

CITY COUNCIL
CITY OF BONITA SPRINGS
WEDNESDAY, JULY 2, 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

Pastor Doug Pratt, with the First Presbyterian Church, 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

5:34:26 PM

The following spoke opposed to a flyover at the Intersection of Bonita Beach Road and U.S. 41:

Ed Fitzgerald, Alex Grantt, Meg Jacobson, Jeff Lark, Larry McCoy (Owner of Vacuum Depot), Kathy McGrath, Mary Copeland, David Gallagher, Jan Bacherack, Carolyn Gallagher, Dan Jasper, Jerry Frantz, Vickie DaMao, Eugene Schmitt, John Calabria, Jesse Purdon, Fred Forbes, Dan Wagner, Linda Schwartz, Martha Simons, and Donna Stone.

5:43:51 PM Kathy McGrath also spoke in support of the letter to CREW in support of the Southern Crew Project funding. She also spoke in support of Agenda Item XIV., C., regarding the Spring Creek Restoration project.

5:52:40 PM Jerry Frantz, with the Conservancy of Southwest Florida, was in attendance to voice his support for approval of Consent Agenda Item VII. B., regarding the letter to CREW, and Agenda Item XIV. C., regarding the contract with SWFRPC for the Spring Creek Restoration plan.

6:03:43 PM Mohsen Salehi, a former Transportation Consultant for the City of Bonita Springs, stated that there are things other than a flyover that can be done. He supports the City moving forward with the PD&E Study and looking at all options.

6:09:58 pm Don Thomson supports moving forward and in looking at all options, but does not support a flyover. It's just a study. He suggests the City move forward with the Study which will gather

all the facts so they can present Council with all the options before making any decision. He sees this as a matter of health, safety and welfare.

6:17:17 PM Linda Schwartz thanked the City's Public Works Department and their Director, Matt Feeney, for all their help with Spring Creek. She supports a management plan for Spring Creek.

6:17:47 PM Bill Banfield stated that rejecting the study at this point is rejecting the answer. He supports a thorough review of the facts even though he does not support a flyover. He urge's Council to let the process be completed. The study will allow Council to make an informed decision.

6:20:01 PM Heather Thomson was present to support the study moving forward, noting that she does not support a flyover. It addresses future growth.

6:21:40 PM Scott Duval was in attendance. No one wants a flyover, however, they do want a fix to the traffic problem. He supports moving forward with the study process, which will include public participation.

6:24:14 PM Congressman Curt Clawson, a resident of District 3, was in attendance to voice his support for this process. He also thanked City Council and the members of the MPO and FDOT that were in attendance. He was present to voice his support for all residents.

6:32:17 PM Ben Hershenson urged Council to support the study for purposes of gathering all data which will allow an informed decision.

6:34:51 PM Joe Mazurkiewicz supports leaving all the options on the table. It's a 20-year planning solution. He further addressed what occurred in Cape Coral with a similar issue and a project that was taken off the table after the PD&E was completed. Eighteen months later the citizens of Cape Coral are starting to realize that the traffic at that intersection is approaching gridlock, and now the elected officials want the elevated interchange that was originally planned. To do nothing is to not consider the reality of gridlock on two of the three major commercial corridors in Bonita Springs. People will leave gridlock and abandon the commercial corridors. He recommends moving forward with the study.

6:38:46 PM Ron Pure addressed funding for the PD&E Study. He further addressed the Notice of Intent by Carter Pritchett, and stated that the City is not in the business of guaranteeing profit to either businesses or residents. TAG advised restricting billboards for years. He asked that Council do what has to be done to protect the City from any more intrusions by Carter Pritchett.

6:43:07 PM John Paeno, with Calusa Ghost Tours, stated he would personally be affected by a flyover. He also urged Council to look into connecting the parking lots on Old 41. He thanked Council for all they have done. He concluded by addressing the annexation of properties, which he supports.

6:48:35 PM Christine Ross, CEO of the Bonita Springs Chamber of Commerce, was in attendance to urge Council to support the study moving forward, which she sees to be important for what will be needed 10 to 15 years from now. She is against a flyover but wants the safety concerns to be considered, especially during evacuations, hurricanes, etc. Data is needed in order to plan for the future for the health and safety of the residents.

6:51:03 PM Bryan Filson stated if not a study, then what. He supports the study moving forward.

VI. PROCLAMATIONS AND PRESENTATIONS:

A. DISCUSSION OF PD&E STUDY WITH FLORIDA DEPARTMENT OF TRANSPORTATION OFFICIALS. PROVIDE DIRECTION AS REQUIRED.

6:53:36 PM Carmen Monroy, with FDOT, began by informing Council that District Secretary Billy Hattaway was not able to attend, but asked her to relay that he did ask the MPO to bring the discussion for a formal discussion at their next meeting. Representatives are present to answer questions and clarify discussions that have occurred.

6:55:00 PM Council Member Peter Simmons explained that he met with Commissioner Larry Kiker to address his concerns relating to the 5-2 vote and why the study was proceeding, and Commissioner Kiker stated that it is his belief that any decision made tonight will be honored by the MPO. He next thanked FDOT Secretary Prasade for his offer to shut down this project. He asked FDOT if they envision a formal vote by the MPO at their next meeting. Ms. Monroy responded that the District Secretary has asked for direction from the MPO and that it would be up to the MPO to vote on the issue at their next meeting. She further explained that if nothing occurs at that meeting, FDOT will continue with their analysis. They have completed data collection and issued a Notice to Proceed to their consultant in March. The beginning process of the Project Development Environment Study is data collection. When that report is complete it will go back to the MPO for further discussion.

Ms. Monroy explained that City Council provided a letter to FDOT that stated if the flyover option was to be a consideration, or had to be an option, that the Study should be discontinued. FDOT does not have the ability at this time to remove any option from consideration, as the Study has to go forward for an evaluation of all viable options. This includes a discussion of all the alternatives that may be developed.

6:58:22 PM Council Member Simmons questioned calling an emergency/special meeting next week. Don Scott, a Member of the MPO, explained that he told the District Secretary they would bring it to the TAC and CAC on August 7, 2014 first, with their recommendation, and then to the MPO on August 22, 2014. Overall, it needs to go through their Committees first. Council Member Simmons addressed a previous study that was stopped on Colonial Boulevard and asked if he was correct in that Fort Myers also asked for a Resolution to not consider any flyovers in that corridor for 15 years.

7:00:07 PM Dave Loveland, Lee County Department of Transportation (DOT), stated he didn't believe that the Lee County Commission adopted a Resolution. The PD&E Study that was being done for Colonial Boulevard that was halted was being done by Lee County, using County funds, and based on the discussion through the MPO process, Lee County chose to halt that study. He further addressed the overpass at Veterans and Santa Barbara study that was halted as well. Council Member Simmons stated that the City of Bonita Springs is also asking for the Study to be stopped based on a previous vote and another vote they will take this evening. Discussion followed on discussions and comments made. The purpose of the ETDM study is to identify what would be the greatest impact, to allow them to identify concerns early on in the process. It does not say that the preferred alternative, or the ultimate recommendation for the preferred alternative would be an overpass.

7:05:41 PM At the request of Council Member Simmons, Ms. Monroy expanded on the three phases of the PD&E Study.

7:08:32 PM Council Member Simmons next played a 1.52 minute excerpt of the March 7, 2013 MPO meeting in which Loren Brooks with URS Corporation stated that the primary purpose is that the

overpass will help alleviate traffic and accommodate projected traffic demands. The secondary goals are to enhance regional mobility, improve safety conditions and multi-modal access. Ms. Monroy explained that Ms. Brooks is talking about one option that could be developed and what the imprint and impact would be in that section, and how it could be an option/reliever that would have to be further explored. She explained that Ms. Brooks was there to ask for input and gather public comment. She also clearly addressed the purpose of the ETDM study. She explained that there has to be a discussion of all the alternatives, and what their impacts would be. Council Member Simmons stated that they need to stop the potential of a flyover, and so they have to stop the PD&E Study. He will be making a motion to vote on this issue and to cancel the Study at the intersection of U.S. 41 and Bonita Beach Road.

7:16:45 PM Council Member Steve Slachta asked if he was correct in that there has never been a PD&E Study without a flyover as an option. Ms. Monroy responded that was not correct. She explained that none of the alternatives FDOT will be studying have been determined yet. That's the difficulty in canceling the study or honoring the request that City Council put forward that said if you have to study a flyover, remove it. At this point there is nothing to remove. The study goes in with a blank slate completely clear of options.

7:20:55 PM In response to Mayor Nelson, Ms. Monroy explained that regardless of whether the Study is Federal or State funded, they would still go through a PD&E process because it allows them to program and to study through a very organized manner what improvement is needed. The PD&E process itself, and a condition of Federal approval of the PD&E process, is that there is no predisposition going into the study – that they do not prejudice the outcome by making determinations going into the study about what they think should be the solution. Mayor Nelson stated that it's been suggested that there may be another mechanism other than the PD&E process when it comes to doing improvements to that intersection, i.e., that the City can do their own study and somehow that would be useful for the State. He asked if there was another process that could ultimately result in some type of improvement. Ms. Monroy responded that the City could take on any initiative they would like. FDOT would use the PD&E process because it ensures that the process has met several Federal requirements including the National Environmental Policy Act, which requires them to look at all of the elements as part of their programming of Federal money. Regardless of an initiative that the City put on that, but if the State is going to do something, they will have to go through their process – the PD&E process.

Mayor Nelson next addressed the MPO's involvement and concerns with respect to who can stop the Study and when it can be stopped. The point is that if they get information they don't like, it's actually the MPO's decision. Ms. Monroy explained that they program the Study at the request of the MPO, and the MPO would have to take action to make a decision otherwise. They've gone to the MPO and have not received any other direction. She explained Secretary Hattaway has offered to bring all the information to City Council first and then to the Lee MPO so there's is a discussion on all points. All information collected will come back to City Council and the Lee MPO for further discussion. Overall, it's still the Lee MPO's decision.

7:24:58 PM Council Member Simmons referred to the City Council vote taken in January which was 5-2, and asked why this Study moved forward in March. Ms. Monroy explained that City Council asked them to end the Study if they removed one alternative. They cannot remove any alternative from consideration. The Lee MPO did not give any further direction to them to stop this study. In further response, Ms. Monroy explained that the study was not stopped because the Study was initiated, programmed and advanced by the Lee MPO through the public process, and the Lee MPO would be the appropriate place for that discussion to happen. Council Member Simmons asked if the Lee MPO was aware of the 5-2 vote when they proceeded with the Study in March. Mr. Scott stated that the Board did discuss it at the April meeting based on discussions that came up at that time, and although there wasn't a

formal vote, it was pretty much to keep going. It also came up in May because Secretary Hattaway wasn't at the April meeting. He (Mr. Hattaway) brought it up specifically and took that direction, and the discussion was to keep moving at that point.

7:28:44 PM Council Member Bill Lonkart referred to the minutes from several MPO meetings and asked if there were any comments. Mr. Scott stated there were discussions about the City Council vote, and there was also the letter written that was read into the record at one of the meetings. The overall group discussion was that they want to get the data, and why would they stop it before they have the data. Council Member Lonkart questioned if the City's representatives said something, because there wasn't anything in the minutes. Mr. Scott responded that they were summarized minutes. Council Member Lonkart stated that from the tape that Council Member Simmons played, it seemed that it was concluded that the overpass was going to happen from the comments Ms. Brooks made.

7:31:14 PM Council Member Janet Martin stated she wants the information, and to see what can be done, especially as it relates to pedestrian and bicycle safety. She is only interested in at grade improvements, which is something they can all agree on and welcome. She would suggest that a one-size doesn't fit all in every circumstance, and here we're saying that we're open to the study but are not interested in the flyover. She sees it that they are spending a lot of money and time on an option that the City is not interested with going forward with. She also knows that the studies don't take into account social and economic impacts. She's terrified that going forward with the study leaves the door wide open. Ms. Monroy responded that the Study is specifically required to take into account social and economic factors, including the economic impact to that area, specifically the commercial. Although the project is located right in the middle of the City, it's also part of a very important regional network that belongs to the State of Florida, the residents, and the visitors. It's part of their infrastructure network, and so it would be very difficult to propose a solution to traffic impacts that are coming 20 years down the road without doing a very structured study to help them understand that. The study is designed to take in all those factors very carefully and to allow the stakeholders, the City, the business community, the Chambers of Commerce, tourism – all of the stakeholders that have a stake in the success of the transportation network to weigh in on that process and to collectively make the best decisions for the infrastructure. They've already completed the data collection and are going through validation and analysis at this point, and when that information is ready, they are committed to bringing that to City Council first for further discussion and then to the Lee MPO.

7:36:22 PM Mayor Nelson addressed previous development and the history of the decisions made by City Council.

7:49:14 PM Council Member Steve McIntosh stated he doesn't want a flyover, but wants to know what the options are. It would make his life much easier to vote against the study, but if the study isn't done, they will not have an idea of what they can do. It's in hands of the MPO. Even if they stop growth, there are surrounding communities that will be using that intersection and roadway. It's not a flyover Study; it's an intersection study trying to figure out how we can make this better in the future. He has received emails and there have been letters to the Editor's saying let's do this study and let's make sure that we know what we're doing, rather than do nothing. Doing the study is the right thing to do to understand how the City can grow, and it will grow.

7:52:51 PM Mayor Nelson asked Dave Loveland (LDOT) how the six laning of Bonita Beach Road from U.S. 41 to Old 41 was coming along. Mr. Loveland stated that project has gone through the design phase. They are now waiting for available funding to move forward with the right-of-way acquisition phase and the construction phase, which would be jointly funded based on an Interlocal Agreement between the City and the County. He further responded that he believes the six laning goes all the way to

the intersection. The Interlocal Agreement contemplates six laning continuing on the other side of U.S. 41 to Vanderbilt Beach Road. Mr. Loveland stated that based on the projections in the long range plans going back to 2000, they are showing demand that it's going to exceed what you can deal with at "at grade" improvements. There are limits to what can be done with "at grade" when an intersection becomes saturated. There may be addition options they haven't really considered, which is what the PD&E Study would look at – what kinds of alternatives there are. Mayor Nelson addressed information from FDOT, which states that by the Year 2035 traffic volumes are expected to increase between 44.7% and 64.9% on Bonita Beach Road. Mayor Nelson explained that their study projects what would be built in 20 years.

7:57:42 PM Council Member Gibson stated that his understanding is that there is going to be an interchange upgrade with the six laning. Mr. Loveland explained that when the one piece is done, you'll have the issue of the through lanes and not having through lanes on the other side. There may have to be some transition area either before 41 or after 41 as you cross over to narrow that back down to four lanes for some period of time until additional six laning is done. There would then be the issue of turn lanes. Council Member Gibson asked if, they do cease the study, and deem it to be a constrained intersection, he was told nothing could ever be done there. However, Sarasota deemed theirs to be constrained and yet they are putting in roundabouts. He asked how that could be done. Mr. Loveland stated he didn't know, as he didn't know who was designating it constrained or who was doing the improvements. His understanding of constrained is based on what Lee County has in the Comprehensive Plan, which he explained. It doesn't prohibit State DOT from doing something with a state roadway.

8:05:30 PM Council Member Simmons entered a motion to stop the PD&E Study immediately, and that the next MPO meeting entail a more formal process. Mayor Nelson requested Council Member Simmons be specific in his motion, and suggested that he just not write a letter of objection, or express an opinion, but rather make the motion to where he requests that the Chairman of the MPO place this on the agenda for a formal up or down vote.

Council Member Simmons clarified his motion to stop the PD&E Study immediately, and place it on the agenda for a formal vote at the next MPO meeting; Council Member Lonkart seconded

8:06:39 PM Council Member McIntosh clarified the motion, which is a motion for the MPO to go through the process and allow the TAC and CAC, to go through their due diligence and make a decision and recommendation to the MPO, and to make a decision on to continue the study or not to continue the study. Council Member Simmons stated that the motion is to stop study. Mayor Nelson asked Mr. Scott to explain what is happening now. Mr. Scott explained that Secretary Hattaway has made request that the MPO reconsider this, and then because of that it's going to go to the CAC who will discuss and make a recommendation to the MPO, and the TAC representatives, because of the motion they will know what to do. The last time he participated there was no indication pm when they did the ATM, as there was no motion from Council at that time. Mr. Scott stated they will ask for a vote and ask DOT to stop this.

City Manager Carl Schwing stated that it's his understanding that both of those Committee meetings would take place in August, before the next MPO meeting which is August 22, 2014.

8:10:21 PM City Attorney Vance clarified the motion, stating that the request is that the Lee County MPO request the Florida Department of Transportation to stop the PD&E Study for the U.S. 41/Bonita Beach Road intersection, and add to the MPO Agenda of August 22, 2014, a formal vote of the MPO, after review by the TAC and CAC on August 7, 2014. Also, to further instruct the TAC Member for the City of Bonita Springs, the CAC Advisory Committee Members for the City of Bonita Springs, and the MPO Members on how to vote on this subject. Mayor Nelson clarified that you cannot instruct the CAC Member. Council Member Simmons stated that he's not going to instruct them how to vote, but they can

be informed of what the vote of City Council was. Mayor Nelson stated that was fine. City Attorney Vance clarified that it would be to inform the TAC, CAC and the two MPO voting Members or the Alternate on the vote. Assistant City Manager Gucciardo asked if that would be put into the form of a Resolution, to which City Attorney Vance stated they could write a Resolution, to which Mayor Nelson agreed. Council Member Simmons stated that if either Committee thinks differently than what Council is voting tonight, he would still request that it come to a vote at the MPO meeting.

8:12:47 PM Council Member McIntosh stated that, as Chairman of the MPO, if Council votes to stop the study tonight, he will make sure that a vote is taken at the next MPO meeting, but he will not allow his First Amendment Right to free speech to be stopped.

8:13:52 PM The motion passed 5-2 (Mayor Nelson and Council Member McIntosh dissenting).

8:27:47 pm After a short recess, per the request of Council Member Simmons, discussion was held with respect to the Code of Conduct and the MPO vote.

8:48:06 PM Council Member Simmons motioned to elevate Council Member Gibson for the August 22, 2014 MPO meeting; and elevate Council Member Lonkart temporarily for the August 22, 2014 meeting. City Attorney Vance responded, recommending that Council Member Simmons and Lonkart attend, along with any other Council Member who has strong view points on this issue to ensure that Council's majority is heard. After further discussion, Council Member Martin suggested all Council Members attend the MPO meeting as suggested by the City Attorney. Council Member McIntosh countered by saying that Bonita Springs would be the only City on the MPO without a Mayor as a member. City Attorney Vance noted that if Council Member McIntosh was replaced for a meeting, he would lose his position as Chair of the MPO.

Council Member Simmons reiterated his motion to elevate Council Member Gibson for the August 22, 2014 MPO meeting; Council Member Lonkart seconded. Mayor Nelson suggested he be elevated until September 1, 2014. Council Member Simmons agreed.

8:54:40 PM Attorney Robert Pritt suggested that Council to place this on the agenda for a future Council meeting to address. Discussion followed.

8:58:15 PM Council Member Simmons withdrew his motion, and direction was given to the City Attorney to meet with the MPO's Attorney to request that the MPO request FDOT to stop the Study. City Attorney Vance to come back with a Resolution on the City's voting options for the MPO's August 22, 2014 meeting.

B. PRESENTATION BY SPECIAL COUNSEL MICHAEL T. BURKE REGARDING CARTER OUTDOOR ADVERTISING'S NOTICE OF INTENT TO FILE AN ACTION PURSUANT TO FLORIDA STATUTE §70.001 (BERT J. HARRIS ACT). (GREENSHEET NO. 14-07-0193)

9:00:25 PM Attorney Michael Burke explained that he was retained by the Florida League of Cities to represent the City of Bonita Springs with respect to the Notice of Intent brought forward by Carter Pritchett Advertising against the City under the Bert J. Harris Private Property Protection Act. He next furnished the history to date. On August 22, 2013 Carter Pritchett filed seven sign permit applications and sought to remove seven Wonder Garden Signs they owned, and to construct billboard signs at those and other locations along Old 41. Those applications were denied by City Staff in October for a variety of reasons, including that they did not meet the characteristics of a billboard and were not eligible for

replacement or relocation in accordance with the code. Those applications also did not meet the requirements for new billboards. In 2012 the City adopted a clarification with respect to that provision of the code as it relates to what characteristics a sign must have to qualify for relocation or rebuilding, and they alleged that this provision burdened real property – the sign ownership. As a result they are seeking compensation in the amount of \$700,000. The City has received the claim and has the option of coming back with a settlement proposal, which he expanded on.

9:05:41 PM Council Member Janet Martin motioned to maintain the course, retain the same principles as previously, and proceed; Council Member Steve Slachta 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.)

9:06:28 pm Council Member Steve McIntosh motioned approval of the Consent Agenda; Council Member Martin seconded; and the motion carried unanimously.

- A. APPROVE SPECIAL EVENT PERMIT APPLICATION FOR MID-CITY MINISTRY FOR AN OUTDOOR WORSHIP-FOOD DROP ON SATURDAY, JULY 19, 2014 AT RIVERSIDE PARK. (GREENSHEET NO. 14-07-0202)
- B. AUTHORIZE THE MAYOR TO SEND A LETTER TO THE BOARD OF DIRECTORS OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT IN SUPPORT OF THE SOUTHERN CREW PROJECT FUNDING AND IMPLEMENTATION. (GREENSHEET NO. 14-07-0200)

VIII. FIRST READING AND PUBLIC HEARING OF THE FOLLOWING ORDINANCE (PUBLIC COMMENT ALLOWED):

- 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 HERON COVE NEIGHBORHOOD 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 COUNCIL DISTRICT 1; AND PROVIDING FOR AN EFFECTIVE DATE. (GREENSHEET NO. 14-07-0197)

9:07:02 PM City Attorney Audrey Vance read the title block of the Ordinance into the record, noting that she has reviewed the Affidavit of Publication, which she found to be legally sufficient.

No public comments were made.

9:07:43 PM Council Member McIntosh entered a motion to move to a second reading and public hearing of the Ordinance on Wednesday, July 16, 2014; Council Member Peter Simmons seconded; and the motion carried unanimously.

IX. PUBLIC HEARING (PUBLIC COMMENT ALLOWED):

- A. HOLD THE SECOND 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. 14-07-0199)

9:08:13 PM Assistant City Manager John Gucciardo addressed this item. He explained that Staff is recommending that the CDBG funds be used for public infrastructure projects within eligible areas. Staff has received a request letter from Habitat for Humanity requesting the City consider using part of the CDBG funds for an infrastructure project near or on some of their property at Red Hibiscus for a playground. Staff would need to check the criteria to see if that would be an eligible expense at that site, and if so, this would be one of the types of projects Staff would be recommending. Direction is for Council to also consider this request, and Staff will come back with specific projects at Council's July Budget Workshop.

No public comments were made.

9:09:46 PM Council Member McIntosh motioned to approve using all available 2014-2015 funds for public facilities and infrastructure improvement projects; Council Member Martin seconded; and the motion carried unanimously.

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

9:10:47 PM City Attorney Vance read the title blocks for both Items A. and B. into the record.

9:11:22 PM City Clerk Dianne Lynn provided a brief overview, noting that both the Code of Ordinances and the Land Development Code will be live on line on August 1, 2014 on the Municode website at www.municode.com. Municode will furnish a live demonstration on how to search both codes at Council's meeting of July 16, 2014

- 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 ORDINANCE SHALL BECOME EFFECTIVE. (GREENSHEET NO. 14-07-0194)

No public comments were made.

9:12:25 PM Council Member Martin motioned adoption of the Ordinance; Council Member McIntosh seconded; and the motion carried unanimously. **ADOPTED ORDINANCE NO. 14-16**

- 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 THE ORDINANCE SHALL BECOME EFFECTIVE. (GREENSHEET NO. 14-07-0195)

No public comments were made.

Council Member Martin motioned adoption of the Ordinance; Council Member McIntosh seconded; and the motion carried unanimously. **ADOPTED ORDINANCE NO. 14-17**

C. AMENDMENTS TO THE BONITA SPRINGS LAND DEVELOPMENT CODE CHAPTER 3 (DEVELOPMENT STANDARDS) AND CHAPTER 4 (ZONING); 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; PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, INCLUSION IN CODE AND AN EFFECTIVE DATE (GREENSHEET NO. 14-07-0196)

[9:13:55 PM](#) Alexis Crespo, Waldrop Engineering, representing the City of Bonita Springs, presented a PowerPoint presentation to address modifications made to the Ordinance since its first reading. She presented photographs and addressed bikeways/bike racks, pedestrian ways, sidewalks, lighting, landscaping, screening/buffering, cart storage areas, patron space, transit facilities, building design standards, development standards, liner buildings, etc.

[9:31:48 PM](#) Council Member McIntosh questioned whether they were increasing the amount of handicap parking spaces, to which Ms. Crespo responded that parking standards were not addressed in this Ordinance, but was something they could look at.

Council Member McIntosh next questioned the percentage of increase these enhanced standards would cost developers, as he would have a problem with this if it was 40% or more. Ms. Crespo to come back with a percentage.

[9:33:33 PM](#) Council Member Gibson asked if there was the ability for exceptions to be made for outparcels if the 60% screening doesn't work for the type of buildings they are trying to accommodate. Ms. Crespo responded yes, explaining that if they do not change their development order they would not be subject to these requirements. In general, via the deviation process, they can show their layout and get Staff and City Council to approve a deviation. Each case would be evaluated on a site specific basis.

[9:35:38 PM](#) Council Member Gibson referred to the wording that states that patron spaces require direct access to the public sidewalk network, and asked if it's patron space just for the employees and the

patrons, shouldn't it be the internal sidewalk network. Council Member Gibson stated that if direct access is through the internal sidewalk that would be fine. Staff to revise.

PUBLIC COMMENTS:

9:36:18 PM Attorney Neale Montgomery stated that the only item she objects to regards the percentages, which don't work. This, however, can be addressed through other means such as landscaping breakup and the view of the parking lot, as you don't have to create outparcel buildings that don't really meet today's standards. She also referred to her letter in which she set out her concerns, one of which is that there are still references to community space that weren't caught. There are also two places where they are supposed to connect to the external sidewalks and direct access, which wasn't really what they were trying to accomplish. Overall, there are three main items that are important, including the percentages for the outparcels and liner buildings, and their recesses and projections. They also need the ability to have Betterment Plans for landscaping. Overall, they are items 13, 17, and 20 on the list of items in her letter. Staff has met with them and helped resolve a lot of their concerns, however, there are other items she would like to get solved that need to be fixed.

9:40:02 PM At the request of Mayor Nelson, Arleen Hunter, Director of Development Services, addressed the process to amend an Ordinance once adopted. The City is a business friendly community and Staff plans to work with developers. Staff does find that there is opportunity that revisions need to be addressed, which Staff will bring to Council's attention to make revisions. Staff will continue to work with Ms. Montgomery and other Applicants. She referred to the first map that showed the locations in the City where "big box" establishments can be developed currently, explaining that Staff is receiving inquiries from people regarding these locations. Staff did receive direction from Council that aesthetics was a top priority for the community, explaining that Staff needs these tools in place to be able to look at these redevelopment projects. She further explained, concluding by stating that Staff will continue to make revisions as needed.

9:43:26 PM Council Member Gibson referred to the outparcels and asked if they can change the percentage to 60% of building and landscaping, or a combination thereof. Ms. Crespo stated she can provide ten examples of those that have met the 60% requirement as proposed, which is workable. If there's a specific site where it's not because of end users, the deviation process would address that. Overall, she feels it would be better on a site by site basis. Council Member Gibson stated he just wanted assurance that all outparcels won't start looking like liner buildings.

9:45:45 PM Council Member Martin motioned adoption of the Ordinance, with the caveat that Staff will continue to work with Applicants and Stakeholders; Council Member Slachta seconded.

City Attorney Vance clarified changes made to page 14.

The motion carried unanimously. **ADOPTED ORDINANCE NO. 14-18**

XI. PUBLIC COMMENT:

9:46:52 PM Joseph Prete, a resident on Calypso Way, which is part of the Leitner Creek Subdivision, addressed a concern with a mobile home unit that's located adjacent to his residence that is totally destroyed. He was present to request Council's help in getting it removed.

9:50:36 PM Ron Pure addressed Spring Creek and supports the trimming and dredging of Spring Creek.

XII. CITY ATTORNEY'S REPORT. No items.

XIII. CITY MANAGER'S REPORT:

A. DISCUSS AND MODIFY OR ADOPT PROPOSED MISSION, VISION, VALUES AND STRATEGIC PLAN FOR 2014. (GREENSHEET NO. 14-07-0198)

9:55:28 PM City Manager Carl Schwing furnished a brief overview of this Agenda Item, explaining that Staff has consolidated the information gathered from Council's Strategic Planning Session into Action Plans, based on priorities given as well as discussion held with Council on a variety of issues. The request is for Council to consider adopting the reworded Vision, one or the other of the Proposed Mission Statements, and adopt the new values which added the word "empathy." Staff is also asking Council to adopt the Strategic Priorities and Action Register.

9:57:18 pm Council Member Gibson requested adding a Waterway Maintenance Plan for all waterways. Also, he would support the first Mission Statement, as opposed to the Alternate. City Manager Schwing to add a Waterways Maintenance Plan.

9:58:32 pm Council Member Slachta motioned to approve, as modified; Council Member Lonkart seconded.

City Manager Schwing clarified the motion which is to adopt the Vision as presented and the first Mission Statement. Also, to adopt the Values as presented, with a modification to include a Waterways Maintenance Plan.

The motion carried unanimously.

XIV. MAYOR AND COUNCIL MEMBER ITEMS AND REPORTS.

A. AUTHORIZE STAFF TO PREPARE THE NECESSARY AGREEMENTS FOR THE MAYOR TO EXECUTE FOR THE INSTALLATION OF A MURAL ON THE SOUTH WALL OF THE BONITA SPRINGS-ESTERO ASSOCIATION OF REALTORS (BEAR) BUILDING LOCATED AT 27311 OLD 41 ROAD, BONITA SPRINGS, FLORIDA. (MARTIN) (GREENSHEET NO. 14-07-0203)

9:59:43 pm Council Member Martin addressed this item. She began by showing a reduced replica of a mural that the Art in Public Places Board conceptually approved, which is planned to be placed on the front of the CenturyLink building. Staff needs to further discuss with CenturyLink. The request today is for a motion to authorize Staff to continue to work with the artist. She next referred to the other artist in the meeting packet, who is looking to move forward with her art piece to be located on the side of the BEAR building.

Council Member Martin motioned approval of Staff preparing an Agreement for the mayor to execute with Alicia Wilby to install a mural on the south wall of the BEAR building and an agreement with BEAR to utilize their building for the mural; Council Member Simmons seconded; and the motion carried unanimously.

Council Member Martin also reminded everyone of the City's Fourth of July Celebration this Friday, and commended Staff for all their hard work.

- B. DIRECT STAFF TO WORK WITH FDOT STATE TRANSPORTATION LANDSCAPE ARCHITECT JEFF CASTER, AND OUR DISTRICT ONE GRANT COORDINATOR, TO APPLY FOR THE FDOT POND LANDSCAPE BEAUTIFICATION GRANT FOR \$100,000 FOR THE ARROYAL ROAD FDOT POND, AND CONTINUE TO WORK WITH DISTRICT ONE FDOT GRANT COORDINATOR FOR OTHER GRANT OPPORTUNITIES TO UPGRADE THE BEAUTIFICATION EFFORT TO POSSIBLY INCLUDE A DECORATIVE FENCE AND AERATING FOUNTAIN. (GIBSON) (GREENSHEET NO. 14-07-0204)

10:02:47 PM Council Member Gibson addressed this Agenda Item, explaining that the grant deadline is October 1, 2014. The request is to also work for other grant opportunities to upgrade the beautification efforts.

10:03:25 PM Public Works Director Matt Feeney stated that \$100,000 has been budgeted for improvements to be made to the pond. Staff has also been working with FDOT on an Interlocal Agreement to allow the City to get into the pond to start to clean out the cattails and improve the landscaping. City Manager Schwing explained that if the City is going to do what they want in that area, FDOT wants the City to have the lake and the land around it. Mr. Feeney explained that should the City choose to no longer maintain it, FDOT can remove the improvements at the City's cost and maintain it at their standards. Mayor Nelson asked that Staff furnish the fiscal impact to the City for the next 10 years. He supports moving forward, but stated it can be very expensive and it has with it an associated liability.

10:05:36 PM Council Member Gibson motioned approval; Council Member Simmons seconded; and the motion carried unanimously.

- C. PROCEED TO DRAW UP CONTRACT WITH SWFRPC FOR THE TWO-PHASED SPRING CREEK RESTORATION PLAN APPROVED BY CITY COUNCIL ON JANUARY 15, 2014. (GIBSON) (GREENSHEET NO. 14-07-0205)

10:06:02 pm Council Member Gibson next addressed this item, involving the Spring Creek Restoration Plan. The request is to move forward with the Comprehensive Study by the Southwest Florida Regional Planning Council.

10:07:07 pm Mayor Nelson stated that if the residents along there really are supportive of getting the mangroves trimmed and doing the dredging that's what should be done, but feels that those two items are typically contrary to what the RPC is going to recommend. He's not sure what there is to be gained by this other study, especially for the residents along Cedar Creek and Spring Creek. Council Member Gibson stated that the dredging will be the difficult part, adding that Jim Beaver with the RPC will help get the dredging permits put through faster.

10:07:38 pm Mr. Feeney stated that Dave Crawford with the RPC is here to address the Scope. With respect to moving forward, the dredging component is a difficult challenge. He did speak to Mr. Beaver early-on about whether the RPC study would gather the information needed to pursue a dredging permit and was told no. The question regards whether it makes sense to move forward and collect that information, since primarily it lies within the Estero Bay Submerged Aquatic Preserve, which holds with it some very stringent regulations that come into play when you apply to dredge in those areas. Therefore, time is of the essence in terms of collecting information on how constrained it is, and what type of critical habitat is there, so that Staff can understand what they are up against in looking for a dredging permit. Overall, the issues with the dredging permit are there, and it's not a guarantee they will

be successful, as it's a very challenging permit to apply for. The issues with the dredging permit could drag this on for years. Staff is moving forward with the mangrove trimming, which he expanded on.

10:11:16 pm Mr. Crawford, with the RPC, explained that they have not yet done the study. This project interested both himself and Mr. Beever because he owned two houses on Spring Creek. They consider the flows in that creek to have been constrained over the years as it's been filling in and has become more salty. The mangroves have also marched up the creek. They are looking for comprehensive type solutions to reverse this because the flow start at the Edison Farms properties and comes out at the Estero Bay Aquatic Preserve. Overall, it's under duress and they want to help. Mayor Nelson asked if what he would primarily be working on is the restoration of fresh water flows, to which Mr. Crawford stated that's what they feel is the major issue. They haven't talk to the public yet, but he feels there are flow restrictions that result in salinity problems in addition to construction that has occurred. He is not sure how yet to best do it as the study has not yet been done. The intent is to do what's best for the community and what's best for Spring Creek.

10:13:13 pm Assistant City Manager John Gucciardo stated that they've tried to be as responsible as they could with respect to some of the concerns the resident brought to Staff's attention by Council Member Martha Simons, in that they are actively pursuing two very tangible mini projects – the mangrove trimming and possible dredging. In the other wider scope study they are speaking with restoring fresh water flows. The Citizens Water Strategy Task Force has talked about this in general terms in discussions about rehydrating natural flowways, and existing and historical flowways in different areas of the DRGR. They also talked about restoring some of the flowways in the Spring Creek. They are now in the process of articulating and prioritizing a set of recommendations to come before City Council, which he expects this to be part of that. Council might want to wait to see how the CWSTF views this study as opposed to some of the other ones in terms of prioritization. Council Member Gibson stated that he feels it would be a benefit to Spring Creek to have the Study done.

10:15:23 pm Linda Schwartz, a resident of Cedar Creek, feels the overall health of Spring Creek needs to be closely examined. She would encourage City Council to approve this.

10:16:35 pm Council Member Gibson motioned to approval; Council Member Simmons seconded; and the motion carried unanimously.

10:17:16 pm Council Member McIntosh reported that on July 9, 2014 at 9:00 A.M. there will be an event to welcome the new Estero High School principal at City Hall.

10:17:29 pm Council Member Slachta reported that the Veteran's Committee has an anonymous donor who wants to support the Wounded Warrior Softball Team. He further reported that Governor Scott has honored two veterans from Bonita Springs.

XV. APPROVAL OF MINUTES: JUNE 18, 2014

10:18:38 PM Council Member McIntosh motioned approval of the minutes; Council Member Slachta seconded; and the motion carried unanimously.

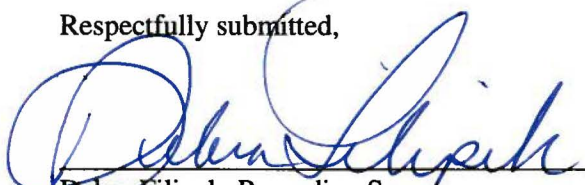
XVI. PUBLIC COMMENT:

10:19:02 pm Kathy McGrath, as a member of the Waterways Advisory Board, clarified that she doesn't believe that anyone goes directly to WCIND, as it has to go through the Division of Natural Resources Management.

XVII. ADJOURNMENT.

There being no further items to discuss the meeting adjourned at 10:20 P.M.

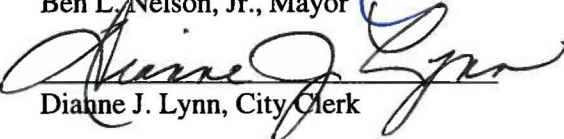
Respectfully submitted,


Debra Filipek, Recording Secretary

APPROVED:
BONITA SPRINGS CITY COUNCIL:

Date: 7-16-14
AUTHENTICATED:


Ben L. Nelson, Jr., Mayor


Dianne J. Lynn, City Clerk