

CITY COUNCIL  
CITY OF BONITA SPRINGS  
WEDNESDAY, FEBRUARY 19, 2014  
9:00 A.M.  
CITY HALL  
9101 BONITA BEACH ROAD  
BONITA SPRINGS, FLORIDA 34135  
MINUTES

I. CALL TO ORDER

Mayor Ben Nelson, Jr. called the meeting to order at 9:00 A.M.

II. INVOCATION

Pastor Jeff Chitwood, with Anchor Church, furnished the invocation.

III. PLEDGE OF ALLEGIANCE

Council Member Steve Slachta led in the Pledge of Allegiance.

IV. ROLL CALL

Mayor Nelson and all Council Members were in attendance.

V. PUBLIC COMMENT ON AGENDA ITEMS

9:03:40 AM Barb Harrington, representing the Promenade, was in attendance to ask that Council approve their request to hold the “Burgers and Bubbles” event scheduled for Saturday, April 14, 2014.

9:05:53 AM Maribel Slabaugh thanked Council for considering the request in Item VII. H., for the “Burgers and Bubbles” event.

9:06:29 AM Fred Forbes, resident of Hunter’s Ridge, was in attendance to request that Council approve the request reflected for Agenda Item XI. C., regarding the request to contract with Kevin Erwin for consulting work for the DRGR.

9:08:35 AM Kevin Barry, President of the Bonita Blues Foundation, thanked everyone for working with them over the years. This year they have people coming from Portugal. They also have a new venture, Item F., regarding the permit for a 2-day event and a celebration for St. Patrick’s Day.

9:09:38 AM Nicole Johnson, with the Conservancy of Southwest Florida, commented on Item XI. C.. She was here to ask City Council to support their request to approve the request to contract with Kevin Erwin for a Scope of Work for the DRGR.

9:13:59 AM Carolyn Gallagher was also in attendance to urge that Council approve the request to contract with Kevin Erwin. She also suggested moving money from the tree planting program to help with costs.

9:16:08 AM Brad Cornell, with Audubon Florida, was present to support the proposal to contract with Kevin Erwin for the development of a watershed model for the DRGR.

9:18:37 AM Aaron Schimmel, General Manager for Lansdowne Street, thanked Council for their consideration of their request to hold a St. Patrick's Day celebration on March 16<sup>th</sup> and 17<sup>th</sup>, 2014.

9:19:13 AM Russell Lord, along with his wife Chris, both residents in the vicinity of Riverside Park, were present to encourage Council to keep "Rusty" the dog at Depot Park. They also feel that Rusty's sibling at the Liles Hotel would be a good choice to move to the dog park.

9:20:49 AM Martha Simons supports the request to erect a chain link fence at the middle school. She also supports keeping "Rusty" the dog statue at Depot Park, the hiring of Kevin Erwin, and the appointment of Councilwoman Martin as Deputy Mayor.

9:23:54 AM April Hoover, a resident of Spanish Wells, also supports the approval of contracting with Kevin Erwin. She was also present to ask that an Ordinance be passed with respect to the eradication of Norfolk Island Pine Trees, which are a nuisance tree in the State of Florida. They have very shallow root systems and topple over very easily.

9:26:35 AM Jessie Purdon, a resident in District 2, voiced his support for keeping Rusty at Depot Park. He also supports approval of the St. Patrick's Day event and the appointment of Janet Martin as Deputy Mayor.

VI. PROCLAMATIONS AND PRESENTATIONS: None

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.)

9:27:53 AM City Attorney Audrey Vance requested item A. be pulled to address revisions to be made to the Agreement.

Council Member Peter Simmons motioned approval of the remainder of the Consent Agenda (Items B., through H.); Council Member Bill Lonkart seconded; and the motion carried unanimously.

A. APPROVE A CARETAKER'S AGREEMENT FOR THE BONITA NATURE PLACE. (GREENSHEET NO. 14-02-0044)

9:28:44 am City Attorney Audrey Vance addressed minor revisions to be made to the Agreement.

Council Member Janet Martin motioned approval of the Agreement, as revised; Council Member Peter Simmons seconded.

Council Member Bill Lonkart requested a report from Staff on the damage that occurred inside the building. Parks and Recreation Director Nicole Perino to furnish report.

The motion carried unanimously.

B. REQUEST TO CONSIDER UTILIZING A BUDGETED AMOUNT OF \$20,000 CURRENTLY UNDER URBAN FORESTRY/FOLIAGE PROGRAM FOR BONITA SPRINGS MIDDLE SCHOOL FOR TREE REPLACEMENT OUTSIDE THE RIGHT-OF-WAY ON SCHOOL GROUNDS. (GREENSHEET 14-02-0052)

C. APPROVE BUDGET AMENDMENT OF \$303,571 FUNDED FROM GENERAL FUND APPROPRIATED RESERVES FOR PROJECTS PREVIOUSLY APPROVED BY CITY COUNCIL. (GREENSHEET 14-02-0053) **ADOPTED RESOLUTION NO. 14-07**

- D. APPROVE THE PARKS AND RECREATION AGREEMENT BETWEEN THE CITY OF BONITA SPRINGS AND THE BONITA SPRINGS FUTSAL LEAGUE. (GREENSHEET 14-02-0054)
- E. REQUEST APPROVAL OF SPECIAL EVENT PERMIT FOR THE NAPLES-FORT MYERS GREYHOUND TRACK FOR AN OUTDOOR MUSICAL CONCERT LOCATED AT 10601 BONITA BEACH ROAD ON APRIL 2, 2014. (GREENSHEET 14-02-0057)
- F. REQUEST APPROVAL OF SPECIAL EVENT PERMIT FOR LANSDOWNE STREET SAINT PATTY'S DAY CELEBRATION ON SUNDAY, MARCH 16, 2014 FROM 12:00 P.M. TO 6:00 P.M. AND MARCH 17, 2014 FROM 11:00 A.M. TO 9:00 P.M. AT 24851 SOUTH TAMIAMI TRAIL, #7, BONITA SPRINGS, FLORIDA 34135. (GREENSHEET 14-02-0058)
- G. APPROVE SPECIAL EVENT PERMIT AND CO-SPONSORSHIP FOR CASA MEXICO FOR THE 8<sup>TH</sup> ANNUAL MAYOR'S CUP SOCCER TOURNAMENT ON MARCH 14, 2014 THROUGH MARCH 16, 2014 AT THE BONITA SPRINGS SOCCER COMPLEX LOCATED AT KENT ROAD (RAIN DATE MARCH 21, 2014 THROUGH MARCH 23, 2014). (GREENSHEET 14-02-0056)
- H. APPROVE SPECIAL EVENT PERMIT AND CO-SPONSORSHIP FOR THE PROMENADE'S "BURGERS AND BUBBLES" ON SATURDAY, APRIL 14, 2014 FROM 2:00 P.M. TO 8:00 P.M. (GREENSHEET 14-02-0059)

VIII. CONTINUANCE OF A SECOND READING AND PUBLIC HEARING OF THE FOLLOWING ORDINANCE:

- A. AN AMENDMENT TO BONITA SPRINGS LAND DEVELOPMENT CODE, AMENDING AND REPLACING CHAPTER 7 (ENVIRONMENTAL) OF THE CITY OF BONITA SPRINGS LAND DEVELOPMENT CODE; AMENDING 7-41 - 7-81 DOCK AND SHORELINE STRUCTURES CREATING FACILITY SITING CRITERIA, TRANSFER OF (WATERCRAFT) SLIP CREDITS (TSC) AND BEACH/DUNE WALKOVERS PROVISIONS; AMENDING 7-111 - 7-116 MARINE SANITATION; PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, INCLUSION IN CODE AND AN EFFECTIVE DATE. (GREENSHEET NO. 14-02-0050)

9:30:07 AM City Attorney Audrey Vance read the title block of the Ordinance into the record, noting that this is a second reading that has been continued from December 18, 2013. The reason for the continuance was to ensure all the details were worked out. The Ordinance is the same as what would have been adopted in December.

9:30:59 AM Council Member Simmons motioned adoption of the Ordinance; Council Member Martin seconded.

PUBLIC COMMENTS:

9:31:25 AM Martha Simons asked how the process of cleaning up the dilapidated structures along the river was progressing.

The motion carried unanimously. **ADOPTED ORDINANCE NO. 14-02**

IX. PUBLIC COMMENT:

9:32:43 AM Fred Forbes updated Council of activities of the Citizens Water Strategy Task Force.

X. CITY ATTORNEY'S REPORT.

- A. CONSISTENT WITH RESOLUTION NO. 10-057 CREATING THE ADMINISTRATIVE CODE WHICH ESTABLISHES THE CODE OF CONDUCT FOR THE ELECTED OFFICIALS, CONFIRMATION OF RECEIPT OF CODE OF CONDUCT. (GREENSHEET NO. 14-02-0047)

9:35:30 AM City Attorney Vance reported that all Council Members have signed the Code of Conduct. No further action necessary.

- B. CONSISTENT WITH THE CODE OF CONDUCT FOR ITS ELECTED OFFICIALS, ELECTION OF A DEPUTY MAYOR. (GREENSHEET NO. 14-02-0048)

9:36:13 AM Mayor Nelson voiced his support for the nomination of Council Member McIntosh as Deputy Mayor.

9:36:58 AM Council Member Peter Simmons nominated Council Member Bill Lonkart as Deputy Mayor.

9:37:11 AM Council Member Gibson nominated Councilwoman Martin.

9:40:02 AM Votes tallied up confirming the appointment of Council Member McIntosh as Deputy Mayor with four votes.

XI. CITY MANAGER'S REPORT:

- A. REVIEW OF MONTHLY FINANCIAL REPORTS AND QUARTERLY FINANCIAL REVIEW. (GREENSHEET NO. 14-02-0045)

9:40:40 AM Informational. City Manager Carl Schwing reported that the City is continuing to do well.

- B. RECOMMENDATION BY STAFF TO PROVIDE LINE ITEM FUNDING FOR THE CITIZENS WATER STRATEGY TASK FORCE TO PAY FOR RESOURCES USED TO ASSIST THE TASK FORCE IN THEIR ACTIVITIES. (GREENSHEET NO. 14-02-0051)

9:41:02 AM Assistant City Manager John Gucciardo addressed this agenda item relating to Staff's recommendation relative to the work being done by the Citizens Water Strategy Task Force (CWSTF). When Council established the CWSTF they also indicated that they would set up a line item for funding for expenses. Staff is requesting to move \$2,500 from contingency to allow Staff to start paying some of the minor bills accumulating, including some map reproductions that were done outside of the office. Staff anticipates some other minor expenses will come up over the course of the next few meetings.

9:41:42 AM Council Member Martin motioned approval of \$2,500 to the CWSTF budget line-item with authorization to use same; Council Member McIntosh seconded; and the motion carried unanimously.

- C. CONSIDER A RECOMMENDATION BY THE CITIZENS WATER STRATEGY TASK FORCE ("CWSTF") FOR THE CITY TO CONTRACT WITH KEVIN ERWIN CONSULTING ECOLOGIST, INC. FOR A DEFINED SCOPE OF WORK TO ASSIST THE TASK FORCE IN THEIR ACTIVITIES. (GREENSHEET 14-02-0046)

9:42:16 AM Assistant City Manager Gucciardo next addressed this agenda item by referring to the greensheet, which sets out the request. Staff's position regards whether it's appropriate to fund another study. Staff did feel

that it was appropriate to point out the differences in the process that was used by the CWSTF as opposed to what is typically done by Staff. The greensheet sets forth some of Staff's concerns.

9:42:58 AM Council Member McIntosh stated that he will support the recommendation by the CWSTF. He feels there are two objectives of the CWSTF – 1) to create a clear defined message of whether we can or cannot develop in the DRGR; and 2) the need to follow protocol and make sure they have not done anything to indicate that they may have had a preconceived notion about what should happen out there. He is against jeopardizing the credibility of the CWSTF by going past something everyone is talking about, as it's not \$19,000 or \$50,000, as it's probably close to double that. He feels it's important to have a discussion and information from those who will be conducting the study. He would like to have a model and feels it's the right way to approach it, however, he is not comfortable with Council jumping into this without vetting it and making sure that we've dotted all the "i's" and crossed all the "t's" before spending this amount of money. He doesn't feel two weeks will put the entire project in a pinch. Even if they don't go out for RFP's, he would suggest asking the person who proposed the model to come before them first. He feels that Council needs to make sure that what they do is correct and expected of them with the taxpayers money.

Council Member McIntosh entered a motion that Council not make this money available right now, and hold off two weeks until they get a presentation by the people who are going to make the modeling study, and then make that decision; Council Member Martin seconded.

9:46:36 AM Council Member Martin stated she also was thinking on the same line in that her vision for the CWSTF was for them to comb through all of the studies done previously, and see what parts they agree and don't agree with, with them coming together with the questions they feel were not answered in any of those studies and with a recommendation on where they feel they need to go. It seems like they have negated the abilities of the members of the CWSTF by jumping in and sending it to a consultant. She also questions the procedure since this is not how it's been done before. She does not question Mr. Erwin's credentials or costs, but feels that the procedure needs to change, and Council needs more information on the Scope.

9:47:38 AM Council Member Gibson feels this is a lot of money, however, Council already spent another \$90,000 on the dog park. This is a very important issue.

9:48:03 am Council Member Lonkart stated he attended all of the CWSTF meetings so far, and there was no one else on the Task Force that recommended anyone else, which, to him, is significant. Over the years monies have been spent in this City on the many different projects that were all worthy, but some of the things money has been spent on were trivial. This, however, is very close to home for him since he lives in District 6. He also knows how much this will impact the total community in terms of construction, water, etc. Also, there has been increased traffic east of I-75, on Bonita Beach Road and U.S. 41. Also, many people are very much concerned with the quality of life issues in this City. It also has to do with road structures, as there are no road structures that could handle the traffic volume that would occur if development occurs in the DRGR. He does support this and feels it's a worthy cause. Council Member McIntosh stated it's a preconceived notion that there's going to be development out there, as the whole idea of the CWSTF is to make a decision on whether there would or would not be.

9:51:53 AM Council Member Slachta stated he also had concerns about funding; however, after attending yesterday's meeting it seemed like there was more of a meeting of the minds than there was previously. He feels that the Conservancy being willing to give \$5,000 for this study says a lot. He also believes that there will be some other contributors coming forth from District 3.

9:52:30 am Assistant City Manager Gucciardo stated that his understanding of funds from the Conservancy was not towards Scope items 1 and 2, which entails the \$19,000 fee, but for future aspects of the Scope, which would be the modeling. Additionally, there has been a lot of discussion about a modeling tool, but typically when it's a Staff initiated project, Staff would define the scope of work. He was not clear whether Tasks 1 and 2 were

to collect and synthesize all available information and, secondly, to do ecological mapping. He's not convinced that results in a modeling tool, as his understanding is that the modeling tool comes in future Tasks 3 through 8. Overall, he doesn't anticipate they will have a full modeling tool based on Tasks 1 and 2.

9:54:10 am Mayor Nelson wants someone as unbiased as possible for purposes of the truth and to get the facts. He does not support approval of this.

9:57:09 AM Council Member McIntosh reiterated his motion, which is to hold off for two weeks to have the consultant come in and make a presentation to Council before Council makes a decision; Council Member Martin seconded. Mayor Nelson stated he cannot support the motion as he feels there should be an actual RFP process.

9:57:17 AM Council Member McIntosh referred to the City Attorney and explained that his motion was based on trying to get more information to City Council. He asked if he violated the rules and regulations expected of Council in doing procedural work and procurement. City Attorney Vance responded "kind of." She explained that the reason is right now they have lowered the amount of the tasks, so it is below threshold. It's obvious based on this that Mr. Erwin, especially when the last task is his travel, and he did come before the task force, and she was sure that was for presentations after getting hired and the \$4,000 as Task 8. She is not sure that he will even be amenable to Tasks 1 and 2 just being as is, unless he's planning to get more tasks, then you are violating the statutes. She would suggest that the better time of that two weeks would be to see if Staff can prepare an RFP that could go through the process that Council could support.

Council Member McIntosh withdrew his motion, and Council Member Martin withdrew her second to the motion.

9:58:47 AM Council Member Slachta motioned approval for a Professional Services Agreement not to exceed the price for projects 1 and 2 for the \$19,000., to retain Kevin Erwin Consulting Ecologist; Council Member Gibson seconded; and the motion passed 4-3 (Mayor Nelson and Council Members Martin and McIntosh opposed)

#### ADDITIONAL ITEMS:

10:00:09 AM In response to Council Member Gibson regarding the letter to the MPO and FDOT to cancel the flyover, City Manager Schwing explained that Staff did send the letter but have not heard anything back. Staff does have a meeting scheduled with FDOT next week, and the flyover will be a topic in terms of any response to the letter. Council Member McIntosh added that there was an Executive MPO meeting last Wednesday, to which he explained to them that Council denied the study.

10:00:34 am Council Member Slachta addressed concerns he had with the way the Citizens Water Strategy Task Force meetings are held with people passing around the microphones. He would rather having them at the dais. Assistant City Manager Gucciardo explained that at the first organization meeting, the members were sitting at the dais, at which time a conversation took place on whether that was the most conducive way to get conversation going among the members. It was their decision to move to a table in the center. He further explained. Council Member Lonkart stated he also would like to see them use the dais. He feels that the passing of the microphones is unprofessional. Mayor Nelson asked that Staff suggest to the committee that they utilize the dais.

#### WALK-ON:

10:04:28 AM City Manager Schwing next referred to the letter that has been requested by Lee County in terms of the flood insurance issue and trying to delay some of the rate increases that are proposed via legislation passed in 2012. Staff is requesting Council's authorization to have the Mayor sign the letter, along with other Mayors in Lee County.

Council Member Simmons motioned approval of Mayor Nelson signing the letter; Council Member McIntosh seconded; and the motion carried unanimously.

10:05:28 am Assistant City Manager John Gucciardo next furnished an update on the library. Sheldon Kaye with the Lee County Library informed him that they have been given the go ahead to engage Provident Consulting to do the study for the Bonita project. They are now waiting for the County Attorney to approve the form of the contract, and the consultant will be ready to start planning for the public outreach within the next couple of weeks.

He has also been informed by Lee County that the Bonita Beach Renourishment project was back on track towards construction this year. A pre-bid meeting for the short listing of the engineering work has been scheduled for March 7<sup>th</sup>, 2014, with another pre-bid meeting for the actual construction on April 11, 2014. Bids will be due back to Lee County by April 22, 2014, with the successful bidder to go before the Lee County Board of Commissioners for contract approval at their first meeting in May. Construction is anticipated to be completed prior to peak storm season.

CLARIFICATION ON MOTION FOR AGENDA ITEM XI. C. ABOVE:

CONSIDER A RECOMMENDATION BY THE CITIZENS WATER STRATEGY TASK FORCE (“CWSTF”) FOR THE CITY TO CONTRACT WITH KEVIN ERWIN CONSULTING ECOLOGIST, INC. FOR A DEFINED SCOPE OF WORK TO ASSIST THE TASK FORCE IN THEIR ACTIVITIES. (GREENSHEET 14-02-0046)

10:07:22 AM City Attorney Vance referred to the vote for the CWSTF, which is for Tasks 1 and 2 and a Professional Services Agreement not to exceed the price for Tasks 1 and 2, the \$19,000., to retain Kevin Erwin Consulting Ecologist.

XII. MAYOR AND COUNCIL MEMBER ITEMS AND REPORTS.

- A. DISCUSSION BY COUNCIL TO PERMANENTLY PLACE THE “AMERICAN DOG” METAL STATUE BY DALE ROGERS AT DEPOT PARK. (GREENSHEET 14-02-0055) (GIBSON)

10:07:54 AM Council Member Gibson entered a motion to keep “Rusty” at Depot Park; Council Member McIntosh seconded; and the motion carried unanimously.

- B. CONSIDER REQUIRING A REMOVAL PROCESS FOR NORFOLK ISLAND PINES ON RESIDENTIAL PROPERTY. (GREENSHEET 14-02-0043) (SLACHTA)

10:09:27 AM Council Member Slachta motioned to take this to the Tree Advisory Board for their review and recommendations, inclusive of other nuisance trees; Council Member Martin seconded; and the motion carried unanimously.

10:10:54 am Council Member Lonkart informed Council that the News-Press reported that Manna Christian Park is going to be developed into a summer type recreational park, and that the people living there have been notified that they have to leave.

10:11:47 am Council Member Martin reminded everyone of the Arbor Day event in conjunction with the Tropical Fruit Tree Club is scheduled to be held this weekend from 9:00 A.M. to 3:00 P.M. She further reminded everyone of the City-wide cleanup scheduled for March 1, 2014. Everyone is to meet under the Banyan Tree. The Imperial River Conservancy will also be there cleaning up the river. She also suggested everyone go see the

Bonita Springs Historical Society's McSwain House, which looks great! She thanked everyone who helped with donations, reporting that funds were now needed for a roof.

10:12:57 am Council Member McIntosh reminded Council that April 10<sup>th</sup>, 2014 is Government Day with the Bonita Springs Charter School.

10:13:47 am Mayor Nelson reported on his trip to Washington D.C. to address increased rates for flood insurance. Overall, he feels it went quite well. He also asked everyone watching who received a letter regarding their flood insurance to please send it to the City.

XIII. APPROVAL OF MINUTES: 02/05/14

Council Member Slachta motioned approval of the minutes; Council Member McIntosh seconded; and the motion carried unanimously.

XIV. PUBLIC COMMENT:

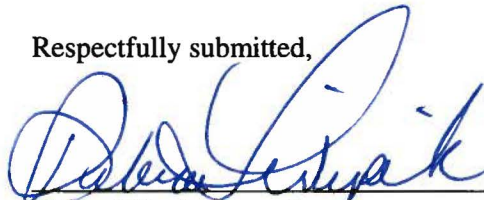
10:17:06 AM Fred Forbes stated that the CWSTF will most likely be coming back with requests for more experts. He further commented on the CWSTF.

10:18:40 AM Martha Simons informed Council of a letter she received from someone near the marine lab to inform her of the increase in their flood insurance. They did find out that they were grandfathered. People need to check with their insurance carrier to see if they are grandfathered. She also addressed monies for Conservation 2020 and a discussion the BOCC had. She concluded by reminding everyone of the CREW concert scheduled for March 1, 2014.

XV. ADJOURNMENT.

There being no further items to discuss, the meeting adjourned at 10:21 A.M.

Respectfully submitted,

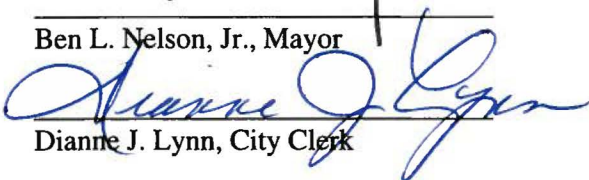
  
\_\_\_\_\_  
Debra Filipek, Recording Secretary

APPROVED:  
BONITA SPRINGS CITY COUNCIL:

Date: 3-5-14

AUTHENTICATED: \_\_\_\_\_

Ben L. Nelson, Jr., Mayor

  
\_\_\_\_\_  
Dianne J. Lynn, City Clerk