

CITY COUNCIL
CITY OF BONITA SPRINGS
WEDNESDAY, DECEMBER 7, 2016
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 Life Church, furnished 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

5:34:00 PM Rick Steinmeyer commented on Hickory Boulevard, parking, mowing, etc.

5:36:31 PM Deborah Maclean was in attendance to voice her opposition to marijuana. She also commented on Bonita Springs Utilities.

5:39:11 PM Danielle Dyer, the new business owner on Old 41, updated Council on her business. She referred to Consent Agenda Item H., stating she has submitted the grant for the outside of the building. She asked for Council's support.

5:39:55 PM Lorraine Fiero, from Estero, informed Council of her plans to move forward with a dispensary for marijuana in the future.

5:41:17 PM An unidentified gentleman addressed City Council.

5:41:38 PM Martha Simons addressed the Dixie Moon Building. She feels placing the building on the Lemon Tree site would be a good choice. She would also suggest refurbishing the building, and she supports the plans that Rich Donnelly prepared. She also voiced her support for the use of medical marijuana.

5:45:16 PM Ron Pure was in attendance to comment on Bonita Springs Utilities.

5:48:55 PM Jude Richvale commented on Bonita Springs Utilities and reclaimed water.

5:52:28 PM Ed Fitzgerald was also present to comment on Bonita Springs Utilities Franchise.

5:56:33 PM Kathy McGrath voiced her support for the use of medical marijuana.

5:59:39 PM Jessie Purdon was in attendance to address item VII A., and expressed his support for the request relating to Cordera, specifically a study to get this to move forward. He also addressed item X. A., regarding the moratorium on marijuana and feels a year is too long. He also addressed the Ordinance relating to super majority for height over 75 feet. He concluded by thanking Mayor Simmons for all his work on the diversity Council, and for the meetings being held at Neighborhood Services on diversity.

6:03:21 PM Pat McCourt was in attendance to voice his support for the Agenda Item relating to the request that Hickory Boulevard be designated as a no parking road. They are a deed restricted subdivision. They all believe that the entire length of Hickory Boulevard should be no parking area.

VI. PROCLAMATIONS AND PRESENTATIONS:

A. INTRODUCTION OF NEW SHERIFF PERSONNEL.

6:05:54 PM Captain Blake Lee and Mayor Simmons introduced all the members of the South District.

Next Mayor Simmons, Captain Lee and City Manager Carl Schwing presented Council Member Mike Gibson with a Certificate as an Honorary Community Policing Deputy for his amazing traffic control skills at the Taste of Bonita.

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.)

6:16:34 pm Council Member Peter O'Flinn pulled item G., and Council Member Greg DeWitt pulled item H.

Council Member Slachta motioned approval of the remainder of the Consent Agenda; Mayor Simmons seconded; and the motion carried unanimously.

- A. REQUEST APPROVAL OF SPECIAL EVENT PERMIT FOR THE BOURNE 2 DANCE FOR A HOLIDAY DANCE RECITAL ON SATURDAY, DECEMBER 17, 2016 FROM 6:00 P.M. TO 7:30 P.M. AT RIVERSIDE PARK. (GREENSHEET NO. 16-12-0409)
- B. APPROVE SPECIAL EVENT PERMIT FOR SOUTHWEST FLORIDA VETERINARY SPECIALISTS FOR THE ANNUAL "BARK IN RIVERSIDE PARK" EVENT ON JANUARY 28, 2017 FROM 11:00 A.M. TO 3:00 P.M. AT RIVERSIDE PARK (LILES HOTEL PLAZA) AND PERMIT DOGS AND CATS TO BE PRESENT AT THE EVENT. (GREENSHEET NO. 16-12-0408)
- C. REQUEST APPROVAL OF A SPECIAL EVENT PERMIT APPLICATION FOR JESUS PODER PARA CAMBIAR MINISTRIES, INC., FOR A CHRISTMAS CELEBRATION CONCERT ON DECEMBER 16, 2016 AT RIVERSIDE PARK FROM 6:30 P.M. TO 9:00 P.M. (GREENSHEET NO. 16-12-0406)
- D. APPROVE RESOLUTION TO CARRYOVER PRIOR YEAR'S UNSPENT CAPITAL BUDGET AMOUNTS. (GREENSHEET NO. 16-12-0388) **ADOPTED RESOLUTION NO. 16-66**

- E. AUTHORIZE MAYOR TO SIGN RESOLUTION APPROVING SUPPLEMENTAL TASK AUTHORIZATION NO. 3 WITH JOHNSON ENGINEERING SERVICES, INCORPORATED FOR NPDES SERVICES IN THE NTE AMOUNT OF \$29,500.00 (GREENSHEET NO. 16-12-0395) **ADOPTED RESOLUTION NO. 16-67**
- F. APPROVE SOUTH FLORIDA WATER MANAGEMENT DISTRICT GRANT AGREEMENT IN THE AMOUNT OF \$100,000 FOR THE WOODCHIP BIO-REACTOR PILOT PROJECT AGREEMENT. (GREENSHEET NO. 16-12-0411) **ADOPTED RESOLUTION NO. 16-68**
- G. APPROVE SECOND AMENDMENT OF THE INTERLOCAL AGREEMENT BETWEEN LEE COUNTY AND THE CITY OF BONITA SPRINGS FOR THE DESIGN, CONSTRUCTION, FURNISHINGS AND OCCUPANCY OF A PUBLIC LIBRARY IN BONITA SPRINGS. (GREENSHEET NO. 16-12-0415)

6:17:19 PM Council Member O'Flinn pulled this item to request an update from Staff. He next suggested a Council Member be appointed as liaison to Lee County on library matters. He expressed a concern with the existing library site. Discussion followed. Council Member Forbes was next nominated as liaison to Lee County with respect to library.

A workshop on the library was suggested for Council's January evening meeting to discuss library ideas.

- H. CONCEPTUAL APPROVAL OF A PROPOSED ECONOMIC DEVELOPMENT GRANT FOR COMMERCIAL PROPERTY LOCATED AT 27657 OLD 41 ROAD, BONITA SPRINGS, FLORIDA 34135. (GREENSHEET NO. 16-14-0414)

6:29:12 pm Council Member DeWitt pulled this item to commend and congratulate Ms. Dyer on the great job she is doing with her business. It is a great addition to the downtown area.

6:30:01 pm Council Member DeWitt motioned to approve; Council Member Quaremba seconded; and the motion carried unanimously.

- I. RESOLUTION APPOINTING/REAPPOINTING MEMBERS TO THE STREET LIGHT ADVISORY COMMITTEE, THE HISTORIC PRESERVATION BOARD AND THE BICYCLE PEDESTRIAN SAFETY ADVISORY COMMITTEE. (GREENSHEET NO. 16-12-0402) **ADOPTED RESOLUTION NO. 16-69**
- J. APPROVE THE AGREEMENT BETWEEN THE CITY OF BONITA SPRINGS AND JEFF ELLIS AND ASSOCIATES, INC., FOR OUR BONITA SPRINGS COMMUNITY POOL SAFETY AUDIT AND RISK MANAGEMENT SERVICES. (GREENSHEET NO. 16-12-0416)

VIII. MAYOR AND COUNCIL MEMBER ITEMS:

- A. DISCUSS AND DIRECTION TO STAFF ON POTENTIAL LEFT TURN OUT OF THE CORDERA SUBDIVISION ONTO IMPERIAL PARKWAY. (MAYOR SIMMONS; GREENSHEET NO. 16-12-0404)

6:30:37 pm At the request of Mayor Simmons, City Manager Carl Schwing furnished a brief overview as outlined on the Greensheet. Discussion followed. Council Member Forbes suggested that the County meet with the School Board.

6:34:11 pm Council Member Forbes motioned to contact Lee County; Mayor Simmons seconded.

Council Member DeWitt also suggested contacting the School Board, as his understanding is that the conceptual plans show a light at the entrance to the school. They may want to do a frontage road and have them work together to make one left turn. Mayor Simmons clarified that the City will make that request and look into it, get the information, and bring it back to discuss.

The motion carried unanimously.

- B. DISCUSSION OF POTENTIAL LETTER TO THE LEE COUNTY DEPARTMENT OF TRANSPORTATION TO DESIGNATE HICKORY BOULEVARD AS A NO PARKING ZONE. (MAYOR SIMMONS; GREENSHEET NO. 16-12-0410)

[6:35:55 pm](#) City Manager Schwing provided an overview as reflected on the Greensheet. A brief discussion followed.

Council Member Forbes motioned approval of a letter to the Lee County Department of Transportation (copy of letter to Pat McCourt); Mayor Simmons seconded; and the motion carried unanimously.

- C. DISCUSSION ON THE RELOCATION OF DIXIE MOON BUILDING. (GREENSHEET NO. 16-12-0416)

[6:41:50 pm](#) Council Member Forbes furnished an overview of this item, as reflected on the Greensheet. He and the City Manager discussed sending out a letter to the business community to see if there's interest in pursuing making it a restaurant, snack bar, etc. – something other than public restrooms. He agrees with Martha Simons that leaving it at the site it was designated would be good. Mayor Simmons suggested figuring out where it should go and look at that and figure out the next best use for this historic building. A brief discussion followed.

Council Member Forbes next referred to his emails dated December 1, 2016 and December 6, 2016 setting out options for Bonita Beach Road. Discussion followed, with a clarification made for Council Member Forbes to address and work on the area east of I-75.

[7:00:14 pm](#) D. **ERRATA SHEET: ADD-ON: APPROVE CITY COUNCIL GUIDANCE PAPER WITH RESPECT TO DISSEMINATION OF INFORMATION ON CITY COUNCIL POLICIES AND PRIORITIES.** (O'FLINN; GREENSHEET NO. 16-12-0417)

[7:00:51 pm](#) Council Member O'Flinn furnished a brief overview as reflected in the Greensheet addressing the provisions of the City Charter and Code of Conduct.

Council Member O'Flinn motioned to approve the guidance paper with respect to dissemination of information on City Council policies, positions and priorities; Council Member Quaremba seconded; and the motion carried unanimously.

Council Member O'Flinn next addressed the last Joint Charlotte/Lee County MPO meeting held in which they addressed Sun Trail, which he explained is a State-wide imprint of multi-modal pathways. He further explained, and suggested Council discuss this at their next meeting.

[7:05:20 pm](#) Lastly, Council Member O'Flinn suggested City Council meeting with the Village of Estero Council. A brief discussion was held, with Mayor Simmons to reach out to Mayor Batos on the idea.

- IX. FIRST READING OF THE FOLLOWING ZONING ORDINANCE (NO PUBLIC COMMENT ALLOWED)

A ZONING ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA; CONSIDERING A REQUEST BY 2726 SCC LLC, TO AMEND CITY OF BONITA SPRINGS ZONING ORDINANCE NO. 09-13, OAKLAND CPD; AMENDING THE MASTER CONCEPT PLAN, SCHEDULE OF USES, DEVELOPMENT STANDARDS, AND CONDITIONS OF APPROVAL; REDUCING COMMERCIAL INTENSITY; LOCATED AT 27971 OAKLAND DRIVE, BONITA SPRINGS, FLORIDA; ON 2.15 +/- ACRES; PROVIDING FOR AN EFFECTIVE DATE.

7:07:20 pm City Attorney Vance read the title block of the Ordinance into the record

7:07:55 pm Council Member Slachta motioned to move forward with a second reading of the Zoning Ordinance on Monday, December 19, 2016; Council Member DeWitt seconded; and the motion carried unanimously.

X. FIRST READING OF THE FOLLOWING ORDINANCE (PUBLIC COMMENT ALLOWED)

A. AN ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA; ENACTING A TEMPORARY MORATORIUM ON CANNABIS DISPENSING BUSINESSES AS FURTHER DEFINED HEREIN; PROVIDING FOR GEOGRAPHIC AREA COVERED; PROVIDING FOR PENALTIES, CONFLICTS OF LAW; PROVIDING FOR SEVERABILITY, CODIFICATION, INCLUSION IN CODE AND SCRIVENER'S ERRORS; PROVIDING AN EFFECTIVE DATE. (GREENSHEET NO. 16-12-0394)

7:09:40 pm City Attorney Vance read the title block of the Ordinance into the record. Council discussion followed.

7:28:15 PM Council Member Forbes entered a motion for a 6-month moratorium, with the understanding that it can be extended; Council Member O'Flinn seconded. City Attorney Vance stated she would modify the Ordinance consistent with Council direction, which she addressed. Discussion followed. Council Member Quaremba stated they can have the moratorium and also give direction to staff to expedite the information gathering phase.

7:34:51 PM Per the request of Council Member O'Flinn, Council Member Forbes amended his motion to also state that the City will expedite work. Council Member Quaremba seconded.

7:35:07 PM City Attorney Vance clarified the motion, which is to go forward with the first public hearing and schedule the second public hearing on January 4, 2017. Change the draft Ordinance so it reflects six (6) months with City Council reserves the right to extend the moratorium for up to six (6) months by resolution recognizing that it may not be the six months, and Staff is to expedite various zoning concepts to bring back to City Council on how to address the zoning.

PUBLIC COMMENTS:

7:36:05 PM Deborah Maclean stated she sees this as a medical venture that needs pharmaceutical supervision.

7:37:51 PM An unidentified woman stated she agreed with the moratorium and that there is a need for strict regulations.

7:38:21 PM Jude Richvale suggested considering a location on Old 41 for this use.

7:39:28 PM Brook Smith spoke in support of the use of medical marijuana.

[7:42:52 PM](#) Kathy McGrath echoed comments made by Mr. Smith.

[7:43:22 PM](#) John Boggs feels the moratorium is fine.

The motion carried 6-1 (Council Member DeWitt opposed)

XI. SECOND READING AND PUBLIC HEARING OF THE FOLLOWING ORDINANCES (PUBLIC COMMENT ALLOWED):

A. AN AMENDMENT TO THE BONITA SPRINGS LAND DEVELOPMENT CODE CHAPTER 4 (ZONING); AMENDING §4-869, REGULATIONS AND PROCESSES FOR DEVELOPMENT WITHIN THE OLD U.S. 41 REDEVELOPMENT URBAN CORE, AND §4-1023, SALE OR SERVICE FOR ON-PREMISES CONSUMPTION, TO REVISE THE CONSUMPTION ON PREMISES REQUIREMENTS IN THE OLD 41 REDEVELOPMENT AREA; PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, INCLUSION IN CODE AND AN EFFECTIVE DATE. (GREENSHEET NO. 16-12-0389)

[7:45:37 PM](#) City Attorney Vance read the title block of the Ordinance into the record.

[7:46:26 pm](#) Council Member Forbes motioned adoption of the Ordinance; Council Member O'Flinn seconded.

No public comments were made.

The motion carried unanimously. **ADOPTED ORDINANCE NO. 16-19**

B. AN AMENDMENT TO THE BONITA SPRINGS LAND DEVELOPMENT CODE CHAPTER 4 (ZONING); READOPTING A PORTION OF ORDINANCE NO. 07-18; AMENDING §4-488 (USE REGULATIONS TABLE) SO AS TO PERMIT TWO FAMILY ATTACHED IN TFC-2 DISTRICTS; PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, INCLUSION IN CODE AND AN EFFECTIVE DATE. (GREENSHEET NO. 16-12-0391)

[7:47:09 pm](#) City Attorney Vance read the title block of the Ordinance into the record.

No public comments were made.

Council Member Slachta motioned adoption of the Ordinance; Council Member Quaremba seconded; and the motion carried unanimously. **ADOPTED ORDINANCE NO. 16-20**

C. ERRATA SHEET W/MEMORANDUM FROM AUDREY VANCE - AN ORDINANCE OF THE CITY OF BONITA SPRINGS APPROVING THE PETITION OF BONITA SPRINGS UTILITIES, INC. EXTENDING THE TERM OF THE FRANCHISE IN BONITA SPRINGS ORDINANCE NO. 02-14; AND PROVIDING FOR AN EFFECTIVE DATE. (GREENSHEET NO.16-12-0393)

[7:48:11 PM](#) City Attorney Vance read the title block of the Ordinance into the record, furnishing a brief overview.

[7:48:41 pm](#) Attorney Don Thomson, with Bonita Springs Utilities, addressed the terms of the franchise agreement. He is here to respectfully request City Council approve the renewal requested to extend the franchise for a total of 30 years from May 4, 2017.

7:59:07 PM Council Member Slachta motioned adoption of the Ordinance; Council Member DeWitt seconded.

PUBLIC COMMENTS:

7:59:35 PM Ed Fitzgerald addressed the agreement made with Bonita Bay in 1991.

8:03:55 pm Jude Richvale also addressed BSU, membership, etc.

8:05:19 pm Martha Simons addressed an issue she personally experienced regarding a break in the water line and the cost to repair. She addressed customer service and the need for oversight.

8:09:32 pm Ron Pure addressed rate increases done.

8:13:05 pm Deborah Maclean also addressed BSU.

8:14:07 pm John West addressed letters he wrote to City Council.

8:17:34 pm Council discussion followed with John Jenkins and Mr. Thomson responding to questions of City Council.

8:46:15 pm Council Member O'Flinn suggested moving forward with the franchise agreement and including language along the lines "the City shall have oversight responsibility, including without limitation, the establishment of reasonable rules, regulations and policies in collaboration with the utility not inconsistent with the laws of Florida." Mr. Jenkins responded, and further discussion was held. Discussion followed and Council Member O'Flinn suggested having the City Attorney look at the concept. Mr. Jenkins addressed Florida Statutes Section 367 that regulates private utilities. BSU has been specifically exempted by law from those requirements, as the Florida legislature has determined that it's not necessary for the Public Service Commission to regulate companies like BSU because BSU is run by its members through its elected Board of Directors. He further explained. Council Member O'Flinn suggested having the City Attorney look at the concept relating to customer service.

PUBLIC COMMENTS:

9:06:13 pm Ben Hershenson asked that Council approve the franchise extension.

The motion carried unanimously.

D. AN AMENDMENT TO THE BONITA SPRINGS LAND DEVELOPMENT CODE CHAPTER 3 (DEVELOPMENT STANDARDS); AMENDING §3-292, TRAFFIC IMPACT STATEMENTS; PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, INCLUSION IN CODE AND AN EFFECTIVE DATE. (GREENSHEET NO. 16-12-0392)

9:09:07 pm City Attorney Vance next introduced item D., and Item XII. A., below. Both items were continued to City Council's meeting of January 4, 2017.

PUBLIC COMMENTS:

XII. PUBLIC HEARING:

A. ADOPT THE FOLLOWING RESOLUTION CREATING A BONITA SPRINGS SPECIFIC ADMINISTRATIVE CODE FOR TRAFFIC IMPACT STATEMENT GUIDELINES FOR REZONINGS, SPECIAL EXCEPTIONS AND LOCAL DEVELOPMENT ORDER APPLICATIONS. (GREENSHEET NO. 16-12-0390)

Continued to January 4, 2017.

XIII. PUBLIC COMMENT:

[9:12:05 pm](#) Kathy McGrath reported on a great Movies in the Park event!

[9:14:09 pm](#) Ed Fitzgerald commented on the BSU Franchise Agreement.

[9:14:30 pm](#) Jim Quaremba voiced his support for Item A., under the City Attorney's Report.

[9:16:39 pm](#) Martha Simons commented Mayor Simmons and all Council Members on the great job they are doing. She also reported that the Estero Bay Aquatic Preserve just celebrated their 50th Anniversary.

[9:17:53 pm](#) Ben Hershenson addressed the issue of medical marijuana and offered to serve on any committee that may be created to address.

XIV. CITY ATTORNEY'S REPORT:

A. DIRECTION WHETHER TO CONSIDER AN AMENDMENT TO LAND DEVELOPMENT CODE §4-53 TO REQUIRE FIVE OR MORE COUNCIL MEMBERS TO VOTE IN THE AFFIRMATIVE WHEN INCREASING HEIGHT OVER 75 FEET. (GREENSHEET NO. 16-12-0396)

[9:19:24 pm](#) City Attorney Vance introduced this item.

[9:20:18 pm](#) Council Member O'Flinn clarified that Council wanted this to apply to the Comprehensive Plan only, and that they wanted outside council to opinion as to any pending matters.

[9:21:27 pm](#) Council Member Quaremba stated that the LPA's concern was focused on the density requirement and not on the height. She agrees with having it reviewed for any pending issues.

B. **ERRATA SHEET: WALK ON GREENSHEET** - ADOPT A RESOLUTION REMANDING THE BONITA GRANDE PROPERTIES, LP ZONING APPLICATION. (GREENSHEET NO. 16-12-0418)

[9:24:55 PM](#) Council Member O'Flinn motioned to adopt the Zoning Resolution; Council Member Forbes seconded; and the motion carried unanimously. **ADOPTED ZONING RESOLUTION NO. 16-RO9**

XV. CITY MANAGER'S REPORT:

A. REVIEW OF MONTHLY FINANCIAL REPORTS (PRELIMINARY AND UNAUDITED) (GREENSHEET NO. 16-12-0397)

Informational.

B. REVIEW OF MONTHLY CAPITAL PROJECTS REPORT. (GREENSHEET NO. 16-12-0403)

Informational.

- C. AUTHORIZE THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE SKY FAMILY YMCA FOR CITY RECREATION CENTER MEMBERS TO UTILIZE THE BONITA SPRINGS YMCA FACILITY FROM JANUARY 1, 2017 THROUGH APRIL 30, 2017. (GREENSHEET NO. 16-12-0412)

9:29:24 PM City Manager Schwing furnished a brief overview.

9:30:24 PM Council Member O'Flinn motioned approval; Council Member Quaremba seconded; and the motion carried unanimously.

ADDITIONAL ITEMS:

9:30:55 PM City Manager Schwing furnished an update on the high school.

XVI. MAYOR AND COUNCIL MEMBER REPORTS:

- A. A RESOLUTION APPOINTING/REAPPOINTING TWO MEMBERS TO THE BOARD FOR LAND USE HEARINGS AND ADJUSTMENTS AND ZONING BOARD OF APPEALS. (MAYOR SIMMONS; GREENSHEET NO. 16-12-0398)

Deferred to January.

- B. A RESOLUTION APPOINTING/REAPPOINTING THREE MEMBERS TO THE CITY OF BONITA SPRINGS LOCAL PLANNING AGENCY. (MAYOR SIMMONS; GREENSHEET NO. 16-12-401)

DEFERRED TO JANUARY

- C. APPROVE A RESOLUTION APPOINTING/REAPPOINTING MEMBERS TO THE ART IN PUBLIC PLACES BOARD AND THE TREE ADVISORY BOARD. (MAYOR SIMMONS; GREENSHEET NO. 16-12-0413) **ADOPTED RESOLUTION NO. 16-70**

XVII. APPROVAL OF MINUTES: 11/16/16

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

XVIII. PUBLIC COMMENT: NONE

XIX. ADJOURNMENT:


There being no further items to discuss the meeting adjourned at 9:40 P.M.

Respectfully submitted,


Debra Filipek, City Clerk

APPROVED:
BONITA SPRINGS CITY COUNCIL:

Date: 1/24/17

AUTHENTICATED:


Peter Simmons, Mayor