

CITY COUNCIL  
CITY OF BONITA SPRINGS  
WEDNESDAY, MARCH 5, 2014  
5:30 P.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 5:30 P.M.

II. INVOCATION

Council Member Steve McIntosh 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, except for Council Member Bill Lonkart.

V. PUBLIC COMMENT ON AGENDA ITEMS.

5:34:08 PM Tori Polonitza, a resident of property located within the DRGR, read a letter into the record regarding the DRGR. She asked Council to clarify the City's objectives to the Citizens Water Strategy Task Force, and that they focus on the scope of the objectives laid out. Those being water quantity, water quality, groundwater resources, and then the possibility of restoration and development.

5:37:18 PM Brad Cornell, with Audubon of Florida, also commented on the DRGR. He supports approval of the contract with Kevin Erwin. It's information that is needed.

5:39:13 PM Kathy McGrath also commented on the DRGR. She supports approval of the contract with Kevin Erwin.

5:40:45 PM Fred Forbes stated that there is no competitive bidding for professional services contracts, as State law says you can award a Professional Services Contract as long as it is \$35,000 or less. The work that Kevin Erwin is going to do is not going to restore the area, as the hope is to give City Council sufficient information to make a decision.

5:44:13 PM Nicole Johnson with the Conservancy of Southwest Florida also commented on the Kevin Erwin contract and the importance of moving forward with the contract. The additional \$4,000.00 is not in addition to both parts, as it would be shifting \$4,000 from part 2 to part 1. The Conservancy requests that City Council approve the contract with the additional \$4,000.

5:46:50 PM Carolyn Gallagher feels they should concentrate on getting the water right at this time, which is what the contact with Mr. Erwin will do. She supports approval of the contract with Kevin Erwin for \$23,000. Mr. Erwin will provide a decision that will aid and be an interactive model that will compare and evaluate different scenarios.

5:49:27 PM Dennis Church began by stating that he has no problems with the qualifications of Mr. Erwin. What he takes issue with is that a Citizens Task Force is being managed by a special interest group. The Conservancy does great work, but they are excellent skilled consultants at affecting public policy and politics. They basically brought in this scope before the first Task Force meetings, so they developed a scope and brought it through a process that many of Council Members agree is not the appropriate process to bring professional qualifications for review. City Council can reconsider the whole thing, but he feels they should consider how the process looks to everyone. It is such an important issue and an issue that Council shouldn't take a questionable approach to selecting a consultant. He also asked that Council allow a longer time for coming into compliance with the proposed lighting ordinance.

5:51:46 PM Christine Ross with the Bonita Springs Area Chamber of Commerce also commented on the DRGR, stating that she has no problem with Mr. Erwin's qualifications. She would ask that Council direct the Water Task Force to use the 2009 and the 2011 Stormwater Management Plans as well as the Barraco Study as resources in their work.

5:55:05 PM Patrick Vanasse commented on the proposed lighting standard amendments, stating that the strict deadline will make some existing fixtures illegal. He suggested Council can make these non-conforming, and when the fixture breaks down they will replace it with a structure that will meet the standards.

5:56:41 PM Jessie Purdon also commented on the DRGR and feels Council has to stop having studies conducted at some point.

## VI. PROCLAMATIONS AND PRESENTATIONS:

- A. PRESENTATION OF PROCLAMATION TO THE LITERACY COUNCIL GULF COAST IN CELEBRATION OF THEIR 25<sup>TH</sup> ANNIVERSARY FOR THEIR CONTINUING SERVICE TO THE CITIZENS OF THE CITY OF BONITA SPRINGS.

5:58:44 PM Mayor Nelson next presented Mike Hanson with the Literacy Council Gulf Coast with a Proclamation in celebration of their 25<sup>th</sup> Anniversary. Mr. Hanson was in attendance to thank Mayor Nelson and City Council Members for the Proclamation.

- B. PRESENTATION OF A CERTIFICATE OF RECOGNITION TO SHEAR UNITY SALON AND SPA IN HONOR OF THEM BEING NAMED "2014 SALON TODAY 200," AS ONE OF THE TOP 200 FASTEST GROWING SALONS IN NORTH AMERICA.

6:01:12 PM Mayor Nelson next presented a Certificate of Recognition to James Adams and Tricia Soder with Shear Unity Salon and Spa in Honor of them being named "2014 Salon Today 200." Mr. Adams and Ms. Soder were in attendance to accept the Certificate and to thank Mayor Nelson and City Council.

- C. PRESENTATION OF AUDITED FINANCIAL STATEMENTS FOR FISCAL YEAR ENDED SEPTEMBER 30, 2013 BY THE AUDIT FIRM OF ASHLEY, BROWN, &

COMPANY, CPA'S. JEFF BROWN, CPA AND DONALD E. ASHLEY, CPA PARTNERS.  
(GREENSHEET NO. 14-03-0064).

6:02:51 PM Jeff Brown, CPA, next presented the Comprehensive Annual Financial Report (CAFR; copy in Clerk's file) of the City of Bonita Springs for the fiscal year ended September 30, 2013. The City has received a Certificate of Achievement for Excellence in Financial Reporting and is in a very good financial condition.

6:06:50 PM Council Member Peter Simmons motioned to accept the audited financial statements (the CAFR); Council Member Steve McIntosh 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.)

6:08:30 PM Council Member Steve Slachta requested item C. be pulled.

Council Member McIntosh motioned approval of the remainder of the Consent Agenda (Items A., B., D., E., F., G., and H.); Council Member Simmons seconded; and the motion carried unanimously.

- A. A RESOLUTION CONFIRMING THE APPOINTMENT OF A VICE CHAIR TO THE CITY OF BONITA SPRINGS BOARD FOR LAND USE HEARINGS AND ADJUSTMENTS AND ZONING BOARD OF APPEALS; AND PROVIDING FOR AN EFFECTIVE DATE. (GREENSHEET NO. 14-03-0071) **ADOPTED RESOLUTION NO. 14-09**
- B. APPROVE VOLUNTARY ANNEXATION AGREEMENTS WITH THE PROPERTY OWNERS LIVING ON WOODSAGE DRIVE WITHIN THE PELICAN LANDING REFERENDUM AREA. (GREENSHEET NO. 14-03-0067)
- C. ACCEPT THE RESIGNATION OF A MEMBER OF THE CITIZENS WATER STRATEGY TASK FORCE, AND TO DIRECT STAFF TO ADVERTISE A VACANCY. (GREENSHEET NO. 14-03-0063)

6:08:52 pm Council Member Slachta pulled item C. to question whether it was necessary to advertise the vacancy or if Council could address the situation now. Assistant City Manager John Gucciardo stated that since that entailed Council Member McIntosh's appointment, he would be free to name another person for Council to consider. City Attorney Vance agreed with Mayor Nelson in that after Council approves the resignation, that before this meeting is over, Council Member McIntosh can make that recommendation.

6:09:13 pm Council Member McIntosh motioned, with regret, to accept the resignation of Paul Pass from the Citizens Water Strategy Task Force (CWSTF); Council Member Simmons seconded; and the motion carried unanimously. **ADOPTED RESOLUTION NO. 14-10**

6:09:56 am Council Member McIntosh recommended the appointment of Scott Duval to the CWSTF; Council Member Slachta seconded; and the motion carried unanimously.

- D. APPROVE SPECIAL EVENT PERMIT FOR THE ANNUAL CELEBRATE BONITA FESTIVAL AND THE CLOSURE OF OLD U.S. 41 ROAD FROM WILSON STREET TO

CHILDERS STREET ON SATURDAY, MARCH 29, 2014. (GREENSHEET NO. 14-03-0065)

- E. APPROVE RESOLUTION WAIVING THE COMPETITIVE QUOTE PROCESS FOR PROCURING SOUND PRODUCTION FOR CELEBRATE BONITA AND AUTHORIZE THE MAYOR TO SIGN A QUOTE FROM TECH-TRONICS PRODUCTIONS, INC. (GREENSHEET NO. 14-03-0070) **ADOPTED RESOLUTION NO. 14-11**
  - F. AUTHORIZE STAFF TO ADVERTISE A REQUEST FOR LETTERS OF INTEREST (LOI) FOR SOLICITATION OF ARTISTS TO CREATE A MURAL AT ONE (OR MORE) SITES LOCATED WITHIN BONITA SPRINGS, FLORIDA. (GREENSHEET NO. 14-03-0072)
  - G. CONFIRM STAFF'S SUBMITTAL OF THE WEST COAST INLAND NAVIGATION DISTRICT (WCIND) GRANT APPLICATION FOR FUNDS TO PROMOTE SAFE NAVIGATION AND WATER BASED ACTIVITIES, AND PROVIDING AN EFFECTIVE DATE. (GREENSHEET NO. 14-03-0074)
  - H. APPROVE THE ATTACHED VOLUNTARY ANNEXATION AGREEMENTS WITHIN THE PELICAN LANDING REFERENDUM AREA, CONTINGENT UPON A FINDING THAT THEY ARE COMPACT, CONTIGUOUS AND DO NOT CREATE AN ENCLAVE. (GREENSHEET NO. 14-03-0073)
- VIII. FIRST READING AND PUBLIC HEARING OF THE FOLLOWING ZONING ORDINANCES (NO PUBLIC COMMENT)
- A. A ZONING ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA; CONSIDERING A VARIANCE REQUEST BY EDWARD JORDAN TARVER AND SHEA SAMMONS TO GRANT RELIEF FROM LDC 4-2192 TO ALLOW A 5' SETBACK FROM A ROADWAY AND UTILITY EASEMENT AS DEPICTED ON THE CAROLANDS UNRECORDED SUBDIVISION BETWEEN LOTS 58 AND 61 ON LAND LOCATED AT 26828 MCLAUGHLIN BLVD., BONITA SPRINGS, FLORIDA, ON 21,500 +/- SQUARE FEET; PROVIDING FOR AN EFFECTIVE DATE.

6:10:45 PM City Attorney Audrey Vance read the title block of the Zoning Ordinance into the record.

6:11:06 PM Council Member Steve Slachta motioned to move forward with a second reading and public hearing of the Zoning Ordinance on Monday, March 17, 2014; Council Member McIntosh seconded; and the motion carried unanimously.

- B. A ZONING ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA; CONSIDERING A REQUEST BY THE CITY OF BONITA SPRINGS TO REZONE 3.93 +/- ACRES FROM TWO FAMILY CONSERVATION (TFC-2) AND COMMERCIAL (C1-A) DISTRICTS TO THE ENVIRONMENTAL CRITICAL (EC) DISTRICT, ON LAND LOCATED AT 27860 AND 27880 MATHESON AVENUE, BONITA SPRINGS, FLORIDA 34135; PROVIDING FOR AN EFFECTIVE DATE.

6:12:28 PM City Attorney Audrey Vance read the title block of the Zoning Ordinance into the record.

6:12:42 PM Council Member Janet Martin motioned to move forward with a second reading and public hearing of the Zoning Ordinance on Monday, March 17, 2014; Council Member Simmons seconded; and the motion carried unanimously.

IX. PUBLIC COMMENT:

6:13:20 PM Kathy McGrath addressed a letter she sent to the News-Press regarding Bonita Springs Utilities and the recent election. She also reported that the “Keep Bonita Beautiful” clean-up was a great success, and thanked all who participated.

6:17:50 PM Fred Forbes referred to a comment made previously by a member of the public regarding the various studies utilized by the CWSTF. The intent is for the Task Force to look at and consider all the previous studies that were done. What he did say was that there’s been little work done on the water part of the issue, which is the main issue with the DRGR. The State law permits what was recommended by the four people on the Task Force.

6:19:57 PM Grant Lieber, a resident of District 4, was also present to update Council on the golf course, and development in the area. He was present to ask Council for their help in getting something done in his district.

6:21:09 PM Nicole Johnson, present on behalf of the Conservancy of Southwest Florida, addressed the draft annexation Agreement for the Weeks Fish Camp. The Conservancy is not opposed to the City annexing these properties, but they are concerned with some of the language in the Annexation Agreement, and what it obligates the City to do. Their concern specifically regards the use of the words “the City will” which obligates the City to adopt a yet to be submitted Comprehensive Plan Amendment. It also addresses how much the City can accept or reject as part of that Amendment. They would recommend that the City have a truly meaningful part in the process of this future Comprehensive Plan Amendment, and so they would recommend that the Agreement be modified in all those places where it states “the City will amend the Comprehensive Plan” to say “the City will process the Amendment and will consider amending the Comprehensive Plan.” The second issue relates to the allowance of the Lee County’s reduced impact fees to carryover into the City.

X. APPEALS: None.

XI. CITY ATTORNEY’S REPORT.

- A. APPROVE PROFESSIONAL SERVICES AGREEMENT WITH KEVIN ERWIN CONSULTING ECOLOGISTS, INC., FOR ASSISTANCE TO THE CITIZENS WATER STRATEGY TASK FORCE FOR A LIMITED SCOPE OF WORK IN ORDER TO ASSIST THE TASK FORCE IN ITS’ ONGOING ACTIVITIES. APPROVE A BUDGET RESOLUTION APPROVING A BUDGET AMENDMENT OF \$19,000 INTO CITIZENS WATER TASK FORCE FROM GENERAL FUND OPERATING CONTINGENCY. (GREENSHEET NO. 14-03-0068)

6:25:00 PM City Attorney Vance furnished a brief overview and revisions made as reflected in the Errata Sheet. The CWSTF did review the revisions and agreed to the additional \$4,000.

6:27:26 PM Mayor Nelson next addressed several questions he had regarding the Agreement. CWSTF Member Fred Forbes and City Attorney responded.

6:41:22 PM Tori Polonitza addressed the Agreement, which was presented as eight tasks that were broken down, with the total cost of \$45,000. Overall, the Task Force was aware when it was first presented that this would be the total. Secondly, the idea of splitting it also came up.

6:41:37 PM Mayor Nelson addressed problems he had with the way it was handled, explaining that if this followed normal protocol, Council would have been notified by the committee, and the Committee would have told them that they don't have enough information and informing them of what they needed. He further addressed his concerns, stressing that Council would have followed the rules and not have broken it in half.

6:42:45 PM Council Member Slachta asked the City Attorney, that in knowing everything that took place at the meetings, if they did anything illegal. City Attorney Vance explained that there are some policy issues, but as to legal it could be defensible. Staff presented Council with a Greensheet on February 19, 2014 expressing Staff concerns with the process, some of which were her concerns with the process. It's legal, as Staff had concerns relating to process.

6:43:48 PM Council Member Slachta motioned for this to be deferred to City Council's meeting of March 26, 2014 to allow a full Council to be present; Council Member Mike Gibson seconded.

6:45:37 PM Assistant City Manager John Gucciardo next responded to questions of Council Member McIntosh, explaining that if this does not pass, there was still plenty of work for the Task Force to do. Council Member McIntosh explained that the concerns he had all along related to the process and the integrity of the Task Force. He reminded Council of his suggestion two weeks earlier to have Mr. Erwin make a presentation to Council, which has not occurred. He still has concerns about costs, as the numbers keep changing. He clarified that just because some of them voted against the process that was used, does not mean that they were anti-conservation. What they are trying to do is to make sure that whatever is done here is done right, which means following the procedures. He will vote for this if a member of the Task Force comes up and tells him that they cannot continue unless they have this \$4,000.

6:48:02 PM Council Member Janet Martin stated that she will vote for this if they vote on this tonight, because she feels they need to do this. She reiterated that she is not thrilled with the way the process has happened, because she is afraid that they are going to have people that will not agree with it who will use the fact that Council did not follow the normal protocol and policies. She reiterated that she will vote for it, but she is not happy about the process.

6:49:14 PM Council Member Slachta clarified that the reason for his motion to defer this is because he just learned of the \$4,000 yesterday. He stressed the importance of getting the water right. If they go over a certain amount of funding, he will say no. Council Member Slachta clarified that his motion is to defer the entire request; Council Member Gibson agreed.

The motion carried unanimously to defer to March 26, 2014.

- B. PERMISSION TO ADVERTISE AN ORDINANCE AMENDING LAND DEVELOPMENT CODE CHAPTER 3 RELATED TO LIGHTING DESIGN. IF APPROVED FOR ADVERTISING, THE ORDINANCE WILL BE SCHEDULED FOR APRIL 16, 2014 FOR ITS FIRST READING AND PUBLIC HEARING AND MAY 7, 2014 FOR ITS SECOND READING AND PUBLIC HEARING. THE ORDINANCE WILL BE REVIEWED BY THE LOCAL PLANNING AGENCY AT ITS MARCH 13, 2014 PUBLIC MEETING FOR CONSISTENCY WITH THE COMPREHENSIVE PLAN. (GREENSHEET NO. 14-03-0066)

6:50:54 PM City Attorney Vance addressed this Ordinance and revisions made, noting that if approved, a first reading would be scheduled for April 16, 2014, and a second reading on May 7, 2014.

6:53:30 PM Chris Campbell, Code Enforcement Manager, addressed the amortization period, of which three years was the minimum. He would agree with Mike Gibson to five years.

6:55:39 PM Council Member Gibson entered a motion to change the date to January 1, 2020 for amortization.

6:57:03 PM Mayor Nelson supports the regulations as they are. City Attorney Vance explained that there were two components, one of which was the street lighting, which is totally separate from the building mounted luminaries. She also suggested a hardship provision that would allow the City Manager to grant extensions by compliance agreements. She can add a hardship provision and change the year to 2020.

7:02:03 pm Council Member Gibson revised his motion to move forward with a first reading of the Ordinance, as revised (to change the date to January 1, 2020), on April 16, 2014; Council Member Martin seconded; and the motion carried unanimously.

- C. APPROVE AN ANNEXATION AGREEMENT WITH DONOVAN, LLC, ESTERO BAY MARINE, LLC, AND SUGAR MOUNTAIN DEVELOPMENT, LLC TO ANNEX THE FORMER WEEKS FISH CAMP INTO THE CITY OF BONITA SPRINGS THROUGH THE VOLUNTARY ANNEXATION PROCESS. (GREENSHEET NO. 14-03-0060)

7:03:34 PM City Attorney Vance introduced this Agenda item involving the Annexation Agreement, and furnished a brief overview.

7:04:56 PM City Manager Schwing also addressed the Agreement, impact fees, etc. Staff is very fiscally conservative. Staff believes this is a great opportunity for the City.

7:08:14 PM Council Member McIntosh motioned approval of the Annexation Agreement; Council Member Simmons seconded; and the motion carried unanimously.

ADDITIONAL ITEMS:

7:08:57 PM City Attorney Vance addressed the Mayor's earlier question regarding the letter Ms. McGrath read into the record, explaining that the media policy only applies to those running for public office. The public comment in 2 and 3 is supposed to be for any City related subjects.

XII. CITY MANAGER'S REPORT:

- A. DETERMINE NECESSITY OF STRATEGIC PLANNING UPDATE SESSION AND CONFIRM DATE AND TIME. (GREENSHEET NO. 14-03-0075)

7:09:53 PM City Manager Carl Schwing addressed this agenda item regarding the scheduling of a possible strategic planning session and update. The suggestion is to cancel the April 2, 2014 City Council meeting and instead hold a Strategic Planning Session that day. He is here to see if Council wants to hold a Strategic Planning Session, and if so, the date and time.

Council consensus to schedule for April 2, at 5:30 P.M., with City Manager Schwing to facilitate.

ADDITIONAL ITEM:

7:13:21 PM City Manager Schwing concluded by commending Finance Director Lisa Pace, and all of the City Department Directors on the great job they do in handling the City's financial resources and being fiscally responsible.

XIII. MAYOR AND COUNCIL MEMBER ITEMS AND REPORTS.

7:14:09 PM Council Member McIntosh reminded Council that April 10, 2014 is Charter School Government Day.

7:15:44 PM Council Member Martin updated everyone on upcoming events, including the upcoming National Arts Festival, Earth Day, etc., informing everyone that they can find all the information they need on all of the City's upcoming events on the City's website at [www.Cityofbonitasprings.org](http://www.Cityofbonitasprings.org)

7:19:10 PM Mayor Nelson informed everyone of a wonderful post on the City's website from someone who stated they wished they lived in Bonita Springs. He also attended the CREW Concert and Movies in the Park, which were wonderful events.

XIV. APPROVAL OF MINUTES: 02/19/14

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

XV. PUBLIC COMMENT:

7:20:25 PM Kathy McGrath addressed an article in the Readers Digest.

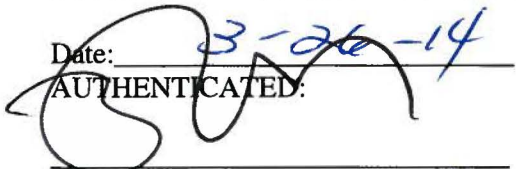
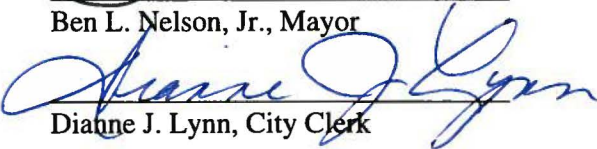
XVI. ADJOURNMENT.

There being no further items to discuss the meeting adjourned at 7:21 P.M.

Respectfully submitted,  
  
Debra Filipek, Recording Secretary

APPROVED:  
BONITA SPRINGS CITY COUNCIL:

Date: 3-26-14  
AUTHENTICATED:

  
Ben L. Nelson, Jr., Mayor  
  
Dianne J. Lynn, City Clerk