

CITY COUNCIL
CITY OF BONITA SPRINGS
WEDNESDAY, AUGUST 6, 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 Russ Wynn, with the Springs Church, furnished the invocation.

III. PLEDGE OF ALLEGIANCE

Council Member Steve Slachta led in the Pledge of Allegiance.

IV. ROLL CALL

Mayor Nelson and all Council Members were in attendance.

V. PUBLIC COMMENT ON AGENDA ITEMS:

5:32:45 PM Kathy McGrath reminded everyone of the Coastal Cleanup event scheduled for September 20, 2014. She also addressed the agenda item by Council Member Janet Martin regarding the Estero Bay Marina for slow speed and wake zones. She heard that there is a no engine zone there now in the bay, and there are concerns about paddlers and canoers. She stated that there is a State Statute that states that if there is a no engine zone, it is to be marked. The West Coast Inland Navigation District (WCIND) will not mark it until the area is dredged.

5:34:32 PM Martha Simons stated that the ABM will be addressing the Estero Bay Marina this coming Monday regarding the non-motorized zone as well. She also suggested deferring the Estero Marina rezoning to allow Charlie Weeks to be present.

5:36:03 PM Fred Forbes addressed the Bonita Beach Road Agreement with Lee County, and suggested that it not be addressed now. He suggested allowing more time to gather information before addressing it.

5:36:57 PM Alberto Bailleres addressed City soccer facilities and events.

5:40:09 PM Jessie Purdon, a resident of District 2, congratulated Council Member Gibson on his completion of the 18-hour course for elected officials. He also voiced his support for outsourcing the afterschool program for Sports Club Inc. He also voiced his support for Council's vote on the PD&E Study to be voiced at the MPO meeting. He also applauded the budget vote to not move forward with the widening of Bonita Beach Road. He also voiced his support for the VFW to allow consumption on premises as addressed in their zoning request.

VI. PROCLAMATIONS AND PRESENTATIONS:

A. CERTIFICATE OF RECOGNITION TO BONITA SPRINGS RESIDENT KATI DAGGE ON WINNING THE NATIONAL DRESSAGE HORSE RIDING COMPETITION.

5:42:45 PM Mayor Nelson next presented a Certificate of Recognition to Kati Dagge on winning the National Dressage Horse riding competition. Ms. Dagge was present to accept the Certificate and to thank Mayor Nelson and Council Members.

B. PRESENTATION OF CERTIFICATE OF COMPLETION TO COUNCIL MEMBER MIKE GIBSON ON COMPLETION OF EIGHTEEN HOURS OF INSTRUCTION AT THE INSTITUTE FOR ELECTED MUNICIPAL OFFICIALS HELD JUNE 13-15, 2014 IN DELRAY BEACH, FLORIDA.

5:46:03 pm Mayor Nelson next presented Council Member Mike Gibson with a Certificate of Completion for completing the 18 hours of instruction at the institute for elected municipal officials.

ADDITIONAL ITEM:

5:46:50 pm Former Council Member Martha Simons and Kathryn Lau, with the Bonita Springs Lion's Club, presented City Manager Carl Schwing with a Certificate of Appreciation for his participation in the Lion's Club Spring Fashion Show event. City Manager Schwing thanked Ms. Simons and Ms. Lau for the Certificate.

C. RECAP OF 2014 LEGISLATIVE SESSION BY REPRESENTATIVE RAY RODRIGUES. **TO BE RESCHEDULED.**

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.)

5:49:53 PM Council Member Bill Lonkart motioned approval of the Consent Agenda; Council Member Steve Slachta seconded; and the motion carried unanimously.

A. AUTHORIZE MAYOR NELSON TO SIGN A LETTER ON BEHALF OF CITY COUNCIL TO SUPPORT THE DISTRIBUTION FOR THE 2014 EDWARD BYRNE MEMORIAL JAG PROGRAM FUNDS. (GREENSHEET NO. 14-08-0221)

B. APPROVAL OF SPECIAL EVENT PERMIT AND CITY CO-SPONSORSHIP OF COASTAL CLEAN-UP SCHEDULED FOR SATURDAY, SEPTEMBER 20, 2014. (GREENSHEET NO. 14-07-0220)

C. FINALIZE APPROVAL OF OFFER OF JUDGMENT AS TO COSTS AND STATUTORY ATTORNEY FEES FOR SCHWIPPERT PARCEL 113 IN CASE NO. 12-CA-002894 FOR THE SHANGRI-LA ROAD PROJECT. (GREENSHEET NO. 14-08-0226)

D. APPROVE THE PARKS AND RECREATION AGREEMENT BETWEEN THE CITY OF BONITA SPRINGS AND THE GULF COAST SWIM TEAM. (GREENSHEET NO. 14-08-0230)

E. APPROVE OUTSOURCING THE AFTERSCHOOL PROGRAM TO SPORTS CLUB INC., A FLORIDA NOT-FOR-PROFIT CORPORATION TO SERVE AS THE PROVIDER OF THE AFTERSCHOOL PROGRAM, ON BEHALF OF THE CITY OF BONITA SPRINGS AND AT

THE DIRECTION OF THE PARKS AND RECREATION DIRECTOR. (GREENSHEET NO. 14-08-0232)

- F. APPROVE THE PARKS AND RECREATION AGREEMENT BETWEEN THE CITY OF BONITA SPRINGS AND THE BONITA SPRINGS YOUTH SOCCER CLUB. (GREENSHEET NO. 14-08-0233)
- G. APPROVE THE PARKS AND RECREATION AGREEMENT BETWEEN THE CITY OF BONITA SPRINGS AND THE WILDCATS YOUTH SOCCER CLUB. (GREENSHEET NO. 14-08-0234)
- H. APPROVE THE PARKS AND RECREATION AGREEMENT BETWEEN THE CITY OF BONITA SPRINGS AND THE CASA MEXICO ADULT SOCCER LEAGUE. (GREENSHEET NO. 14-08-0235)
- I. REQUEST FROM THE CREW LAND AND WATER TRUST TO WAIVE RENTAL FEES FOR USE OF THE LILES HOTEL MEETING ROOM FOR THEIR EXECUTIVE COMMITTEE MEETINGS. (GREENSHEET NO. 14-08-0236)
- J. APPROVE RESOLUTION AWARDING THE ASPHALT OVERLAYS PROJECT (PAWLEY, MCKENNA AND SAUNDERS AVES) TO COMMUNITY ASPHALT CORPORATION IN THE TOTAL BID AMOUNT OF \$126,400.00, AND AUTHORIZING THE MAYOR TO SIGN AGREEMENT, UPON APPROVAL OF CONTRACT DOCUMENTS AND INSURANCE CERTIFICATE BY THE CITY ATTORNEY. (GREENSHEET NO. 14-08-0231) **ADOPTED RESOLUTION NO. 14-34**

VIII. PUBLIC HEARING:

- A. COMMENCE WITH THE TRANSMITTAL PROCESS TO CREATE THE COCONUT VILLAGE FUTURE LAND USE CLASSIFICATION CATEGORY AND ADD ESTERO BAY MARINA AS A COMPREHENSIVE PLAN MAP AMENDMENT, AND IF APPROVED, TRANSMIT TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY (DEO) THROUGH THE EXPEDITED STATE REVIEW AMENDMENT PROCESS: AN ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA; AMENDING THE CITY OF BONITA SPRINGS COMPREHENSIVE PLAN, SO AS TO CREATE THE COCONUT VILLAGE FUTURE LAND USE CLASSIFICATION CATEGORY; FURTHER TO AMEND THE FUTURE LAND USE MAP FOR THAT EXPEDITED STATE REVIEW COMPREHENSIVE PLAN AMENDMENT KNOWN AS ESTERO BAY MARINA, WHICH IS LOCATED IN SECTION 7, TOWNSHIP 47 SOUTH, RANGE 25 EAST, TO REDESIGNATE APPROXIMATELY 17.34± ACRES OF LAND FROM LEE COUNTY OUTLYING SUBURBAN (12.07 ACRES) AND WETLANDS (5.27 ACRES) TO COCONUT VILLAGE (13.69 ACRES) AND RESOURCE PROTECTION (3.65 ACRES), AND PROVIDING FOR AN EFFECTIVE DATE. (GREENSHEET NO. 14-08-0238)

5:50:47 PM City Attorney Audrey Vance introduced this agenda item, explaining that if approved, the Amendment will be transmitted to DEO (Department of Economic Opportunity) for their review.

5:52:09 PM Jackie Genson, Community Development, furnished a PowerPoint presentation (copy in Clerk's file) to address the amendment, which consists of both a text and a map amendment. If transmitted, DEO will have 30 days to review the Amendment and furnish their comments, as will other various agencies. Staff did recommend approval of both the text and map amendments. The LPA reviewed the request, at

which time comments were made that related more to the Zoning request. The LPA recommended approval of both requested amendments. The request today is to commence with the transmittal process for the Comprehensive Plan Amendment related to the Estero Bay Marina and the newly created Coconut Village future land use classification category and, if approved, transmit the Amendment to DEO through the Expedited State Review Amendment Process in accordance with Florida State Statutes.

6:03:19 PM James Ink, representing the Applicant, furnished a brief overview, addressing the wetland on the eastern side of the site, the preapproved boat slips, the companion zoning case, etc. They have DEP/ERP and ACOE permits for the project. They are here requesting Council approve the transmittal.

6:07:14 PM City Manager Schwing explained that this is a transmittal hearing to request Council's approval to transmit the Amendment to DEO. There will also be an adoption hearing before City Council, which he anticipates will take place in a couple months.

Council Member Steve McIntosh motioned to move forward and transmit the Amendment to DEO; Council Member Peter Simmons seconded.

PUBLIC COMMENTS:

6:08:24 PM Martha Simons asked that Council wait to transmit the Amendment until their next meeting.

6:09:33 PM Jim Murphy, Vice President of the Pelican Landing Board of Directors, stated that the Board fully supports approval of the request.

The motion carried unanimously.

IX. FIRST READING AND PUBLIC HEARING OF THE FOLLOWING ZONING ORDINANCE.

- A. A ZONING ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA; CONSIDERING A REQUEST BY ESTERO BAY MARINE, LLC; DONAVAN, LLC; AND SUGAR MOUNTAIN DEVELOPMENT, LLC TO REZONE FROM LEE COUNTY RESIDENTIAL PLANNED DEVELOPMENT (RPD), MOBILE HOME PLANNED DEVELOPMENT (MHPD), COMMERCIAL PLANNED DEVELOPMENT (CPD), RESIDENTIAL R-3, AND AGRICULTURE AG-2 TO COMMERCIAL PLANNED DEVELOPMENT (CPD) TO ALLOW FOR 72 WET SLIPS, 150 DRY SLIPS, AND OTHER RETAIL USES TOTALING 207,000 SQUARE FEET WITH A MAXIMUM HEIGHT NOT TO EXCEED 75 FEET ON LAND LOCATED AT 5000, 5040, 5050, AND 5060 COCONUT ROAD; 23149, 23148, AND 23170 WEEKS FISH CAMP ROAD; 5227, 5233, AND 5234 DRAINE STREET; AND 5119, 5203, 5207, 5211, 5219/5225, 5220, 5228, 5230, 5231, AND 5236 MAMIE STREET, BONITA SPRINGS, FLORIDA, ON 17.34 +/- ACRES; PROVIDING FOR AN EFFECTIVE DATE.

6:10:50 PM City Attorney Vance read the title block of the Zoning Ordinance into the record.

6:12:14 PM Council Member McIntosh motioned to move forward with a second reading of the Zoning Ordinance on Monday, August 18, 2014 at 9:00 A.M.; Council Member Simmons seconded; and the motion carried unanimously.

- X. PUBLIC HEARING TO CONSIDER ADOPTION OF THE FOLLOWING ZONING RESOLUTIONS (PUBLIC COMMENT IS LIMITED TO PARTICIPANTS AT THE ZONING BOARD HEARING OF JULY 22, 2014):

- A. A RESOLUTION OF THE CITY OF BONITA SPRINGS, FLORIDA; CONSIDERING A SPECIAL EXCEPTION REQUEST BY HAROLD C. BUCK MEMORIAL VFW POST 4254, TO ALLOW CONSUMPTION ON PREMISES FOR AN 11C-CLUB ALCOHOLIC BEVERAGE LICENSE IN CONJUNCTION WITH OUTDOOR SEATING FOR A GROUP III RESTAURANT AND FRATERNAL CLUB WITH MUSIC ON LAND LOCATED AT 10972 K-NINE DRIVE, BONITA SPRINGS, FLORIDA, ON 1.98 +/- ACRES; PROVIDING FOR AN EFFECTIVE DATE. (GREENSHEET NO. 14-08-0222)

6:14:37 PM City Attorney Vance read the title block of the Zoning Resolution into the record. She has reviewed the Affidavit of Publication which she found to be legally sufficient.

Ms. Genson provided a brief overview of the request.

ZONING BOARD PARTICIPANTS:

6:17:16 PM Phil Smith, representing the VFW, stated they will be good neighbors. He asked that Council approve their request.

6:18:22 PM Council Member Slachta motioned adoption of the Zoning Resolution; Council Member Peter Simmons seconded; and the motion carried unanimously. **ADOPTED ZONING RESOLUTION NO. 14-03**

- B. A RESOLUTION OF THE CITY OF BONITA SPRINGS, FLORIDA: CONSIDERING A SPECIAL EXCEPTION REQUEST BY THE PELICAN LANDING COMMUNITY ASSOCIATION FOR A CONSUMPTION ON PREMISES FOR A 4-COP ALCOHOLIC BEVERAGE LICENSE WITH OUTDOOR SEATING AT ITS OFF-SITE RECREATIONAL FACILITY ON LAND LOCATED AT 10 BIG HICKORY ISLAND, BONITA SPRINGS, FLORIDA ON 33.18 +/- ACRES; PROVIDING FOR AN EFFECTIVE DATE. (GREENSHEET NO. 14-08-0223)

6:19:00 PM City Attorney Vance read the title block of the Zoning Resolution into the record. She has reviewed the Affidavit of Publication which she found legally sufficient.

6:19:48 PM Ms. Genson, Community Development, furnished a brief overview of the case via a PowerPoint presentation (copy in Clerk's file). She also addressed concerns raised at the Zoning Board hearing. Staff and the Zoning Board have recommended approval of the request with conditions.

6:26:01 PM Council Member Simmons asked how they will ensure that they will be serving members only, which Ms. Genson deferred to the Applicant's representative to address.

6:26:31 PM Attorney Tom Hart, representing the Applicant, furnished the Applicant's presentation. He explained that this is a private park that is owned and controlled by a private organization - the Pelican Landing Community Association. The Association has a beach manager and five beach rangers at the park almost every day whose job it is to ensure that the shore birds and their nests are protected, that the conservation and dune areas are protected, that the turtle nests are protected, and that the trash is handled. The 6,000 residents of Pelican Landing can bring coolers to the beach, which really won't change. If approved, what would change is that there would be more control over the food and beverages, and by providing this on the pavilion area people won't need to bring coolers to the beach. Today beer and wine can't really be controlled, however, if approved, there will be some control because the Hyatt will be providing those items and people won't need or want to bring those items anymore. If approved, the PLCA

can set rules, which will result in an improvement to the atmosphere of the beach. This is the first step in the process, as other permits will be required to be obtained by other agencies, i.e., the health department permit, septic tank check, etc. If not approved, those items will not be checked or permitted as it would not make sense to spend money to hire consultants to get those things done. There is a Beach Management Plan that requires inspection of the dunes, vegetation, turtles, etc.

They agree with Staff's presentation and recommended conditions. He concluded by explaining that the nearest residential use is 4,000 feet away. There are also no schools or religious facilities within 1,000 feet, and so they feel they have met all the criteria. They are here to request approval of their request.

6:35:34 PM Jim Murphy, Vice President of the Pelican Landing Community Association Board of Directors, stated that the Board unanimously voted in support of this request. They are looking forward to this and have full faith in the Hyatt. They would appreciate Council's support and approval.

6:36:02 PM Parviz Monsefan, the Food and Beverage Director for the Hyatt, stated that the Hyatt is extremely excited to continue their partnership with Pelican Landing residents and guests, to have a first class food and beverage operation. They will continue to be diligent to the environment and follow all guidelines to ensure food compliance. They will also preserve the natural resources and use biodegradable food containers, etc. They will also make sure all the trash is removed daily. There will also be signage informing people not to take food to the beach area. It will be a much more organized activity. He asked that Council approve their request.

PARTIES OF RECORD:

6:37:56 PM Bruce Wheatley, a resident of Pelican Landing on Woodsage Drive, was present to voice his support of the zoning request. Their Board is working very closely with the Hyatt and support approval. They feel it will be a wonderful amenity.

6:39:59 PM Barbara Craig, a resident of Pelican Landing, stated that the subject land is zoned Resource Protection, and when zoned Resource Protection, the Zoning Board is to review to ensure that this change will not adversely affect the ecology or hydrological functions of the wetlands. Changing the permit the property has from a picnic area to a commercial run bar and food service will cause a significantly larger burden on the septic system and leeching field located on the two acres located almost under the pavilion. She further addressed her concerns, as reflected in her letter which she submitted into the record (copy in Clerk's file).

6:44:08 PM Ann Cramer, a resident of Pelican Landing, addressed the issue of commercialization. She is opposed to the granting of the proposed Special Exception for the 4-COP license. She also feels there are environmental issues. She is here to ask Council to help them and not grant the Special Exception, or if they do, to please remove the 4-COP license.

6:49:38 PM Rey Martinez, Manager of the Hyatt Coconut Plantation Resort, stated that they feel approval will decrease recycling and trash, as this will result in control factor. As far as commercialization, he explained that this will be for guests of the Hyatt and residents of Pelican Landing only. This will be a counter service operation to ensure items are not taken down to the beach.

6:52:45 PM Craig Schopf, a member of the Board of the PLCA, stated there are 6,000 residents in their community, and a few people who disagree with them. He is disturbed that people are saying that they are commercializing food and beverage service, and people will be able to get a glass of wine or a can of beer. They are going to have a liquor license that would permit them to do more than that, but that is something they are not going to do. The reason they want a larger liquor license is for residents of Pelican Landing who

may want to have a private party after hours on the beach, or for a community within Pelican Landing who may want to have a special party who would be allowed to serve a glass of bourbon, etc. He also stated that from 11:00 A.M. to 5:00 P.M. there will be no music on the beach, as that will be for those who hold private parties only. They plan to have an agreement setting everything out. They are not going to commercialize the island.

6:56:38 PM Council Member Gibson expressed a concern with the septic system. Mr. Hart stated that the beach park is limited to 480 residents. If approved, this will not change. They have renourished the beach. There are discussions about increasing the number of people allowed to the beach park to 600. The septic tank has been pumped before, and will be again. Also, they are not asking for any music that isn't permitted today, as they will be required to adhere to the City's Noise Ordinance.

6:59:34 PM City Attorney Vance addressed the septic tank issues and explained that Condition 6 was modified to address the septic tank as follows:

This approval does not eliminate any other permits for food and beverage service, as required by the City or any other agency. This may include any additional health, environmental or sanitation permits necessary for the facility as a result of food and beverage service.

7:00:55 PM Council Member Martin stated she couldn't think of a better organization than the Hyatt to handle the food and beverage service. From day one, the hotel has committed to the environment and have a green team in place, and so she knows they do a good job. She also knows Ms. Martel and Mr. Betts are committed to that island and beach and that they would never support anything that would result in degradation of the island.

7:01:28 PM Council Member McIntosh stated that as a resident of Pelican Landing he has had the same concerns, as Mr. Murphy being representative of the PLCA Board, it's incumbent that the Board and the PLCA members understand that when they take on this responsibility under the Special Exception that they will have more oversight than they've had in the past, i.e., Code Enforcement will be the internal police force to ensure that if there are complaints that they do live by the conditions. Secondly, if those conditions are violated then the Special Exception can be revoked, and so it's all the more onerous to make sure the questions as addressed regarding the environment and protection of the natural resources and are taken care of. Mr. Murphy responded that they accept that responsibility and recognize that Code Enforcement will be stricter than what they have been because of the new agreement they will be entering into. Also, they will be monitoring sales.

Council Member McIntosh motioned adoption of the Zoning Resolution; Council Member Martin seconded; and the motion carried unanimously. **ADOPTED ZONING RESOLUTION NO. 14-04**

In response to Council Member McIntosh, City Attorney Vance stated that there is ample evidence in the record that Comprehensive Plan allows and supports this activity, as conditioned.

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

- A. AN ORDINANCE OF THE CITY OF BONITA SPRINGS CONSIDERING THE PETITION OF BONITA SPRINGS UTILITIES, INC., TO REVISE THE WATER TARIFF AND WASTEWATER TARIFF CONSISTENT WITH THE FRANCHISE IN BONITA SPRINGS ORDINANCE NO. 02-14; AND PROVIDING FOR AN EFFECTIVE DATE. (GREENSHEET NO. 14-08-0225)

7:14:22 PM After a short break, City Attorney Vance addressed item XI. A., and read the title block of the Ordinance into the record, noting that the first reading was held on July 16, 2014. She explained that John Jenkins, representative for BSU, did provide changes to the draft Ordinance, which she briefly addressed.

7:16:52 PM Attorney John Jenkins, representing BSU, introduced those in attendance from BSU. He next explained that the revisions made are to the rules and regulations; there are no changes to the rates, charges, or policies. Lee County is also a party to this and have reviewed it, and the Applicant received a letter indicating they have no objections or revisions. They are here to request City Council approve the Ordinance.

Council Member Lonkart motioned adoption of the Ordinance; Council Member McIntosh seconded.

No public comments were made.

The motion carried unanimously. **ADOPTED ORDINANCE NO. 14-22**

XII. PUBLIC COMMENT:

7:20:14 PM Alberto Bailleres addressed a problems he experienced with BSU and with the Sheriff's Office who ticketed him.

7:24:44 PM Former Mayor Jay Arend stated that he was present to address comments made at a previous Council meeting regarding an incident that occurred at Leitner Creek Park, which he explained there was no police report or arrests made, as it involved a run-away teen. He also furnished an update of the park, reporting things were going very well. On any given night there are 30 to 75 children playing there. The Café of Life is providing 70-80 meals daily. There are people there at 8:00 A.M. which he feels is because of the long lines for meal service. They also have security cameras. A "Committee for a Purpose" was formed who are working on an Adopt a Street Program to pick up trash. They also want to hold a meeting with Animal Control Services to address the safety of pets being on leashes, etc. They are working to improve the community.

7:29:39 PM Kathy McGrath reported that the Street Light Committee is looking into street lights for Leitner Creek Park. She also addressed negative comments she heard about River Park, which she clarified was meant to be a passive park. Amenities are forthcoming. There are trash cans there, but not on the dock, for reasons she explained.

7:31:56 PM John Calabria, a resident with Spanish Wells, addressed the flyover and the MPO.

7:34:43 PM Jessie Purdon also voiced his support for the Bonita Springs Sheriff's Deputies and City Council.

XIII. CITY ATTORNEY'S REPORT.

- A. DISCUSS OPTIONS AVAILABLE FOR CITY COUNCIL TO COMMUNICATE ITS MAJORITY POSITION AT THE LEE COUNTY METROPOLITAN PLANNING ORGANIZATION (MPO) AT ITS AUGUST 22, 2014 MEETING FOR FDOT TO DISCONTINUE THE PLANNING, DESIGN AND ENGINEERING STUDY (PD&E STUDY)

FOR THE INTERSECTION OF US 41 AND BONITA BEACH ROAD (GREENSHEET NO. 14-08-0219)

7:38:03 PM City Attorney Vance addressed this item by referring to her memorandum dated July 30, 2014 attached to the Greensheet, to furnish an overview and available options.

7:44:53 PM Council Member McIntosh referred to an email he received the previous night dated August 5, 2014, from Carmen Monroy, the Director of FDOT, which he read into the record (copy in Clerk's file). In her email, Ms. Monroy suggested suspending the PD&E study until the visioning study is completed so the results of the study can inform the future of this important corridor. This recommendation will be presented at the August 6, (7th) 2014 meeting of the Lee MPO/TAC and CAC Committees, and at the August 22, 2014 MPO meeting. Council Member McIntosh stated that he is against a flyover, noting that the FDOT has several pluses to it, which he explained the suspension would mean is that it would retain the \$1 million for Lee County use. If they abolish the study the funds disappear and the County can't get them back. It would allow City Council time to analyze the entire Bonita Beach Road/U.S. 41 Corridor and come to some logical unified decision on their vision of where they want to be with Small Town Charm and Big Bright Future. He feels they need that long-term plan before they make any of these decisions. Suspending the study allows the City to reinstate the study at some point, if they believe it's necessary. He feels a study of some sort is critical because he doesn't believe they can have small town charm that includes sitting in traffic or being stalled on Bonita Beach Road and praying for the lives of your loved ones because you're unable to evacuate during a hurricane. If the suspension allows them to take time out and look at the corridor broadly, he would suggest they allow the suspension to go through, and as the MPO Chair, he has been assured that the TAC and the CAC will discuss this email and the entire intersection study. In response to Mayor Nelson, Council Member McIntosh clarified that this came from FDOT.

7:50:31 pm Council Member Slachta stated that with the suspension of the study, he would support Mayor Nelson and Council Member McIntosh remaining on the MPO. Looking at a vision for the future is fine with him as long as the study is suspended.

7:51:23 pm Mayor Nelson addressed Council Member Simmons and his previous motion, and asked him if it was his vision that the study would encompass what it is they want the road to be, i.e., what is its function going to be. Council Member Simmons responded that the big picture he had in mind was that there be no flyover and not expanding Bonita Beach Road. It was for a vision for that road for people to bike it, walk it, and for trees to be planted to make it look better and more professional. Mayor Nelson explained that the reason for his question is because the road has been seen as having regional significance, which is why these plans were made in the past for purposes of transporting traffic, as has been the vision up until this time to have that function. Council Member Simmons stated he feels there has to be other studies that could be done that don't include a flyover option. In response to Mayor Nelson, Council Member McIntosh explained that Ms. Monroy's words were to the effect that they need to look at this as a corridor, and not as an individual piece of work. So if you're (the City) is going to change the way you've looked at this in the past in different pieces, going from six lanes down to four lanes on Bonita Beach, and not including all the options on Bonita Beach Road and the U.S. 41 intersection, if you don't include all those then we want to step back, and we want you to come up with a vision you have for transportation in this area.

7:55:07 pm City Manager Carl Schwing stated that in addition to the visioning that Council Member Simmons had recommended on July 28, 2014, Council, at its Strategic Plan Workshop, indicated, which the City has budgeted for in the proposed budget, a City-wide Traffic Study that the City would scope, control and fund. If the City's system of transportation is not working to address what are the opportunities to improve that. It would provide a lot of good data that would be under the City's control and they would not have to talk about a flyover at any particular location, but look at more practical solutions to issues addressed in the study. Assistant City Manager John Gucciardo added that the timing on that was to coincide with the

opening of Shangri-La Road, as the idea was to get our latest road up and running, take it through season and look at how that helps understand what's occurring City-wide in terms of traffic flow.

7:56:47 pm Council Member Slachta requested that Staff, during the visioning, talk with the businesses on that road. He suggested that Staff speak with Dolly at Dolly's Produce Patch, who is vehemently opposed to any widening of the road. He stated that numerous people in District 3 are opposed to the widening of Bonita Beach Road. City Manager Schwing stated that he understood that, and explained that as more people move here it's important to know where they travel in the City and the impacts as to what roads are they traveling, etc.

7:57:50 pm Council Member Martin stated she believes that the City's study is important and that the City needs that information, which might give Council a better grasp as to the need to look at the Comprehensive Plan for a walkable, safe, bicycle friendly community they are striving for, and help to find ways to make that happen. Her concern regarding the suspension is that they are just kicking this down the road for a few months, and then have to go through this process all over again.

7:58:48 pm City Attorney Vance suggested a motion on whether City Council supports FDOT's recommendation to suspend the PD&E Study until after the vision study is complete so that can be incorporated into the Study.

8:01:00 pm Council Member McIntosh suggested waiting to see what the TAC and CAC does at tomorrow's meeting (on August 7, 2014) where this email is going to be read, and discuss it at Council's next meeting, which will be before the MPO meeting. Mayor Nelson stated that at this point in time, with the information he has now, he would have to support what FDOT is suggesting to suspend the Study until such time the City gets done with their Study and comes up with a vision, because he wants to keep the relationship with FDOT.

8:06:39 pm Zachary Burch, with FDOT, stated that the Study being talked about was prioritized by the MPO a number of years ago, and then at the request of the MPO it was advanced from 2018 or so to 2014. He doesn't know where the funds came from, but knows they are MPO funds. He feels that the suggestion is that if the City is going to go through a whole transportation network study of all the roads in the City, and then a specific one for Bonita Beach Road, to provide them (FDOT), the residents, and Council with a vision that there's no reason for duplication of efforts, and so before they do anything, i.e., continue the Study or cancel the Study, FDOT can get the results of the City's study, which will help the City with their local roads, help Lee County with their roads, and FDOT with the federal roads. It will result in things that are good for the roads, motorists, walkers, bikers, transit, disabled. Overall, the City will do their study and everyone will reap the benefits and then they can decide, FDOT, the City, the MPO, everyone, what the next steps will be. City Attorney Vance requested Mr. Burch confirm that in this situation FDOT has commissioned the study, which they commission based on the MPO planning, to add it to whatever plan number it is, to have that in the schedule, and after all the planning information is obtained, which is when the director makes a determination as to what the conclusion should be. Discussion followed.

8:13:10 pm Council Member Lonkart referred to the Code of Conduct and stated that Council is supposed to follow the majority of Council, and the information that was provided to him indicated that was not done. What he needs to know is if another vote comes up if the two members are going to support the majority of Council. He stated it's up to the Mayor and Council Member McIntosh to advocate the position of City Council at the public meeting with the MPO, which is all he is asking them to do. At the request of Council Member McIntosh, Attorney Derek Rooney, MPO Legal Counsel, addressed Council Member McIntosh as to his obligations as a member of the MPO. He clarified that now, the request from Ms. Monroy is that FDOT is asking the City to join FDOT in making a recommendation to the MPO to then vote

recommending back to FDOT what to do. He next summarized his memorandum as attached to the City Attorney's memorandum which is part of the Greensheet (from Derek Rooney dated July 14, 2014.)

8:19:29 pm Council Member Lonkart motioned for the two current members on the MPO be replaced with the alternate member (Council Member Gibson) and Council Member Simmons; Council Member Gibson seconded. Mayor Nelson clarified the motion which is to replace the two current MPO Members with Council Member Gibson and Council Member Simmons. Council Member Gibson seconded, and explained that he sees the Administrative Code as being the rule of the majority, the rights of the minority, which he reads as when they are at the meeting, they should be representing Council's decision.

8:21:29 pm Council Member McIntosh read into the record the following statement:

I'm reading this prepared statement to be included as part of any legal proceedings in the future. Be advised that any individual serving or not serving on the Bonita Springs City Council who's been involved in acts of prior restraint, or who has acted in a manner to impede my constitutional rights of free speech will be held accountable under the Statutes of State and Federal law.

8:21:43 PM Council Member Simmons removed his name, and suggested someone else replace him.

8:21:58 pm Council Member Lonkart suggested Council Member Slachta. Council Member Slachta refused. Council Member Martin also refused. Council Member Lonkart nominated himself to serve. Mayor Nelson clarified that the motion was now for Council Member Lonkart and Gibson to act as replacements. Council Member Gibson seconded the motion. The motion failed 5-2 (Council Members McIntosh, Martin, Slachta, Simmons, and Mayor Nelson opposed)

8:23:32 pm Council Member Slachta asked that the Mayor and Council Member McIntosh convey Council's wishes to not have the study. Mayor Nelson stated he would express Council's will, noting that he will probably express his own opinion as well. Mayor Nelson asked that Council Members and residents show up and express their views as well. Council Members were then asked to let the City Clerk know if they plan to attend the MPO meeting.

ADDITIONAL ITEM:

8:28:10 pm Council Member Martin next referred to the CAC, and a comment she made at the last Council's meeting in that she did not know who Ted Tryka was, who is the City's CAC member. Since that time he called her and they spoke for about two hours on visioning, etc. She was very impressed and supports him remaining on the CAC.

8:29:52 pm Council consensus for Ted Tryka to remain on the CAC.

- B. PROVIDE DIRECTION TO STAFF TO PREPARE A LETTER TO LEE COUNTY RELATED TO THE SEVENTH JOINT SUPPLEMENTAL INTERLOCAL AGREEMENT BETWEEN LEE COUNTY AND THE CITY OF BONITA SPRINGS UNDER ITS MASTER TRANSPORTATION AGREEMENT: BONITA BEACH ROAD ADDITIONAL PHASES. (GREENSHEET NO. 14-08-0237)

8:33:08 pm City Attorney Vance addressed this agenda item, and suggested that rather than terminate the Seventh Joint Supplemental Interlocal Agreement for the Additional phases of Bonita Beach Road, to authorize the City Manager to notify the County that the City wants to hold all projects in abeyance while City Council determines how Bonita Beach Road can be more appropriately planned, with Council's intent

to also use the City's road impact fees for other qualified capital road improvement projects until such time Council is ready to either renegotiate the Interlocal Agreement or terminate it. Discussion followed with Council consensus to leave as is for now.

8:37:52 PM Council Member Gibson referred to road impact fees and asked how they would go about changing that so they don't have to be used just for roads. He stated a lot of cities are switching to mobility fees so they can be used for multi-modal transportation, bicycle, pedestrian, mass transit, etc. A brief discussion was held.

Council Member Gibson motioned for Staff to research mobility fees versus impact fees and bring back; Council Member Martin seconded; and the motion carried unanimously.

XIV. CITY MANAGER'S REPORT: No items.

XV. MAYOR AND COUNCIL MEMBER ITEMS AND REPORTS.

- A. WITH WORK RELATED TO IMPROVE THE RECENTLY ANNEXED ESTERO BAY MARINA, REQUEST STAFF TO REVIEW THE EXISTING CHANNELIZED AREAS OF THIS PORTION OF ESTERO BAY MARINA, TO DETERMINE WHETHER THE CITY SHOULD CONSIDER AN ORDINANCE TO DESIGNATE ADDITIONAL SLOW SPEED, MINIMUM WAKE ZONES FOR MOTORIZED VESSELS. (MARTIN; GREENSHEET NO. 14-08-0236)

8:40:37 pm Council Member Martin addressed this item, stating this was brought to her attention with the increased possibility of motorized traffic in Estero Bay. There needs to be an education process to get the word out to inform them that there are paddle crafts/boarders, etc. It's a safety issue and environmental protection issues regarding the bay and sea grasses. She is requesting support for Staff to research and work with the other local agencies to ensure the City is doing all they can for the protection of Estero Bay, and to protect people on paddle crafts.

Council Member Martin motioned for Staff to research what is possible and what's going on for the protection of Estero Bay; Council Member Slachta seconded. Mayor Nelson asked that Staff bring people in from the Estero Bay Aquatic Preserve and see what the regulations are as well as what the limitations are regarding what a municipality can do as far as setting speeds, etc.

8:42:32 pm City Attorney Vance stated that Justin McBride with Lee County Division of Natural Resources, informed her that there are areas that have manatee speed zones in place, but that there's no signage. She explained that normally they don't like to put up signage unless they have to. She further explained. Mayor Nelson suggested Mr. McBride come to a Council meeting and that Staff gather information.

The motion carried unanimously.

8:44:35 pm Council Member Slachta reminded everyone of the ribbon cutting ceremony scheduled to be held at the Bonita Springs Fire and Rescue District training center on Friday, August 15, 2014 at 11:00 A.M. He also stated that tomorrow is Purple Heart Day and thanked all Purple Heart recipients for their service.

8:45:04 pm Mayor Nelson referred to the Resolution Council previously passed in support of the Gargiulo property, located in the DR/GR, and reported that Governor Scott came up with \$20 million for Audubon, which will go towards helping the City in a big way.

XVI. APPROVAL OF MINUTES: JULY 16, 2014, AND JULY 28, 2014 (BUDGET MEETING)

8:46:06 pm Council Member McIntosh motioned approval of the minutes of July 16, 2014; Council Member Simmons seconded; and the motion carried unanimously.

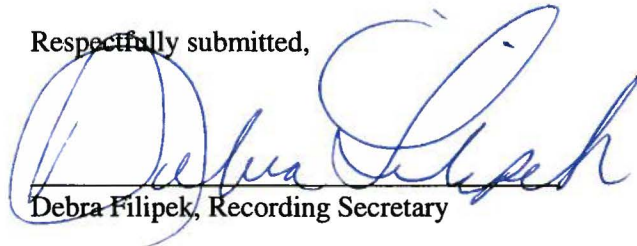
8:46:44 pm Council Member Martin motioned approval of the Budget Meeting minutes of July 28, 2014; Council Member McIntosh seconded; and the motion carried unanimously.

XVII. PUBLIC COMMENT: No public comments were made.

XVIII. ADJOURNMENT.

There being no further items to discuss the meeting adjourned at 8:48 P.M.

Respectfully submitted,

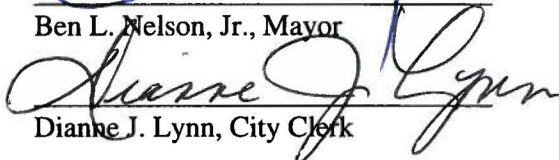


Debra Filipek, Recording Secretary

APPROVED:
BONITA SPRINGS CITY COUNCIL:

Date: 8/21/14
AUTHENTICATED:

Ben L. Nelson, Jr., Mayor



Dianne J. Lynn, City Clerk