

CITY COUNCIL
CITY OF BONITA SPRINGS
WEDNESDAY, JUNE 18, 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 Kevin Bradley, with the First Baptist Church of Bonita Springs, furnished the invocation.

III. PLEDGE OF ALLEGIANCE

At the request of Mayor Nelson, 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

9:04:39 AM Former Council Member Richard Ferreira, stated he was present on behalf of the Spring Creek Community to support the adoption of the Ordinance that allows mobile homes to be replaced with single-family structures. He also expressed his support for all of the properties being annexed into the City.

9:05:57 AM Debra Chesebro, a resident of Spring Creek Village, addressed issues relating to insurance for mobile homes, and expressing her support for the Ordinance to allow people to replace mobile homes with single-family homes.

9:06:59 AM Kathy McGrath spoke opposed to any referendum regarding the DR/GR. She supports the Citizens Water Strategy Task Force continuing their work.

9:09:38 AM Meg Jacobson voiced her opposition to any referendum for the DR/GR.

9:10:13 AM Ben Hershenson also spoke opposed to a referendum for the DR/GR. He's against the costs involved. He feels that a mail ballot would be a waste of time, effort and tax dollars. He also believes no one wants anymore development in the area.

9:12:17 AM Alex Grantt commented on this past Monday's Citizens Water Strategy Task Force (CWSTF) meeting, and suggested that City Council bring in soil and water experts from the University of Florida before they make any decisions on the DR/GR.

[9:13:44 AM](#) Deborah Maclean stated that she disagrees to any widening of roads in the DR/GR, she also challenges the Barraco Report. She supports the CWSTF continuing their work.

[9:15:13 AM](#) Marianne Sigma stated she would like to see the result of the Study regarding the DR/GR before any referendum goes forth.

[9:15:58 AM](#) Jesse Purdon, a resident of District 2, spoke in support of the budget amendment for the dog park. He also supports the Ordinance relating to the mobile home district prohibiting mobile homes in the Interchange area of the City. Lastly, he feels that the City should let the CWSTF continue their work.

[9:17:43 AM](#) Donna Stone, a resident of Worthington Country Club, stated that she also agrees that the dog park is needed in the City, and that any referendum for the DR/GR should go forward after the CWSTF is done with their work. She also agrees that the Barraco Report is majorly flawed. The information from Kevin Erwin was incredible and very good. She also attended a meeting at BSU on Monday and would like to know how much reclaimed water costs to produce. She knows that BSU is charging residents 43 cents, but she could not get an answer on how much it costs to produce that water.

[9:21:03 AM](#) Christine Ross, CEO of the Chamber of Commerce, congratulated Council on moving forward with the dog park. She also cautioned everyone who has an opinion on professionals the City hires to perform work for them. Also, the decision on the DR/GR is a decision that City Council will have to make, and should be dealt with at this level. She suggests allowing the CWSTF finish their work, and then Council address what needs to be done to move forward.

VI. PROCLAMATIONS AND PRESENTATIONS:

A. WELCOME CHILDREN FROM CATHOLIC CHARITIES SUMMER CAMP PROGRAM.

[9:25:34 AM](#) Mayor Nelson next welcomed all of the children who were present from the Catholic Charities Summer Camp Program.

B. PRESENTATION OF A CERTIFICATE OF APPRECIATION TO DR. JEANETTE BROCK, PRESIDENT OF HODGE'S UNIVERSITY, FOR HER DEVOTION TO LOCAL VETERANS.

[9:28:59 AM](#) Mayor Nelson and Council Member Steve Slachta next presented a Certificate of Appreciation to Dr. Jeanette Brock, President of Hodge's University for her devotion to local veterans. Council Member Slachta thanked Dr. Brock for being the first University nationally to start an American Legion Post for veterans. Dr. Brock thanked Mayor Nelson, Council Member Slachta, and Council Members for their support.

C. PRESENTATION OF A CERTIFICATE OF RECOGNITION TO CITY MATTRESS FOR INSTALLING AND MAINTAINING EXEMPLARY LANDSCAPING AT THEIR CORPORATE HEADQUARTERS IN BONITA SPRINGS.

[9:31:52 am](#) Mayor Nelson along with Council Member Bill Lonkart, next presented Kristen Sponholz and Mike Palisano, with City Mattress, a Certificate of Recognition for their installing and maintaining exemplary landscaping at their Corporate Headquarters in Bonita Springs. Ms. Sponholz and Mr. Palisano thanked Mayor Nelson, Council Member Lonkart, and all Council Members for the Certificate.

D. PRESENTATION BY TERRY SCHMIDT, CHAIRMAN OF THE BONITA SPRINGS HISTORIC PRESERVATION BOARD. (GREENSHEET NO. 14-06-0188)

9:34:06 AM Presentation deferred to City Council's meeting of July 16, 2014.

ADDITIONAL ITEM:

9:35:11 am Mayor Kevin Ruane of the City of Sanibel, was in attendance to address issues relating to water quality and Lake Okeechobee releases. He also addressed the two letters the five Mayors in the area sent to the State and thanked Mayor Nelson and City Council for their support.

E. LISTEN TO PRESENTATION BY BONITA SPRINGS UTILITIES ON QUESTIONS RAISED BY RESIDENTS, INCLUDING THE ANC FEES. (GREENSHEET NO. 14-06-0192)

9:44:15 am Jim Strecansky, President of the Board of Directors of Bonita Springs Utilities (BSU), introduced Attorney John Jenkins, their representative, and Fred Partin, Executive Director of BSU.

9:44:43 am Attorney John Jenkins began by informing Council that they are ready to proceed with the tariff. He next addressed ANC (Aid to New Construction) fees, which he explained are fees to ensure improvements pay for themselves and to make sure their plant has the capacity required to serve that growth. BSU intends to update their Master Plan and look at what sort of infrastructure they need to address future growth. He further addressed the process with respect to how they determine what the fees should be, which is done prior to when development occurs.

9:48:45 AM Council Member Lonkart questioned what ANC fees were currently. Mr. Jenkins responded that water ANC fees are \$2,600. for residential connection, and \$3,925 for wastewater, for a total of \$6,525. Residential fees have not been raised since 2007.

9:54:48 am Mr. Strecansky addressed a question raised earlier regarding the cost to process reclaimed water, explaining that all they have is the total costs for the plant, which was impossible to break down. If they weren't selling the wastewater they would have to find a way to pump it into the ground or get rid of it. Wastewater costs nothing because it's worth nothing unless someone buys it from them.

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.)

10:02:44 AM Council Member Mike Gibson requested item A. be pulled.

Council Member Steve Slachta motioned approval of the remainder of the Consent Agenda (Items B. and C.); Council Member Bill Lonkart seconded; and the motion carried unanimously.

A. APPROVE A PERMIT FOR THE LOCAL ROOTS, LLC TO OPERATE A FARMER'S MARKET AT 26795-27911 SOUTH BAY DRIVE, BONITA SPRINGS, ON SATURDAYS FROM OCTOBER 4, 2014 TO APRIL 25, 2015. (GREENSHEET NO. 14-06-0191)

10:03:35 AM Council Member Gibson questioned how this request came about, to which Lora Taylor, Communications Manager, referred to the flea market outdoor Ordinance that just recently went into

effect, which the Lion's Club will be applying for, which will allow them to sell items outside of that scope. Local Roots LLC will only be allowed to sell "green" items.

Council Member Slachta motioned approval of the Permit to allow Local Roots, LLC to operate a Farmer's Market; Council Member Peter Simmons seconded; and the motion carried unanimously.

B. APPROVE BUDGET RESOLUTION AND RESOLUTION AWARDING THE MAYHOOD DOG PARK PROJECT AWARD TO QUALITY ENTERPRISES, INC., IN THE AMOUNT OF \$363,536.90, REMOVING ITEMS 1-12 FROM THE OFFICIAL BID AND AUTHORIZING THE MAYOR TO SIGN THE AGREEMENT UPON APPROVAL OF CONTRACT DOCUMENTS AND INSURANCE CERTIFICATE BY THE CITY ATTORNEY. ALSO APPROVING AWARDING THE DEMOLITION PORTION OF THE PROJECT (THE AFOREMENTIONED ITEMS 1-12) TO HONC DESTRUCTION BASED ON STAFF'S ACCEPTANCE OF A QUOTE IN THE AMOUNT OF \$49,179.90 AND AUTHORIZING THE MAYOR TO SIGN THE AGREEMENT UPON APPROVAL OF CONTRACT DOCUMENTS AND INSURANCE CERTIFICATE BY THE CITY ATTORNEY. (GREENSHEET NO. 14-06-0190) **ADOPTED RESOLUTION NO. 14-32**

C. RATIFY THE MAYOR'S SIGNATURE ON THREE LETTERS: A LETTER TO THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT TO REASSESS THE ADAPTIVE PROTOCOLS FOR LAKE OKEECHOBEE OPERATIONS; A LETTER REQUESTING THAT THE U.S. ARMY CORPS OF ENGINEERS ACCELERATE THE RISK ASSESSMENT FOR THE HERBERT HOOVER DIKE REGARDING FRESHWATER RELEASES TO THE CALOOSAHATCHEE AND ST. LUCIE ESTUARIES; AND A LETTER TO THE CENTER FOR THE ARTS IN SUPPORT OF THEIR APPLICATION FOR A CULTURAL FACILITIES GRANT. (GREENSHEET NO. 14-06-0187)

VIII. PUBLIC HEARING:

A. HOLD THE FIRST OF TWO PUBLIC HEARINGS TO DISCUSS THE CITY OF BONITA SPRINGS' COMMUNITY DEVELOPMENT BLOCK GRANT FY 2014-2015 PROGRAM AND THE 2014 ANNUAL ACTION PLAN. (GREENSHEET NO. 14-06-0174)

10:05:03 AM Assistant City Manager John Gucciardo explained that this Agenda Item was in partnership with Lee County on the use of Community Development Block Grant funds, which requires two public hearings. In the past Staff has recommended that these funds be used for the improvement and development of public infrastructure projects within geographically eligible areas. Typically, after the results of the two public hearings, Staff comes back to Council with specific projects at their budget hearing.

No public comments were made.

Council Member Simmons motioned to move forward with a second public hearing on Wednesday, July 2, 2014; Council Member Lonkart seconded; and the motion carried unanimously.

IX. PUBLIC COMMENT:

10:06:44 AM John Paeno, with Calusa Ghost Tours, informed Council that a lot of the grass beds in Estero Bay were dead, which was a direct result of water releases from Lake Okeechobee. Overall, it was

not only a water quality issue, but an economic issue as well. He also wants to continue his relationship with the City with respect to his business.

10:08:53 AM Ron Pure suggested a non-binding vote with respect to the referendum on the DR/GR instead of utilizing the Supervisor of Elections. He referred to BSU's election process and suggested the City follow the same procedures to keep costs down.

X. FIRST READING AND PUBLIC HEARINGS OF THE FOLLOWING ORDINANCES (PUBLIC COMMENT ALLOWED):

- A. AN ORDINANCE ADOPTING AND ENACTING A NEW CODE FOR THE CITY OF BONITA SPRINGS, FLORIDA; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN; PROVIDING A PENALTY FOR THE VIOLATION THEREOF; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE; AND PROVIDING WHEN SUCH CODE AND THIS ORDINANCE SHALL BECOME EFFECTIVE. (GREENSHEET NO. 14-06-0183)

10:12:43 am City Attorney Audrey Vance read the title block of the Ordinance into the record, stating that she has reviewed the Affidavit of Publication which she found to be legally sufficient.

10:13:11 am Dianne Lynn, City Clerk, explained that when the City incorporated the City adopted Lee County's Ordinances, and as time progressed the City adopted their own Ordinances. She referred to Volume 1, the Code of Ordinances, and Volume 2 the Land Development Code. After the Codes are adopted they will go live on-line at the Municipal Code Corporation website at www.municode.com They will also be searchable documents, which will go into effect August 1, 2014. In July or August Staff will come back with a presentation to Council to show how easy it is to search and find information on-line.

City Manager Carl Schwing thanked the City Clerk for all of her work and patience during this project. He clarified that no laws were changed, as they entail laws that City Council adopted over the years which were put into a specific format so they are more readable and easier to find, and searchable on-line. It's a great step forward for the City and for the availability of the City's laws to be on-line for all residents and stakeholders. Hard copies of these books will be available at the library for all residents as well.

No public comments were made.

10:16:00 am Council Member Janet Martin motioned to move forward with a second reading and public hearing of the Ordinance on Wednesday, July 2, 2014 at 5:30 P.M.; Council Member Simmons seconded; and the motion carried unanimously.

- B. AN ORDINANCE ADOPTING AND ENACTING A NEW LAND DEVELOPMENT CODE FOR THE CITY OF BONITA SPRINGS, FLORIDA; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN; PROVIDING A PENALTY FOR THE VIOLATION THEREOF; PROVIDING FOR THE MANNER OF AMENDING SUCH LAND DEVELOPMENT CODE; AND PROVIDING WHEN SUCH LAND DEVELOPMENT CODE AND THIS ORDINANCE SHALL BECOME EFFECTIVE. (GREENSHEET NO. 14-06-0182)

10:16:44 am City Attorney Vance read the title block of the Ordinance into the record, stating that she has reviewed the Affidavit of Publication which she found to be legally sufficient.

10:16:57 am City Clerk Dianne Lynn explained that this is a reiteration of the first discussion, explaining that this entailed Volume 2, the Land Development Code. This will also be searchable as of August 1, 2014.

No public comments were made.

10:17:10 am Council Member Slachta motioned to move forward with a second reading and public hearing of the Ordinance on Wednesday, July 2, 2014 at 5:30 P.M.; Council Member Martin seconded; and the motion carried unanimously.

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

- A. AN ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA, CREATING THE PERSONNEL POLICY ORDINANCE OF THE CITY OF BONITA SPRINGS; PROVIDING FOR SEVERABILITY, CONFLICTS OF LAW, INCLUSION IN CODE, CODIFICATION AND SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE. (GREENSHEET NO. 14-06-0177)

10:17:56 AM City Attorney Vance read the title block of the Ordinance into the record.

10:18:16 AM Meg Weiss, Human Resources Manager, furnished an overview of items A. and B., explaining that this is a result of direction she received in July 2013 to simplify and update the City's Personnel Management System. In Staff's review they discovered the Handbook entailed two separate documents – Item A. (the Personnel Policies Ordinance) and Item B., (the Administrative Regulations Guide – the Policies and Procedures for City employees). Item A. will be adopted as one full Ordinance per the City Charter, and Item B. will be bits and pieces that are required by the City Charter, State or Federal laws. The remaining items will be brought back on July 16, 2014, as informational items on the Consent Agenda. Most of the changes to the documents, other than the paid time off, which was previously adopted, were grammatical clarifications to simplify them to make them more understandable. There were no major changes to the Policies in either of the documents, as the major change was to separate the documents.

10:20:06 AM Council Member Steve McIntosh motioned to move forward with a second reading and public hearing of the Ordinance on July 16, 2014, 9:00 A.M.; Council Member Simmons seconded; and the motion carried unanimously.

- B. AN ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA, ADOPTING PORTIONS OF THE ADMINISTRATIVE REGULATIONS GUIDE; ADOPTING SECTION 3.04 RELATING TO HARASSMENT, SECTION 6 RELATING TO EMPLOYMENT; SECTION 7.01 RELATING TO THE CLASSIFICATION PLAN, SECTION 7.02 RELATING TO THE COMPENSATION/PAY PLAN, AND SECTION 8.02 RELATING TO FORCE REDUCTION AND RECALLS; AMENDING SECTION 10.02 PREVIOUSLY ADOPTED BY ORDINANCE NO. 13-19 RELATED TO PAID TIME OFF, SECTION 11.02 RELATED TO EDUCATIONAL ASSISTANCE, AND SECTION 12 RELATED TO CORRECTIVE ACTIONS/DISCIPLINARY PROCEDURES; PROVIDING FOR SEVERABILITY, CONFLICTS OF LAW, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE. (GREENSHEET NO. 14-06-0179)

10:21:07 AM City Attorney Vance read the title block of the Ordinance into the record. This Ordinance will also be scheduled for a second reading and public hearing on Wednesday, July 16, 2014 at 9:00 A.M. This Ordinance addresses the provisions relating to the City Manager's portion of the Administrative Regulations wherein it's within his authority pursuant to the Charter to go forward with some changes needed to be done by Ordinance either because of State law, the City Charter, or Federal regulations.

10:22:02 am City Manager Carl Schwing thanked Human Resources Manager Meg Weiss for all of her work on updating all the rules and regulations.

Council Member Martin motioned to move forward with a second reading and public hearing of the Ordinance on July 16, 2014 at 9:00 A.M.; Council Member Slachta seconded; and the motion carried unanimously.

XII. 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 SECTION 4-735, USE REGULATIONS TABLE FOR MOBILE HOME DISTRICTS, TO PERMIT SINGLE FAMILIES BY RIGHT IN CERTAIN NEIGHBORHOODS ZONED MH-1 AND MH-2; PROHIBITING REPLACEMENT OF MOBILE HOMES IN THE INTERSTATE INTERCHANGE AREA; PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, INCLUSION IN CODE AND AN EFFECTIVE DATE. (GREENSHEET NO. 14-06-0180)

10:23:31 AM City Attorney Vance read the title block of the Ordinance into the record, which was reviewed by the Local Planning Agency who found it to be consistent with the City of Bonita Springs Comprehensive Plan.

10:24:41 AM Council Member Martin motioned adoption of the Ordinance; Council Member Simmons seconded; and the motion carried unanimously. **ADOPTED ORDINANCE NO. 14-14**

- 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 WITHIN THE WOODSAGE, HERON GLEN AND HERON COVE NEIGHBORHOODS OF PELICAN LANDING, 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; ASSIGNMENT TO CITY COUNCIL DISTRICT 1; AND PROVIDING FOR AN EFFECTIVE DATE. (GREENSHEET NO. 14-06-0181)

10:25:16 AM City Attorney Vance read the title block of the Ordinance into the record.

No public comments were made.

10:26:03 AM Council Member McIntosh motioned adoption of the Ordinance; Council Member Simmons seconded; and the motion carried unanimously. **ADOPTED ORDINANCE NO. 14-15**

XIII. CITY ATTORNEY'S REPORT.

- A. PROVIDE DIRECTION TO CITY ATTORNEY AS TO WHETHER CITY COUNCIL WANTS TO RENEW THE CODE ENFORCEMENT HEARING EXAMINER AGREEMENT WITH THOMAS W. FRANCHINO, OR, ALTERNATIVELY, AUTHORIZE THE CITY ATTORNEY TO ADVERTISE A REQUEST FOR PROPOSAL ("RFP") FOR THIS POSITION. (GREENSHEET 14-06-0186)

10:27:01 AM Assistant City Attorney Joseph Faerber addressed this agenda item, which is a request to renew Thomas Franchino's Code Enforcement Hearing Examiner Agreement, or for Staff to go out for Request for Proposals. City Attorney Vance explained that if Council renews the contract, it will include a rate change. A brief discussion was held.

10:28:51 am Council Member Lonkart motioned to renew the Code Enforcement Hearing Examiner's Agreement with Thomas W. Franchino; Council Member Martin seconded and the motion carried unanimously.

XIV. CITY MANAGER'S REPORT:

- A. REVIEW OF MONTHLY FINANCIAL REPORT. (GREENSHEET NO. 14-06-0189)

Informational.

XV. MAYOR AND COUNCIL MEMBER ITEMS AND REPORTS.

- A. CONSIDER A MAIL BALLOT REFERENDUM TO BE CONDUCTED ON GROWTH CONCERNS WITHIN THE DR/GR. (LONKART) (GREENSHEET NO. 14-06-0168)

10:29:39 AM Council Member Lonkart requested this item be removed, which he feels is premature and is not in the best interest of the City. He supports the current process with the CWSTF, which he sees as being the correct way to handle it. Mayor Nelson stated that he agrees that progress is being made.

Council Member Lonkart next referred to the MPO minutes and transcript furnished to Council and suggested an open discussion to address his concerns with respect to what occurred. Council Member McIntosh stated he felt that was a great idea because there is much misunderstanding and fear. He informed Council that Carmen Monroy with FDOT is scheduled to come to City Council's meeting of July 2, 2014, in addition to other Staff. He suggested they listen to their presentation and then discuss.

10:35:40 AM Mayor Nelson stated that what Council Member Lonkart was getting at was not the technical aspects, but his conduct and whether he did what he was supposed to do, and whether, as a member of the MPO, he is allowed to negotiate on behalf of Council and how actively he participates. He is willing to discuss this, and to get someone who was there who knows the process who can explain how it typically functions. Council Member Lonkart stated his concern is that the City Charter states specifically that when they make a decision as a Council that the people that do that are supposed to represent Council completely; not partially. Mayor Nelson informed everyone that they can go to the MPO website and listen to the entire meeting and hear what was said. He explained that Council's direction was for Council Member Simmon's to send a letter to the MPO and to FDOT Staff to request that they either remove the reference of the flyover from the study or abandon the study. He asked specifically that Council Member Simmons letter be read there, and he told them that they should respect City Council's request. He did, however, offer a personal opinion, as he often does at the MPO. He

further explained, stating that he knows how the MPO functions and what the appropriate strategy would be to get information that is needed, and so he asked the MPO if they were going to make a decision within the next year as far as what gets built. He knew they would be gathering information for a long time, i.e., traffic counts, etc. Its data that is valuable that is well worth the money, which was what he was wanting to allow as a part of a compromise to where the MPO would respect Council's wishes but allow the data to be gathered. He was just trying to get it to where you were, which was Council didn't want a flyover. Council Member Lonkart replied that was clear to him per the transcript, noting that his point is that if he could not advocate as the Charter states you should, then someone else should be on the MPO that will do the bidding of the Council. He would like to hear from all Council Members. Council Member McIntosh stated that if one reads the transcripts from the MPO meeting they will see that he stated that neither the City Council nor the citizens of Bonita Springs are interested in a flyover.

10:43:53 AM Council Member Simmons stated that in following up on the letter and conversations that he had, and in speaking with Carmen Monroy of FDOT and Secretary Bill Hattaway, he asked if the City can have the option of the flyover removed from the Study and was told they absolutely cannot. There's going to be a lot of information provided at Council's next meeting on July 2, 2014. Council represents what the people want and they don't want a flyover, and if they have to stop the study to ensure this, that's what he will fight to do. There has been one vote, and he wants another vote, and have it brought up at the MPO. He is for doing what they need to do and getting the citizens involved.

Mayor Nelson referred to the strategy as addressed by Council Member Simmons to remove even the consideration of a flyover and not wanting the study done, and questioned what the plan would be then. Council Member Simmons stated that a flyover study requires federal funds. If the City wants to look at turn lanes and different traffic patterns, that doesn't involve federal money. He suggested going forward with a State study instead. Mayor Nelson stated that Mr. Hattaway will tell them that a State study is a PD&E Study which will still require consideration of all contingencies. It still has the same caveat in that it's a PD&E Study and requires they look at everything. They do not let you prejudice the outcome of it. Mr. Hattaway stated on the record that if you don't want the Study, they will pull it and will declare the road as a constrained road, which will hold with its consequences. If that's okay with everyone and the businesses along there, and their ability to develop in the future, it would mean that nothing will happen at that intersection. If Council and the community is okay with that, in considering that to be constrained, that they don't look to us (MPO) for help. He made the same offer to Sarasota because they had a problem up there, and when they weighed the consequences, they didn't like it. Is it time to fight the battle against a flyover before one is suggested, or is it time to fight it by not even pretending that we will never have a problem. If there was another way to do a Study that would accomplish what we want it to, they would have suggested that as well. The PD&E process, whether it's State or federally funded, Mr. Hattaway will tell you that you still can't predetermine what the solution is or isn't going to be. If you're going to do something there's got to be a Study and it's got to entail the planning, development, environmental process. After Council listens to the data, and what the actual consequences of Council's actions will be, then if Council is okay with that, give instructions for that to be put on the Agenda for a vote. Council Member Simmons stated Council did that once, and will do it again. He heard that Mr. Hattaway did make the statement that if you would like to kill this Study now based on the vote that already occurred, to let him know. Mayor Nelson stated he did say that, but he (Mr. Hattaway) did tell the MPO what the consequence would be in that it will be considered a constrained road. He then asked them (the MPO) if they were okay with that and they weren't.

10:55:34 AM Council Member Martin stated she feels that there needs to be a change in policy to allow the Study to move forward without the option of a flyover.

11:06:01 AM Council Member Gibson asked City Attorney Vance if Mayor Nelson violated the City Charter, and City Attorney Vance explained that this is not a Charter issue. He has no financial gain, so he was not in violation. It would also be the only time he would not be allowed to vote. Her understanding was that this did not entail a vote, as it was only a discussion. She further explained.

Council Member Gibson next thanked John Paeno for his work with the Calusa Ghost Tours. He also feels he's doing a valuable service for the City in bringing in eco-tourism and conducting educational sessions. He asked Staff if the City can offer him a longer contract without going forward with an RFP. City Attorney Vance responded that was a City Council call. Currently there is a one year extension. She further addressed Mr. Paeno's contract and informed Council that there is more interest in passive recreation, and having regulations. She was going to work with Staff to present to Council something dealing with the use at the parks so there's no conflict with parking.

11:11:16 AM City Manager Carl Schwing explained that Staff's position is not an issue of Mr. Paeno or his operation, as they do feel he's done a great job for the City. Staff feels obligated as Council's professional Staff to periodically test the market as to whether or not other particular vendors would provide better services or a better financial deal for the City, especially since they are talking about the use of public property. If Council feels comfortable with Mr. Paeno in the locations he is at right now and they wish him to continue, all they need to do is tell Staff and they will follow that direction.

11:11:16 AM Nicole Perino, Parks and Recreation Director, informed Council that there have been several other local companies inquiring as to when Mr. Paeno's contract was up, because they know that the City does RFP's for all of their contracts. City Manager Schwing explained that a few weeks ago Council approved a one-year extension. Discussion followed

11:16:07 AM Council Member Martin referred to an article in Gulfshore Life magazine whereby the writer spent two days with Mr. Paeno on the Imperial River and Estero Bay. She is very supportive of Mr. Paeno for all he has done for the City with respect to social media and getting people downtown and kayaking on the river. She is also very supportive of Mr. Paeno for all he's done in putting Bonita Springs on the map, and for all he's done with Riverfest. She also supports a longer contract. City Attorney Vance suggested limiting it to Riverside Park and River Park.

Ms. Perino informed Council that she has reached out to other municipalities and asked them what they do for other commercial vendors, and was told they do a "permitting process" whereby they are required to show proper insurance, coast guard certifications, etc., after which they pay a flat fee. It's something that she and the City Attorney are looking into for Bay Park North for pick up and drop off only because of the small size of the park. She further addressed Mr. Paeno's contract as it relates to Riverside Park and River Park. If extended, the way his contract is written currently, it would be exclusive for River Park and non-exclusive for Riverside Park.

11:20:19 AM Council Member Gibson entered a motion to extend Mr. Paeno's contract for 4 or 5 years, which he amended for a total of 5 years (four years in addition to the one year extension) and with the contracts as they are now – the one exclusive and the other non-exclusive (for Riverside Park and River Park); Council Member Slachta seconded; and the motion carried unanimously.

Mayor Nelson added that a year before the end of his tenure is when the RFP needs to go out, to give Mr. Paeno time to make plans if he doesn't receive the bid. The City Attorney was directed to bring back an amended contract to Council.

11:23:26 AM Council Member Simmons reminded everyone of the City's Fourth of July celebration. He also encouraged everyone to attend Council's July 2, 2014 meeting.

11:24:10 AM Council Member Slachta stated that 90% of the people on Hickory Boulevard do not want a flyover. He next congratulated Commander Adam Prentki with American Legion Post #303 who was chosen as State Commander of the American Legion of the Year. Lastly he reported that Governor Rick Scott will be in Fort Myers to honor several veterans for their service to our Country.

11:25:06 AM Council Member Martin began by congratulating Rex and Peggy Sims on their 65th Wedding Anniversary. She also reported that the Bonita Springs Assistance Office Food Pantry is in need of food. She also reminded everyone of the Parks and Recreation Fashion Show scheduled for August 21, 2014. This year's charity event will benefit the victims of the Midwest tornados. Lastly, she congratulated the City Staff Lora Taylor, Patrick Lippy and JoAnn Lawrence on the great job they did with the City Newsletter, which is available on the City's website and at City Hall.

XVI. APPROVAL OF MINUTES: 06/04/14

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

XVII. PUBLIC COMMENT:

11:27:06 am Deborah Maclean stated that there are studies out there that prove that commercial and residential property values decrease as a result of being located within a quarter mile of a flyover.

11:27:58 am Jesse Purdon reminded everyone of the June 24, 2014 Congressional Election.

11:28:28 am John Paeno thanked Council for approving his contract. He also clarified items in his contract, noting that he hopes to open Bay Park up for kayaking.

11:30:29 am Ben Hershenson voiced his support for the intersection study moving forward. He doesn't want to eliminate data. He supports getting the study done, and then deal with the results.

11:31:56 am Kathy McGrath thanked City Staff Members Lora Taylor, JoAnn Lawrence and Patrick Lippy for all their hard work for the Fourth of July Celebration. She also reminded everyone that the Bonita Nature Place was open, and welcomed all to come and enjoy.

11:34:03 am Carolyn Gallagher addressed data that Kevin Erwin stated was missing on hydrological and ecological items for the DR/GR. She is asking Council to consider getting that data by either contracting it out, or having volunteers go out and get it. Its data she feels is needed for them to make a good decision on the DR/GR. She also addressed the handout she furnished to Council on drinking water, which addresses contaminants and the distance needed to protect the wellfield.

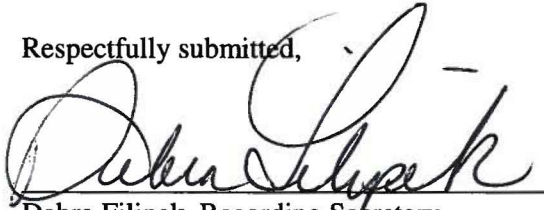
11:35:48 am Alex Grantt reiterated the importance of hydric soils in the area outside the City that affects all of the water in this area, and the need to get experts from the University of Florida, Department of Soils and Water.

11:37:22 am Brian Felzan, 28089 Vanderbilt Drive, supports moving forward with the intersection study.

XVIII. ADJOURNMENT.

There being no further business to discuss, the meeting adjourned at 11:40 A.M.

Respectfully submitted,

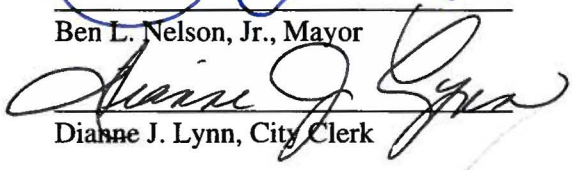

Debra Filipek, Recording Secretary

APPROVED:
BONITA SPRINGS CITY COUNCIL:

Date: 7-2-14

AUTHENTICATED:


Ben L. Nelson, Jr., Mayor


Dianne J. Lynn, City Clerk