PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION AND SCRIVENERS ERRORS AND AN EFFECTIVE DATE. (GREENSHEET 16-07-0216)

[10:46:06 am](#) City Attorney Vance read the title block of the Ordinance. Mary Zizzo, legal intern, was in attendance to respond to questions.

[10:46:14 am](#) Council Member Slachta motioned to adopt the Ordinance; Council Member O'Flinn seconded; and the motion carried unanimously. **ADOPTED ORDINANCE NO. 16-08**

- B. AN ORDINANCE AUTHORIZING A LEASE AGREEMENT FOR THE USE OF A PORTION OF LAND OWNED BY THE SKY FAMILY YMCA INC. FOR USE OF SHARED PICKLEBALL COURTS; AUTHORIZING THE MAYOR AND CITY OFFICIALS TO EXECUTE SAID AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE. (GREENSHEET NO. 16-07-0214)

[10:47:01 am](#) City Attorney Vance read the title block of the Ordinance into the record, addressing changes that need to be made to the insurance and indemnification clause. The Ordinance can be approved contingent on those changes being made. Nicole Perino, Director of Parks and Recreation, informed Council that the changes requested have come from the YMCA's insurance company.

[10:52:41 am](#) Council Member Slachta motioned to approve the Agreement; Council Member O'Flinn seconded; and the motion carried unanimously. **ADOPTED ORDINANCE NO. 16-09**

XI. PUBLIC COMMENT:

[10:53:19 am](#) Bob Hilliard addressed the discussion on the non-profits, and suggested they indicate 501 C-3.

[10:53:57 AM](#) Kathy McGrath addressed an article in 1922 Washington Post on climate change.

[10:57:29 AM](#) Nicole Johnson, with the Conservancy, addressed item XIV. A., regarding the land purchasing criteria for property in the DRGR and suggested the City use the screening criteria that 2020 uses. The Conservancy is very supportive of this. She also thanked City Council for approving the Sanibel white paper.

XII. CITY ATTORNEY'S REPORT:

- A. PERMISSION TO ADVERTISE AN ORDINANCE RELATED TO FATS, OILS AND GREASE MANAGEMENT, TO ESTABLISH UNIFORM REQUIREMENTS FOR FOOD SERVICE ESTABLISHMENTS DISCHARGING GREASE-LADEN WASTEWATER INTO THE BONITA SPRINGS UTILITIES, INC., WASTEWATER COLLECTION SYSTEM WILL ASSIST THE CITY'S EFFORTS TO COMPLY WITH ALL APPLICABLE FEDERAL AND STATE LAWS, INCLUDING THOSE WHICH APPLY TO SANITARY SEWER OVERFLOWS. (GREENSHEET NO. 16-07-0217)

[11:00:58 am](#) City Attorney Vance read the title block and provided a brief overview. Council Member Gibson addressed a concern he had on the requirement of quarterly reporting for the small mom and pop establishments who have the smaller grease traps as opposed to the interceptors. Kim Haskins, with Bonita Springs Utilities, was in attendance and responded to questions from City Council on reporting. Discussion followed. Ms. Haskins to get information the percentage of those complying with the quarterly reporting. Don Thomson was also in attendance to address City Council. City Attorney to bring back.

- B. PERMISSION TO ADVERTISE TWO ORDINANCES. THE FIRST IS TO REPEAL ORDINANCE NO. 03-23, THE CITY OF BONITA SPRINGS CABLE TELEVISION FRANCHISE ORDINANCE. THE SECOND ORDINANCE IS TO REPEAL ORDINANCE NO. 04-02, TO REPEAL THE FRANCHISE WITH COMCAST CABLEVISION OF THE SOUTH, WHICH HAS NOT BEEN OPERATIVE AFTER THE 2007 CHANGES IN STATE LAW. (GREENSHEET NO. 16-07-0221)

[11:40:57 am](#) Aerial Daniels, Legal Intern, furnished an overview.

[11:43:45 am](#) Council Member Gibson motioned to move forward with a first reading of the Ordinance on August 3, 2016; Council Member O'Flinn seconded; and the motion carried unanimously.

- C. AMEND RENTAL PERMIT ORDINANCE, BSC §12-106 THROUGH 12-112 TO ADDRESS NEIGHBORHOOD SERVICES ENFORCEMENT ISSUES. IF COUNCIL AUTHORIZES THIS ORDINANCE TO GO FORWARD, THIS ORDINANCE WILL BE SCHEDULED ON AUGUST 3, 2016 FOR A FIRST READING AND PUBLIC HEARING AND AUGUST 17, 2016 FOR A SECOND READING AND PUBLIC HEARING. (GREENSHEET 16-07-0222)

Council Member O'Flinn motioned to move forward with a first reading of the Ordinance on Wednesday, August 3, 2016; Council Member DeWitt seconded; and the motion carried unanimously.

XIII. CITY MANAGER'S REPORT:

- A. REVIEW OF MONTHLY FINANCIAL REPORT. (GREENSHEET NO. 16-07-0228)

Informational.

- B. FOLLOW UP FROM JULY 13, 2016 BUDGET MEETING.

[11:46:19 AM](#) Anne Wright, Finance Director, referred to her submittal "Proposed Adjustments to FY 2016-2017 Budget" (copy in Clerk's file). Discussion followed.

[12:20:48 pm](#) Council Member DeWitt motioned to move forward with both fees - the CST and the FPL electric franchise; Council Member Slachta seconded.

[12:21:36 pm](#) City Attorney Vance clarified that the CST and FPL would be the same as Estero and Lee County. City Attorney to bring forward two Ordinances at the next meeting for a first reading for Council's consideration.

The motion passed 5-2 (Mayor Simmons and Council Member Gibson opposed)

- C. APPROVE BUDGET RESOLUTION TO FUND \$150,000 TOWARDS THE YMCA CONSTRUCTION COSTS FOR SEVEN TO NINE PICKLEBALL COURTS AS PER THE TERMS OF A TEN YEAR LEASE AGREEMENT. (GREENSHEET NO. 16-07-0227)

[12:23:27 PM](#) Council Member Forbes motioned approval of the Budget Resolution; Council Member O'Flinn seconded; and the motion carried unanimously. **ADOPTED RESOLUTION NO. 16-31**

- D. AUTHORIZE THE CITY MANAGER TO SUBMIT A LETTER TO LEE COUNTY DEPARTMENT OF HUMAN SERVICES IDENTIFYING THE PROPOSED ALLOCATION OF THE CITY OF BONITA SPRINGS/COMMUNITY BLOCK GRANT (CDBG) FUNDS FOR FY 2016-2017 BUDGET FOR PUBLIC INFRASTRUCTURE WITHIN THE DEFINED ELIGIBLE AREAS. (GREENSHEET NO. 16-07-0226)

[12:23:53 PM](#) Assistant City Manager Hunter provided an overview of this item, explaining that funds would be used for a potential multi-use path that would head north on Terry Street. This would entail two parts – a willing property owner on donating the first leg of the property being the most southern leg, and Dave Hanson, with Pueblo Bonito, is in discussions with his Board about extending that to the north, affording the opportunity for a pathway of over a mile. She also addressed the process for the designation of funds. The estimate depicted in the Greensheet is for \$294,754.00 to be allocated for FY 2016-2017.

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

XIV. MAYOR AND COUNCIL MEMBER REPORTS:

A. REVIEW AND STAFF DIRECTION ON CRITERIA RELATING TO FUTURE PURCHASES OF LAND IN THE DR/GR PURSUANT TO THE CITIZENS WATER TASK FORCE RECOMMENDATIONS. (GREENSHEET NO. 16-07-0231; FORBES)

12:27:19 pm Council Member Forbes addressed this item and willingness to finance for five years or more with no interest is important. Also, getting an opinion informally from Conservation 2020 or the Conservancy is okay. Council Member O'Flinn stated he felt what was depicted on the Greensheet was fine, but feels that this is a work in progress. There may be small items, and work with larger agencies to which the City would have to meet their criteria. There's a concept that he would like included, which is consistent with the purposes of the DRGR designation. Public ownership of the land will mitigate the adverse effect of urban sprawl in Bonita Springs. Also, where it states "input from the SFWMD as to desirability of site for water related issues and projects," he would remove "the SFWMD" and put in "input from appropriate agencies as to the desirability of the site for projects." Lastly, the \$499,999.00 sounds like detail. City Manager Schwing explained that came from Conservation 2020. City Attorney Vance stated there was a separate statute for municipalities as far as the number of appraisals, but she will look it up. Council Member O'Flinn suggested putting in whatever appropriate state statute applies to the municipal purchase. Council Member Quaremba feels they should come up with the major items, such as density reduction and hydrology and maybe a third one that is of significant importance, and have all of these other items be the second screening. That the purpose is for density reduction and hydrology. Council Member Forbes stated they will include Council Member O'Flinn's suggested inclusions and remove those items.

12:33:36 pm Council Member Forbes motioned to adopt this as a policy, with the revisions discussed; Mayor Simmons seconded.

The motion was clarified by the City Attorney to follow this, but not to have a formal policy – to allow flexibility. Council agreed.

The motion carried unanimously.

Council Member Gibson questioned the remaining funds from the Kentucky Street sidewalk project, to which Ms. Hunter stated that it was her belief that the funds could be rolled forward.

B. ERRATA SHEET ITEM: DISCUSSION AND APPROVAL OF THIRD REVISION OF THE CALOOSAHATCHEE WATERSHED REGIONAL WATER MANAGEMENT ISSUES WHITE PAPER (GREENSHEET NO. 06-07-0229; SIMMONS)

9:21:57 am James Evans, the Natural Resources Director with the City of Sanibel, was in attendance to present the third version of the white paper and updates made thereto. He thanked Mayor Simmons and City Council for their leadership on water management issues. The Mayors of Lee County have worked closely to make this a major issue for this area in addressing the impacts to the Caloosahatchee River and the coastal waters. The purpose of the white paper is to look at how they can restore the quantity, quality, timing and distribution of flows to the Caloosahatchee River and estuary.

9:27:50 am Council Member Fred Forbes motioned to approve the Resolution; Mayor Simmons seconded. Council Member Greg DeWitt requested an amendment to include the Bonita Springs logo on the white paper. Council Member Forbes agreed.

The motion passed unanimously. **ADOPTED RESOLUTION NO. 16-28**

[12:56:26 pm](#) Council Member Forbes urged Council to look at storage facilities and work to address these type of uses in the Land Development Code.

[12:57:25 pm](#) Council Member DeWitt informed Council that in this morning's News-Press opinion, Council received kudos on the good job they have been doing since April.

[12:58:12 pm](#) Council Member Slachta addressed the paddleboard accident that occurred on Fort Myers Beach.

[12:59:34 pm](#) Council Member O'Flinn informed Council of a rumor that's been going around that is false that Council is thinking about extending Windsor Road down to Woods Edge Parkway. Also as the Liaison for the quadrant study, he informed Council of a meeting he attended with Secretary Hattaway, who is very willing to help with the study. He also addressed the timing of the traffic light on the corner at U.S. 41, which can be corrected with an adaptive traffic control. This would be the responsibility of FDOT to fund. He asked Secretary Hattaway the cost, which he stated was not much. Secondly, his question is whether the City can advance the money and have FDOT pay the City back to get it completed, and Secretary Hattaway stated that was something that was done all the time. Mr. Feeney is working with FDOT. It's something he would suggest pursue and have it brought back to Council if it makes sense. To see how much it costs. Overall, if there's some way to advance this and have FDOT pay the City back.

[1:04:27 pm](#) Council Member Gibson furnished information on becoming a member of the Bonita Wonder Gardens. If you join this year you are considered a founding member.

Council Member O'Flinn addressed a meeting is scheduling with the City Manager and Director of Finance to discuss the budget. Council Members can attend with special notice.

[1:06:37 pm](#) Mayor Simmons reported that he met with Deputy Mayor of Sanibel who has invited Council Members to visit to address their program on golf courses and the use of pesticides, etc., and ways to address those items. He anticipates this will be scheduled for some time in September. He next reported that Senator Nelson was in Fort Myers last Friday and Senator Rubio was in Fort Myers on Monday to continue to work on Lake "O" water releases. He also reported that the previous evening he attended the Gulf Shore Life business awards.

XV. APPROVAL OF MINUTES: 07/06/16

[1:09:29 PM](#) Council Member Gibson motioned approval of the minutes; Council Member DeWitt seconded; and the motion carried unanimously (Council Member Forbes absent during the vote).

XVI. PUBLIC COMMENT:

[1:10:15 PM](#) Rick Steinmeyer addressed the City's debt service. City Manager Schwing stated that the penalty to pay off the loan would be \$2.14 million.

[1:12:13 PM](#) Kathy McGrath addressed the budget.

XVII. ADJOURNMENT.


There being no further items to discuss the meeting adjourned at 1:15 P.M.

Respectfully submitted,


Debra Filipek, City Clerk

APPROVED:
BONITA SPRINGS CITY COUNCIL:

Date: AUGUST 3, 2016

AUTHENTICATED:

Peter Simmons, Mayor