

City Council
CITY OF BONITA SPRINGS
WEDNESDAY, MAY 21, 2014
9:00 A.M.
CITY HALL
9101 BONITA BEACH ROAD
BONITA SPRINGS, FLORIDA 34135
MINUTES

I. I. CALL TO ORDER

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

II. INVOCATION

Pastor Doug Warren, with the Gulf Coast Presbyterian Church, furnished the invocation.

III. PLEDGE OF ALLEGIANCE

Mayor Nelson led in the Pledge of Allegiance.

IV. ROLL CALL

Mayor Nelson and all Council Members were in attendance.

V. PUBLIC COMMENT ON AGENDA ITEMS

[9:04:23 AM](#) Jessie Purdon, a resident of District 2, addressed item XIV. A., voiced his opposition to amending the Code of Conduct to include a drug free policy for City Council.

[9:07:33 AM](#) Jude Reichenthal also voiced his opposition to amending the Code of Conduct for City Council.

VI. PROCLAMATIONS AND PRESENTATIONS:

A. PRESENTATION OF PROCLAMATION TO BARBARA SCARNATO ON RECEIVING THE 2014 TEACHER OF THE YEAR AWARD.

[9:09:36 AM](#) Mayor Nelson next read aloud a Proclamation honoring Barbara Scarnato on receiving the 2014 Teacher of the Year Award. Ms. Scarnato was present to accept the Proclamation and thank Mayor Nelson and City Council.

B. RECEIVE THE BONITA SPRINGS/ESTERO ECONOMIC DEVELOPMENT COUNCIL QUARTERLY REPORT. (GREENSHEET 14-05-0160)

[9:13:58 AM](#) Vince Modarelli, Chairman of the Bonita Springs/Estero Economic Development Council, was in attendance to furnish the EDC's Quarterly Report (copy in Clerk's file). He updated Council on prospect activity, Local Business Retention and Expansion Assistance, New Business Relocation Assistance activity, Advocacy Efforts, Marketing and Public Relations Initiatives, Special Events and Community Outreach, items in the News, and Use Permit Activity. In September they will furnish their annual report.

9:29:56 AM Paul Schmidt, Vice President of Global Tech located on Old 41 Road, an LED manufacturer, informed Council of the great experience he had in relocating his business into the City of Bonita Springs. They have 25 employees and continue to grow. He thanked the Chamber, the EDC and the City for all of their help with his move.

- C. PROVIDE DIRECTION TO STAFF ON AMENDING LDC CHAPTER 4, DIVISION 11, WIRELESS COMMUNICATION FACILITIES, AFTER PRESENTATION BY STAFF ON THE LAND USE COMPATIBILITY, LOCATION CRITERIA, DEFINITIONS AND DEVELOPMENT STANDARDS OF WIRELESS COMMUNICATION FACILITIES. (GREENSHEET 14-05-0155)

9:33:28 AM Jennifer Duffala Hagen, Community Development, began by addressing a PowerPoint presentation (copy in Clerk's file) on the regulations relating to cell towers. Staff is looking for direction from City Council on amending the regulations.

9:36:20 AM Mike Fiigon, Community Development, addressed the PowerPoint to furnish the background of cell phones, which are currently used by 218 million people. There are a total of 11 cell phone towers in the City. City of Bonita Springs Ordinance 04-17 was adopted in 2004, resulting in the need to update the regulations to address new technology, tower engineering, and the expansion of existing wireless facilities. He further addressed the purpose and intent of Staff's request and the evolution of cell phone towers. The current definitions address monopole and stealth facilities.

9:44:10 AM Ms. Hagen informed Council that Community Development has received two applications for wireless facilities – one that will be coming before Council in June and the other which is currently in sufficiency review. Towers are allowed in AG-2 zoned areas via Special Exception, and in residential land use categories. Staff's recommendation is to look at land use first instead of the zoning district, which she expanded on.

9:50:44 AM Jay Sweet, Community Development, addressed tower hierarchy, types of cell towers, tower height, etc. The question regards whether Council wants higher towers resulting in less towers, or camouflage type smaller towers which will require more towers.

10:01:42 AM Council Member Janet Martin agrees there should be regulations to address maintenance and location of towers. She also expressed a concern with respect to distance as it relates to health safety issues. She supports camouflage and stealth type towers.

10:09:47 am Council Member Peter Simmons echoed comments made by Council Member Martin. He also supports stealth and camouflage type towers, and having them blend in as much as possible. He also suggested industrial areas for towers, and that they be as least intrusive as possible.

10:11:00 am Council consensus for Staff to go by land use first instead of zoning, as recommended by Staff. With respect to what they should look like, Council consensus to afford some flexibility, and to include maintenance codes, and codes to address the removal of towers requiring they be maintained until such time they are removed.

With respect to shorter towers versus the fewer tall towers, is something that depends on where they are to be located, i.e., if on a large AG or Industrial area, it makes sense to have fewer taller towers. In the downtown area it would be the opposite, in that there may be places for co-location. It makes sense to have shorter facilities and have them on the top of buildings, etc.

Council Member McIntosh explained economic development depends on new technology, and so he would ask that the EDC look at this differently than Community Development. He referred to areas of the map that were not covered, specifically in District 6 on the east end, where the Fire District owns property. That property might be a good place to co-locate some sort of tower to help that district, rather than infringing on the residential areas that are already out there. He also feels it would make sense for the EDC to look at organizations, i.e., the Café of Life that has a facility that's not well covered. If they can build a façade around a tower that looks like part of the park, it will provide coverage that will not be intrusive to the residents. He suggested Staff have a conversation with the EDC about marketing those kinds of areas as opposed to going into other areas they wouldn't be interested in going. Mayor Nelson agreed it was a good idea to work with the EDC to get their input.

10:15:26 AM Mayor Nelson addressed the idea of camouflaged facilities, and cautioned Staff on being careful in crafting the regulations as they relate to camouflaged facilities. He also requested that these types of tower requests be required to come before Council. Direction to Staff to amend the regulations as discussed.

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.)

10:17:23 am Council Member Mike Gibson requested Item C. be pulled.

Council Member Lonkart motioned approval of the remainder of the Consent Agenda (Items A., B. and D.); Council Member Martin seconded; and the motion carried unanimously.

- A. APPROVE THE LEASE AGREEMENTS BETWEEN THE CITY OF BONITA SPRINGS AND XEROX FOR THE LEASE OF TWO PHOTOCOPIERS AT CITY HALL. (GREENSHEET NO. 14-05-0149)
- B. REQUEST APPROVAL OF A SPECIAL EVENT PERMIT AND CO-SPONSORSHIP FOR THE BONITA SPRINGS TROPICAL FRUIT CLUB FOR FRUIT TREE SALE AT RIVERSIDE PARK ON NOVEMBER 15, 2014 AND FEBRUARY 21, 2015. (GREENSHEET NO. 14-05-0156)
- C. REQUEST APPROVAL OF A RESOLUTION WAIVING THE COMPETITIVE QUOTE PROCESS FOR A LASER LIGHT SHOW AND FIREWORKS DISPLAY FOR 4TH OF JULY EVENT AND AUTHORIZE THE MAYOR TO SIGN A QUOTE FROM LASER PRODUCTION NETWORK, INC. (GREENSHEET NO. 14-05-0157)

10:18:14 AM Council Member Gibson pulled Item C. to ask if approval included the \$3,500 shown for the confetti cannon. Lora Taylor, Communications Manager, explained they were only approving the \$17,400, as the Special Events Committee did not recommend approval of the confetti cannon for the event.

10:18:23 am Council Member Peter Simmons motioned approval of the Resolution; Council Member Gibson seconded; and the motion carried unanimously. **ADOPTED RESOLUTION NO. 14-23**

- D. EXEMPT THE PERFORMANCE BOND REQUIREMENT FOR THE UNPAVED ROADS PAVING PROJECT PHASE II. (GREENSHEET NO. 14-05-0153)

VIII. PUBLIC COMMENT.

No public comments were made.

IX. PUBLIC HEARING:

- A. REQUEST TO VACATE A PORTION OF AN EASEMENT RESERVATION FOR UTILITY MAINTENANCE, LYING IN SECTION 15, TOWNSHIP 47 SOUTH, RANGE 25 EAST, AS REFERENCED ON THE UNRECORDED PLAT OF SAN CARLOS ESTATES AND RECORDED IN OFFICIAL RECORD BOOK 557, PAGE 354, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA. (GREENSHEET NO. 14-05-0146)

10:19:26 AM Jen Hagen, Community Development, furnished a brief overview of this request, which involves a request to vacate a utility easement on property located in San Carlos Estates. The request stems from the owner of the two subject lots who intends to construct a residential home on the property. Staff has not received any objections to the request.

No public comments were made.

Council Member McIntosh motioned to approve the Petition to Vacate; Council Member Martin seconded; and the motion carried unanimously.

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

- A. AN ORDINANCE OF THE CITY OF BONITA SPRINGS, LEE COUNTY, FLORIDA EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF BONITA SPRINGS, FLORIDA, BY THE ANNEXATION OF UNINCORPORATED TRACTS OF LAND WITHIN THE SANCTUARY LAKES AND PELICAN LANDING UNIT 22 SUBDIVISIONS THAT ARE CONTIGUOUS TO AND BEING IN THE SAME COUNTY AS THE CITY OF BONITA SPRINGS, LEE COUNTY, FLORIDA; LOCATED IN SECTIONS 8 AND 9, TOWNSHIP 47 SOUTH, RANGE 25 EAST; ASSIGNMENT TO CITY COUNCIL DISTRICT 1; AND PROVIDING EFFECTIVE DATE. (GREENSHEET NO. 14-05-0147)

10:21:12 AM City Attorney Vance read the title block of the Ordinance into the record.

No public comments were made.

Council Member McIntosh entered a motion to move forward with a second reading and public hearing on Wednesday, June 4, 2014; Council Member Simmons seconded; and the motion carried unanimously.

- B. AMENDMENTS TO THE BONITA SPRINGS LAND DEVELOPMENT CODE CHAPTER 3 (DEVELOPMENT STANDARDS), CHAPTER 4 (ZONING) AND CHAPTER 6 (SIGNS); RELATING TO LARGE-SCALE RETAIL ESTABLISHMENTS;

AN AMENDMENT TO BONITA SPRINGS LAND DEVELOPMENT CODE CHAPTER 3 (DEVELOPMENT STANDARDS); AMENDING SEC. 3-262, LIGHTING STANDARDS AND SEC. 3-263 BIKEWAYS AND PEDESTRIAN WAYS TO HAVE ADDITIONAL STANDARDS FOR LARGE-SCALE RETAIL ESTABLISHMENTS; CREATING SEC. 3-426 LANDSCAPING STANDARDS FOR LARGE-SCALE RETAIL ESTABLISHMENTS; CREATING SEC. 3-427 COMMUNITY SPACE STANDARDS FOR LARGE-SCALE RETAIL ESTABLISHMENTS; CREATING SEC. 3-440 PUBLIC TRANSIT FACILITIES FOR LARGE-SCALE RETAIL

ESTABLISHMENTS; CREATING SEC. 3-497 BUILDING DESIGN STANDARDS FOR LARGE-SCALE RETAIL ESTABLISHMENTS; AND

AN AMENDMENT TO THE BONITA SPRINGS LAND DEVELOPMENT CODE CHAPTER 4 (ZONING); AMENDING SEC. 4-843, USE REGULATIONS FOR CONVENTIONAL COMMERCIAL DISTRICTS; AMENDING SEC. 4-934, USE REGULATIONS FOR PLANNED DEVELOPMENT DISTRICTS; CREATING SEC. 4-1560 THROUGH SEC. 4-1563 SUPPLEMENTARY REGULATIONS FOR LARGE-SCALE RETAIL ESTABLISHMENTS; SETTING FORTH PROVISIONS FOR PURPOSE, APPLICABILITY, DEFINITIONS, PROCEDURE FOR APPROVAL, DEVELOPMENT REGULATIONS, AND BUILDING PLACEMENT; AND

AN AMENDMENT TO BONITA SPRINGS LAND DEVELOPMENT CODE CHAPTER 6 (SIGNS); CREATING SEC. 6-157 PERMANENT SIGNAGE FOR LARGE-SCALE RETAIL ESTABLISHMENTS; PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, INCLUSION IN CODE AND AN EFFECTIVE DATE. (GREENSHEET NO. 14-05-0142)

10:24:40 AM City Attorney Vance read the title block of the Ordinance into the record and addressed revisions made to the Ordinance, as well as additional revisions she has yet to make to the Ordinance. She also addressed the issue relating to the Bonita Exchange and Racetrac Development Orders as reflected in the Greensheet.

10:25:56 AM Alexis Crespo, Waldrop Engineering, representing Staff, referred to the City Attorney's May 19, 2014 memorandum (attached to Errata Sheet) to address revisions made relating to bike racks, landscaping areas and terminal islands, community space, materials used for shutters, use tables, language to discourage the removal of shopping carts from the property, orientation of the buildings on the site and outparcels, and parking. Council Member Gibson stated he was against having the big box buildings close to the road.

10:40:51 AM Mayor Nelson agreed with Council Member Gibson in that he also did not like the building close to the road, but likes the liner building concept. He also feels the need to encourage them not to have a sea of parking, but to have landscaping. Council Member Gibson agrees to liner buildings and outparcels, but not having the big box near the roadway.

10:42:43 AM Council Member Simmons stated he would like to remove the box option or table it. John Dulmer, Community Development, suggested allowing Staff to have the architects review this section and see what they think would be a good idea, and what they feel is bad, and to come back with examples. Mayor Nelson suggested more visuals and for Staff to show Council how these are working out in other areas as well. Staff to come back with their recommendations and more visuals.

Council Member Simmons motioned to table the Ordinance; Council Member Lonkart seconded. Mayor Nelson suggested sending it to second reading and discuss it then. This way they could always send it back. Mr. Dulmer added that Council, during that time, can decide if they want to take this design option out – to have the big box building close to the road. Mayor Nelson suggested Council be furnished with more examples and visuals before they decide to remove it, as Council may change their mind.

Council Member Simmons withdrew his motion for purposes of protecting the City against someone coming in, noting that in moving forward he wants to remove the option of placing the building close to the road.

10:47:19 AM Mayor Nelson suggested sending the Ordinance to second reading and have Ms. Crespo bring back examples.

10:48:41 AM City Attorney clarified direction, which is for her to work with Ms. Crespo to redefine the community space concept, research the issue of “privately owned” to make it clear that this is privately owned property under the control of the retailers involved. She will also work on making sure that the materials are not limited to a certain product. Referring to page 2 of the Greensheet, she addressed her request for direction as to Bonita Exchange and Racetrac Development Agreements, explaining that normally development agreements vest the property owners with whatever the laws were that were in effect at the time they entered into the development agreement. Since both of these developments would be affected by the Ordinance, she needs direction on whether to add language that would say any development that is subject to a development agreement will have to go through this Ordinance since these regulations contained in Chapters 3, 4 and 6 related to large-scale retail establishments and are essential to public health, safety and welfare. City Manager Carl Schwing stated that both he and Ms. Vance need to look at the agreement they have with the Havernicks, noting that those negotiations with that agreement were more financial in nature.

PUBLIC COMMENTS:

10:53:06 AM Attorney Neale Montgomery referred to the Bonita Exchange Development Agreement and explained that she represents both the potential buyer and the property owner for that property. Their Development Agreement specifically states they are vested. It also states it’s a contract that cannot be amended without the mutual written consent of the parties, noting that the Development Agreement per State Statute requires two public hearings to amend. Overall, Council can’t adopt some other document that changes the terms of their contract.

She next addressed revisions to the Ordinance she agrees with and those she doesn’t. She addressed bike racks, outparcels, the location of buildings on site, community space, landscaping/buffering, lighting, security, etc. She concluded by suggesting time beyond June 4, 2014 to allow all the issues to be worked out.

11:14:04 AM Council Member Martin motioned to move forward with a second reading and public hearing of the Ordinance on Wednesday, June 4, 2014; Council Member Gibson seconded; and the motion carried unanimously.

- C. AN ORDINANCE OF THE CITY OF BONITA SPRINGS; AMENDING THE ZONING ORDINANCE BY AMENDING TABLE 4-843. USE REGULATIONS FOR CONVENTIONAL COMMERCIAL DISTRICTS, TO REQUIRE THAT ANY PROPERTIES HAVING CERTAIN USES WITHIN 100 FEET FROM U.S. 41 (TAMIAMI TRAIL) BE PERMITTED ONLY BY PLANNED DEVELOPMENT OR SPECIAL EXCEPTION; PROVIDING FOR CONFLICT, SEVERABILITY, CODIFICATION, INCLUSION IN CODE, SCRIVENER’S ERRORS AND AN EFFECTIVE DATE. (GREENSHEET NO. 14-05-0143)

11:15:28 AM City Attorney Vance read the title block of the Ordinance into the record, noting that if approved, a second reading and public hearing will be scheduled for June 4, 2014.

11:16:12 AM Mr. Dulmer explained that this Ordinance will bring the U.S. 41 Corridor more in line with the standards that are currently in place for Bonita Beach Road, which place more intense uses into a Planned Development or Special Exception approval process as opposed to them being granted by right.

No public comments were made.

11:17:07 AM Council Member McIntosh motioned to move forward with a second reading and public hearing of the Ordinance on Wednesday, June 4, 2014 at 5:30 P.M.; Council Member Lonkart seconded; and the motion carried unanimously.

- D. AN ORDINANCE CREATING OPERATIONAL REQUIREMENTS FOR OUTDOOR FLEA MARKETS SUPPLEMENTAL TO THE SPECIAL EVENT PERMIT; PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, INCLUSION IN CODE, SCRIVENER'S ERRORS AND AN EFFECTIVE DATE. (GREENSHEET NO. 14-05-0144)

11:18:14 AM City Attorney Vance read the title block of the Ordinance into the record, after which a brief overview of the intent was furnished.

Council Member Slachta motioned to move forward with the second reading and public hearing of the Ordinance on Wednesday, June 4, 2014 at 5:30 P.M.; Council Member Simmons seconded; and the motion carried unanimously.

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

- A. AN ORDINANCE OF THE CITY OF BONITA SPRINGS, LEE COUNTY, FLORIDA EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF BONITA SPRINGS, FLORIDA, BY THE ANNEXATION OF UNINCORPORATED TRACTS OF LAND OWNED BY H. DENNIS AND LAURIE ANNE HILL ON TUSCANY WAY LYING CONTIGUOUS TO AND BEING IN THE SAME COUNTY AS THE CITY OF BONITA SPRINGS, LEE COUNTY, FLORIDA; LOCATED IN SECTION 8, TOWNSHIP 47 SOUTH, RANGE 25 EAST; ASSIGNMENT TO CITY COUNCIL DISTRICT 1; AND PROVIDING FOR AN EFFECTIVE DATE. (GREENSHEET NO. 14-05-0141)

11:19:22 AM City Attorney Vance read the title block of the Ordinance into the record.

No public comments were made.

11:19:51 AM Council Member McIntosh motioned adoption of the Ordinance; Council Member Simmons seconded; and the motion carried unanimously. **ADOPTED ORDINANCE NO. 14-07**

- B. AN ORDINANCE OF THE CITY OF BONITA SPRINGS, LEE COUNTY, FLORIDA EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF BONITA SPRINGS, FLORIDA, BY THE ANNEXATION OF UNINCORPORATED TRACTS OF LAND OWNED BY JAMES A. HOLLARS AND REINER B. AND LISA NEUMANN ON MESSINA COURT, LYING CONTIGUOUS TO AND BEING IN THE SAME COUNTY AS THE CITY OF BONITA SPRINGS, LEE COUNTY, FLORIDA; LOCATED IN SECTIONS 8 & 17, TOWNSHIP 47 SOUTH, RANGE 25 EAST; ASSIGNMENT TO CITY COUNCIL DISTRICT 1; AND PROVIDING FOR AN EFFECTIVE DATE. (GREENSHEET NO. 14-05-0140)

11:20:17 AM City Attorney Vance read the title block of the Ordinance into the record.

PUBLIC COMMENTS:

11:20:56 AM James Hollars was in attendance to thank City Council for all their help. He and his wife look forward to being residents of the City of Bonita Springs.

Council Member McIntosh motioned adoption of the Ordinance; Council Member Simmons seconded; and the motion carried unanimously. **ADOPTED ORDINANCE NO. 14-08**

- C. AN ORDINANCE OF THE CITY OF BONITA SPRINGS, LEE COUNTY, FLORIDA EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF BONITA SPRINGS, FLORIDA, BY THE ANNEXATION OF UNINCORPORATED TRACTS OF LAND OWNED BY WALDEN CENTER LP AND WCI COMMUNITIES, LLC, LYING CONTIGUOUS TO AND BEING IN THE SAME COUNTY AS THE CITY OF BONITA SPRINGS, LEE COUNTY, FLORIDA; LOCATED IN SECTION 9, TOWNSHIP 47 SOUTH, RANGE 25 EAST (8.91 ± ACRES); ASSIGNMENT TO CITY COUNCIL DISTRICT 1; AND PROVIDING FOR AN EFFECTIVE DATE. (GREENSHEET NO. 14-05-0139)

11:25:18 am City Attorney Vance read the title block of the Ordinance into the record.

No public comments were made.

11:25:59 am Council Member McIntosh motioned adoption of the Ordinance; Council Member Simmons seconded; and the motion carried unanimously. **ADOPTED ORDINANCE NO. 14-09**

- D. AN ORDINANCE OF THE CITY OF BONITA SPRINGS, LEE COUNTY, FLORIDA EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF BONITA SPRINGS, FLORIDA, BY THE ANNEXATION OF UNINCORPORATED TRACTS OF LAND OWNED BY PELICAN LANDING GOLF RESORT VENTURES, LP LYING CONTIGUOUS TO AND BEING IN THE SAME COUNTY AS THE CITY OF BONITA SPRINGS, LEE COUNTY, FLORIDA; LOCATED IN SECTIONS 5, 6, 7 & 8, TOWNSHIP 47 SOUTH, RANGE 25 EAST (55.16 ± ACRES); ASSIGNMENT TO CITY COUNCIL DISTRICT 1; AND PROVIDING FOR AN EFFECTIVE DATE. (GREENSHEET NO. 14-05-0138)

11:26:26 am City Attorney Vance read the title block of the Ordinance into the record.

No public comments were made.

11:27:17 am Council Member McIntosh motioned adoption of the Ordinance; Council Member Simmons seconded; and the motion carried unanimously. **ADOPTED ORDINANCE NO. 14-10**

XII. CITY ATTORNEY'S REPORT.

- A. PERMISSION TO ADVERTISE AN ORDINANCE AMENDING LDC 4-735 TO ALLOW SINGLE FAMILY RESIDENTIAL BY RIGHT IN PROPERTY ZONED MH (MOBILE HOME) IN CERTAIN NEIGHBORHOODS AND TO PROHIBIT MOBILE HOME RELOCATION OR REPLACEMENT IN THE INTERCHANGE AREA, CONSISTENT WITH THE COMPREHENSIVE PLAN. THE ORDINANCE WILL BE SCHEDULED ON JUNE 4, 2014 FOR ITS FIRST READING AND PUBLIC HEARING AND JUNE 18, 2014, WITH LOCAL PLANNING AGENCY REVIEWING ON JUNE 12, 2014. (GREENSHEET NO. 14-05-0159)

11:27:53 AM City Attorney Vance addressed this request, explaining that the City currently has a provision that allows single-family residential in mobile home districts by special exception, which, however, takes time. This would allow mobile homes in certain neighborhoods much sooner in areas such as Leitner Creek or Rosemary Park. In October of 2013 Staff discussed the Interchange Area and property zoned Mobile Home,

which the Comprehensive Plan does not allow, and thus, this reconciles the Zoning Ordinance to the Comprehensive Plan.

11:30:09 AM Council Member McIntosh motioned to move forward with a first reading and public hearing of the Ordinance on June 4, 2014, at 5:30 P.M.; Council Member Simmons seconded; and the motion carried unanimously.

- B. APPROVAL OF THE FOLLOWING RESOLUTION: A RESOLUTION OF THE CITY OF BONITA SPRINGS; AUTHORIZING REIMBURSEMENT FUNDS FOR CERTAIN ADJACENT BUFFERING ALONG SHANGRI-LA ROAD IN ACCORDANCE WITH PRIOR RIGHT-OF-WAY ACCEPTANCE; PROVIDING FOR AN EFFECTIVE DATE. (GREENSHEET NO. 14-05-0154)

11:30:47 AM Justin Diner, Staff Attorney, addressed this Agenda item, explaining that in 2013 the City accepted a road right-of-way dedication in the platted Hawthorne Subdivision via Resolution No. 13-028. On the north side of the subdivision there is a wall that borders the subdivision to which the City is planning to extend. The wall that's currently there costs the subdivision \$550 per foot; the City's wall are \$50 per foot. The intent is the reimburse Hawthorne for the wall extension at the normal City cost, which amounts to \$11,000. The City will not go forward with the reimbursement unless they sign a written release, releasing the City from any obligations relating to the wall as well providing the City with a receipt regarding cost.

11:32:32 AM Council Member Slachta motioned approval of the Resolution; Council Member Martin seconded.

11:33:27 AM Council Member McIntosh stated he was very pleased that the extension has gone through, which is important for traffic flow. He reiterated a previous concern he addressed regarding it being a straight road with no stops, thus, creating a potential speedway. Public Works Director Matt Feeney responded to Council Member McIntosh's concern explaining that Staff is aware that it's a straight road, however, the engineers don't see justification for some kind of traffic control. Staff is, however, in the process of doing some sidewalk extensions there that will require stop signs at Windley Key Terrace, which will slow traffic in that area.

The motion carried unanimously. **ADOPTED RESOLUTION NO. 14-24**

XIII. CITY MANAGER'S REPORT:

- A. REVIEW OF MONTHLY FINANCIAL REPORT. (GREENSHEET NO. 14-05-0151)

Informational.

XIV. MAYOR AND COUNCIL MEMBER ITEMS AND REPORTS.

- A. CONSIDER AMENDING THE CODE OF CONDUCT FOR ITS ELECTED OFFICIALS BY ADDING A DRUG FREE POLICY. (MCINTOSH) (GREENSHEET NO. 14-05-152)

11:35:47 AM Mayor Nelson began by thanking Council Member McIntosh for considering this and bringing it forward, which addresses something he feels City Council might want to consider.

11:36:46 am Council Member McIntosh explained that his objective was to make sure that citizens are confident in the decisions City Council makes. If the Code of Conduct is sufficient, and if what he will suggest

is unnecessary, when he makes his motion to ask City Council to come back with a more detailed protocol, if everything is okay, to not get a second to his motion.

Council Member McIntosh motioned that Staff come back with a more detailed protocol on the issue of drug and alcohol testing for City Council. The motion failed for a lack of a second. Mayor Nelson again thanked Council Member McIntosh for bringing the issue up.

11:40:53 am Council Member McIntosh reported that the Citizens Water Strategy Task Force was making great progress. Mayor Nelson congratulated Council Member McIntosh on having been nominated as Business Partner of the Year by the Lee County School System.

- B. APPROVE A RESOLUTION APPOINTING TWO MEMBERS TO THE CITY OF BONITA SPRINGS TREE ADVISORY BOARD; AND PROVIDING AN EFFECTIVE DATE. (GREENSHEET NO. 14-05-0150)

11:41:34 am Council Member Martin motioned the appointment of Jack Caldwell and Michael Grover to the City of Bonita Springs Tree Advisory Board; Council Member Simmons seconded; and the motion carried unanimously. **ADOPTED RESOLUTION NO. 14-25**

11:42:11 am Council Member Martin reported that the ribbon cutting for Cullum's Bonita Trail held last weekend was a great event. She thanked everyone involved in the development of the trail. She also reminded everyone of the Fourth of July celebration and events planned. The celebration begins at 9:00 A.M.

11:43:38 AM Council Member Slachta reminded everyone of the Memorial Day Ceremony scheduled for this coming Monday at Riverside Park.

11:43:57 AM Council Member Simmons addressed the issue of the PD&E study and the flyover option. He also asked what was discussed at the MPO meeting. He also questioned why it moved this far with Council's 5-2 vote in January against the flyover. Mayor Nelson explained that the MPO website has entire video transcripts of all meetings. He also explained that at the last two meetings there was a discussion as to Council's wishes and the vote that was taken, and there was agreement that they understood that the City doesn't like or want a flyover. He also addressed the protocol the MPO uses when making any decisions for all State roads. There is a handbook that requires them to use the PD&E process. Council Member Simmons requested a clarification on Council's minutes of January 15, 2014 on the issue. A lengthy discussion followed.

12:07:53 PM Council Member Bill Lonkart informed Council that he has had constituents question who's representing the City at the MPO, and asking why the study is continuing. He referred to the City Charter which states that when one represents the City, the Council Member must support and advocate the official City position on the issue; not a personal viewpoint. He does know that Council's vote was 5-2, which is a majority, and whoever is on the MPO should advocate the position of the majority, which he feels the people in the City are not sure happened.

Mayor Nelson stated that he agreed with Council Member Lonkart in that when City Council votes on something, they vote on it and they take a position, which is always made clear. Every time he spoke at the MPO he let them know what City Council said. He will use every power in his possession not to be swayed when it comes to that, explaining that he knows that Council took a position on it, which he made it clear to the MPO. He is going to use his judgment, but when it comes to that process, he will respect the process, the law, but when it comes right down to it, and it's time for Council to make a decision, he's going to support that decision 100% as long as it's moral and ethical.

Council Member Lonkart said that the impression out there is that Council is not working together; they're pulling apart.

Council Member McIntosh stated that he said that City Council and the Citizens of Bonita Springs are not in favor of a flyover, which does advocate what the City and City Council want.

Council Member Lonkart stated that the only way to clear the air is to express that.

12:22:57 PM Council Member Gibson stated that while he was against any flyover, he supports the study going forward, which will include other options.

12:25:25 PM Mayor Nelson informed Council of numerous requests he received relating to the need for more public access to waterways and referred to the areas near the Hyatt, Pelican Landing and Spring Creek. He would like to get permission from Council to have Staff, at some point, look into the issue. Council agreed. Council Member Simmons also suggested enhancing the beach as it relates to parking, the addition of more green space, and more public access to the water. Mayor Nelson stated he felt the ideal location for those types of enhancements would be on the causeway heading towards Lover's Key.

XV. APPROVAL OF MINUTES: 05/07/14

12:28:24 pm Council Member Slachta motioned approval of the Minutes; Council Member Simmons seconded; and the motion carried unanimously.

XVI. PUBLIC COMMENT:

12:28:52 PM Deborah Maclean voiced her opposition to drug and alcohol testing for elected officials.

12:29:59 PM Kathy McGrath stated she was very happy about the LED company that moved to the City.

12:32:56 PM Bill Lewis commented on the flyover and the study that was conducted in Naples, which resulted in the construction of the flyover.

12:35:02 PM John Paeno, Calusa River Ghost Tours, addressed the need to make the waterways accessible to the public.

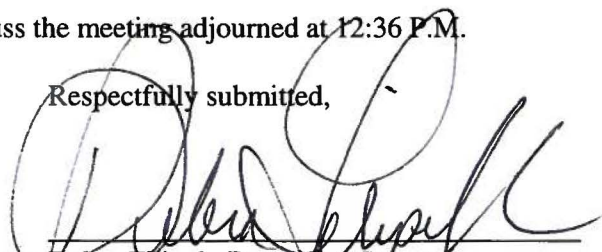
ADDITIONAL ITEM:

12:36:15 PM Council Member McIntosh and Mayor Nelson both stressed that they were not in favor of a flyover, but were in support of the study moving forward.

XVII. ADJOURNMENT.

There being no further items to discuss the meeting adjourned at 12:36 P.M.

Respectfully submitted,



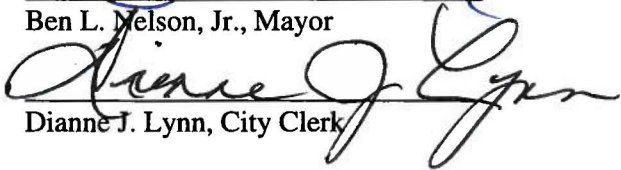
Debra Filipek, Recording Secretary

APPROVED:
BONITA SPRINGS CITY COUNCIL:

Date: 6-4-14

AUTHENTICATED:


Ben L. Nelson, Jr., Mayor


Dianne J. Lynn, City Clerk