

**MINUTES FOR THE REGULAR MEETING OF THE
CAPE CORAL CITY COUNCIL**

February 3, 2021

Council Chambers

4:30 p.m.

Meeting called to order by Mayor Gunter at 4:30 p.m.

INVOCATION/MOMENT OF SILENCE – Councilmember Sheppard

PLEDGE OF ALLEGIANCE – Councilmember Sheppard

Roll Call: Mayor Gunter, Councilmembers Cosden, Hayden, Sheppard, and Welsh were present. Councilmember Williams was excused. Remote Participation: Councilmember Nelson

Councilmember Hayden moved, seconded by Councilmember Cosden, to allow remote participation by Councilmember Nelson in this meeting.

Council polled as follows: Welsh, Cosden, Gunter, Hayden, Nelson, and Sheppard voted "aye." Six "ayes." Motion carried 6-0.

CHANGES TO AGENDA/ADOPTION OF AGENDA

Mayor Gunter requested to move Item 11.B. Selection Process for Filling District 1 Council Vacancy after Citizens Input. He asked if anyone else had any other changes to the agenda or objections to the requested changes. There were no objections and no additions.

Councilmember Cosden moved, seconded by Councilmember Sheppard, to adopt the agenda, as amended.

Council polled as follows: Welsh, Cosden, Gunter, Hayden, Nelson, and Sheppard voted "aye." Six "ayes." Motion carried 6-0.

RECOGNITIONS/ACHIEVEMENTS

None.

APPROVAL OF MINUTES

Regular Meeting - January 20, 2021

Councilmember Welsh moved, seconded by Councilmember Nelson, to approve the minutes for the January 20, 2021 Regular Meeting, as presented. Voice Poll: All "ayes." Motion carried.

CITIZENS INPUT TIME

John Tilowski appeared to discuss conduct of Councilmembers at meetings.

Tom Shadrach appeared to discuss the recent EDO presentations at the COW meeting and agreed with several concepts. He suggested a Citizens' Contest to come up with a name for the Entertainment District.

Roseanna Music appeared in opposition of Ordinance 8-21. She opined that it was redundant since information was already available on the websites of the Lee County Tax Collector and the Lee County Property Appraiser. She inquired what additional services the registration fee would provide. She questioned why rental property owners were being singled out.

Mayor Gunter stated that any further public input regarding Ordinance 8-21 should wait until the Public Hearing.

Gloria Tate appeared to thank the City Manager, Assistant City Manager, PIO, and EDO Staff for working with her to announce the premier of the 10th Annual Catch the Vision on Cape TV. It will be broadcast on Comcast on February 16, 2021 at 7:00 p.m. or go to www.capecoral.net to watch on your devices. It will also be rebroadcast at several different times throughout the month.

Mayor Gunter encouraged everyone to watch the informative Catch the Vision event.

Selection Process for Filling District 1 Council Vacancy – Brought forward by Mayor Gunter (moved after Citizen's Input)

Mayor Gunter explained that he brought this forward to establish exactly what the format would be at the next Council meeting. Council needed to discuss and adopt that format. Deadline for receipt of applications is this Friday. He suggested establishing how the one on one interviews would be conducted in Council offices. Will we leave it open for each Councilmember to schedule those meetings accordingly? He suggested a certain amount of time for each Candidate to give a statement. In the past there have been public interviews where Council can question the Candidates. How many questions would each Councilmember ask? If we go in that direction, he opined it would be best to sequester the Candidates and bring them in one at a time. If we allow Candidates' statements, what type of timeframe should be allowed?

Councilmember Hayden requested how the process was handled in the past with the appointment for former Councilmember Lois Welsh.

City Clerk Bruns stated that she would pull the minutes from the meeting and provide how it was handled.

Councilmember Hayden stated that each Candidate should have individual meetings with each Councilmember and also have the Candidates interview in a regular public meeting. He preferred that three questions should be asked and possibly have backup questions.

Councilmember Cosden noted that in the past Candidates were not sequestered and was in favor of it. Councilmembers were able to ask any questions, they were not preplanned. She had concern about the time to allow three questions of each Councilmember and suggested only one. Each Councilmember could arrange their own one on one interviews. How will the questions be decided ahead of time to avoid repetition? She asked how many applicants there were at this time.

City Clerk Bruns stated presently there were eight applicants for District 1. She provided the information from the meeting of October 21, 2019 when the last appointment was made. The temporary appointment had Candidates come in with a prepared five-minute presentation which was shortened to three minutes by Council. Each person was called up to the podium to discuss their credentials and initiatives. Councilmembers asked questions. The recurring question was the Charter School and CRA Board participation in the past. Non-selected candidates were welcome to run in future elections. Each Councilmember was able to interview the Candidate privately, but it was not a requirement.

Councilmember Welsh agreed with sequestering and once they were done the Candidates could remain in Chambers. Each Candidate should be given five minutes to speak. If questions are combined, one question each may be all that is needed. The Councilmembers could ask questions with a time limit with no more than 10-15 minutes per Candidate.

Councilmember Sheppard asked how many applications were received for the appointment made in 2019.

Councilmember Nelson and City Clerk Bruns responded there were 11 Candidates.

Councilmember Sheppard stated that there appears to be more applications forthcoming. He was not concerned with the length of the meeting time and would not agree to a time limit for questioning. Each Candidate should come into Chambers one at a time.

Mayor Gunter stated everyone agreed to having the Candidate making a statement and to sequester each Candidate.

Councilmember Nelson stated that there were 11 applicants last time, and each were interviewed individually by the Councilmembers. There was a five-day timeframe to schedule the individual interviews. Each Candidate gave a brief bio at the podium before Council and then Council commented on each Candidate. She agreed with not rushing the process. She opined that in the one-on-one interviews having three questions would be sufficient.

Councilmember Welsh inquired about the voting system.

Mayor Gunter opined that the process has worked very well in the past with polling Council until a majority vote is reached, followed by a vote at the end. He agreed with a three or five-minute opening statement. He suggested defining a timeframe for the question and answer period from each Candidate.

Councilmember Cosden suggested a three-minute introduction and then followed by one to two-minute responses to questions. She noted she had a different set of questions for different Candidates. She suggested that each Councilmember should be free to ask whatever question they had.

City Attorney Menendez understood that there was no limitation on the type of questions each Councilmember wishes to ask.

Mayor Gunter inquired if a closing statement should be included in the timeframe.

Councilmember Cosden proposed a one-minute closing statement.

Mayor Gunter confirmed what Councilmember Cosden proposed: three minutes for opening statement, each Councilmember asks one question with a two-minute response, and one-minute closing statement.

Councilmember Hayden did not agree with a closing statement. He agreed with three minutes for opening and to allow time for follow up questions within the response timeframe. He opined that 15 minutes should be sufficient.

Mayor Gunter inquired if Council was agreeable with polling each Councilmember at the end until we get a majority for a motion. **Consensus agreed.**

Mayor Gunter summarized the procedure:

- Three-minute opening statement
- Each Councilmember will ask one question
- Candidates will have two minutes for response
- No closing statement
- Poll Council until there is a majority

Councilmember Hayden asked if this would take place at the next regular meeting.

Mayor Gunter responded in the affirmative.

City Clerk Bruns stated that this was scheduled at the end of the February 17, 2021 meeting under New Business.

Mayor Gunter asked if there should be a motion.

City Attorney Menendez stated it is a procedural matter for the City Council and if Council has agreed, it could be formalized with a motion but was not necessary.

Mayor Gunter suggested a motion and a second with a vote on this matter.

Councilmember Hayden inquired if this item should be scheduled at the beginning of the meeting.

Mayor Gunter responded that the item should stay at the end of the meeting in order to allow the sworn process at the end of the meeting. He also noted that the successful Candidate would not have the meeting backup ahead of time in order to vote on any issues. He mentioned that the City Manager may want to excuse Staff at that point.

City Attorney Menendez clarified that the Charter requires that a vacancy be filled for appointment by a majority of the Council.

City Manager Hernandez suggested moving the meeting earlier that day.

Councilmember Welsh inquired if they would be sworn in at the following meeting, instead of immediately after appointment.

City Attorney Menendez stated-February 17th was close to the end of the timeframe in the Charter to fill this seat.

Councilmember Welsh inquired if this newly appointed person could recuse themselves from voting since they did not have time to prepare.

City Attorney Menendez stated that once the Candidate is sworn in, they would be a voting member. It would be ideal for the Candidate to be sworn in and take the seat.

Mayor Gunter stated if we moved it up earlier to 2:00 p.m. just for the Candidates, he opined he would not want that person sworn in and have to sit at a meeting where they have absolutely no knowledge. Can we have the meeting at 2:00 p.m. if Council so desires and appoint someone but not swear them in until the end of the Council meeting on that particular night? The deadline for appointing the Candidate would be within the 30 days. He asked if the deadline was February 19th.

City Clerk Bruns stated that would be within 30 days.

Mayor Gunter asked the City Attorney if Council would be able to do that.

City Attorney Menendez explained that this topic would need to be researched further.

Councilmember Hayden stated he was not concerned that whoever was appointed would not be up to speed on the meeting agenda.

City Manager Hernandez stated that there were three Public Hearings scheduled for the February 17, 2021 meeting. There were only several regular business items to address which could be delayed. He suggested moving the meeting to 3:30 p.m. He did not see any difficult or controversial items on the agenda at this time.

Councilmember Cosden stated that the agenda should be kept as set.

Mayor Gunter stated the agenda will be kept towards the end for the discussion for the appointment. He noted that consensus has agreed on a 3-minute opening statement, one question each for each Councilmember, there will be a two-minute response for that question, no closing statement, we will poll each Councilmember until we get a majority, and then we will have a motion. He asked for a motion to reflect that.

Councilmember Cosden moved, seconded by Councilmember to Nelson, to approve to reflect that (3-minute opening statement, one question each for each Councilmember, there will be a two-minute response for that question, no closing statement, we will poll each Councilmember until we get a majority, and then we will have a motion).

Council polled as follows: Welsh, Cosden, Gunter, Hayden, Nelson, and Sheppard voted "aye." Six "ayes." Motion carried 6-0.

BUSINESS

CONSENT AGENDA

- 1) Resolution 28-21 Amending the Florida Commission on Community Service d/b/a Volunteer Florida Grant Program Contract to provide the City with additional funding for costs related to the Community Emergency Response Team Program (CERT); authorizing the Mayor to execute the amendment and all necessary documents to receive the grant award; authorizing the City Manager to execute procurement-related documents specific to the grant award; providing an effective date; Department: Fire; Dollar Amount: \$7,500; In-Kind Volunteer Hours Match; (Fund: N/A)
- 2) Resolution 31-21 Acceptance of Public Drainage Easement in a portion of 921 SE 10th Street (Strap #19-44-24-C1-00807.0310) to provide access to and maintenance of drainage facilities at this location in connection with site plan SP20-0004 – Dollar General; Department: Financial Services / Real Estate Division; Dollar Value: N/A; (Fund: N/A)
- 3) Resolution 34-21 Approval of Stipulated Final Judgment as to Defendant's Expert Costs for the eminent domain case of City of Cape Coral v. Calixto Blanco, et al., being Case Number 20-CA-002780 to resolve property owner's outstanding expert costs for the acquisition of Festival Park Parcel #FP-070 (aka Lots 14 and 15, Block 3003, Cape Coral Unit 43 – 1014 NW 25th Street) in the amount of \$6,000. Department: Financial Services / Real Estate Division; Dollar Value: \$6,000.00 (Parks Capital Project/GO Bond Fund)
- 4) Resolution 35-21 Approval of Stipulated Final Judgment as to Defendant's Expert Costs for the eminent domain case of City of Cape Coral v. Calixto Blanco, et al., being Case Number 20-CA-002780 to resolve property owner's outstanding expert costs for the acquisition of Festival Park Parcel #FP-196 (aka Lots 39 and 40, Block 3015, Cape Coral Unit 43 – 2608 NW 9th Place) in the amount of \$7,000. Department: Financial Services / Real Estate Division; Dollar Value: \$7,000.00 (Parks Capital Project/GO Bond Fund)
- 5) Resolution 37-21 Approval of the Amendment of Conservation Easement at Yellow Fever Creek Preserve to add the U.S. Army Corps of Engineers as a third-party beneficiary; Department: Public Works; Dollar Value: N/A; (Fund: N/A)
- 6) Settlement Agreement and Release between Victoria Bateman and the City of Cape Coral
- 7) ADDENDUM: Resolution 43-21 Approves Amendment #1 to the Agreement between the City of Cape Coral and Curative, Inc., to provide Curative, Inc. with Limited Licenses for Testing and Vaccination Services and Storage on City Property; Authorizing the City Manager or his designee to execute Amendment #1 and any License Agreements; Department: Fire

Mayor Gunter asked if any Councilmember wanted to pull any item. There were none.

Councilmember Hayden moved, seconded by Councilmember Cosden, to approve items 9(A)(1), 9(A)(2), 9(A)(3), 9(A)(4), 9(A)(5), 9(A)(6), and 9(A)(7), as presented.

Council polled as follows: Welsh, Cosden, Gunter, Hayden, Nelson, and Sheppard voted "aye." Six "ayes." Motion carried 6-0.

PERSONNEL ACTIONS

None.

PETITIONS TO COUNCIL

None.

APPOINTMENTS TO BOARDS / COMMITTEES / COMMISSIONS

Budget Review Committee - 1 Vacancy

City Clerk Bruns stated there was one vacancy as a result of the election where Mr. Hayden took the District 3 position. There are four applicants.

Interviews

Barbara Jean Safranek – present

Lee Scheele, Jr. (current alternate seeking full member) – present

Councilmember Cosden inquired about the length of time Mr. Scheele has served as an alternate.

Mr. Scheele responded that he has been to about two or three meetings and has attended all of them.

Councilmember Nelson moved to put Lee Scheele, Jr. in the permanent seat.

Councilmember Nelson stated then the alternate can be chosen from the other applicants.

Councilmember Cosden asked the City Clerk if the alternate seat needed to be advertised first.

City Clerk Bruns noted that the agenda request form stated in the event the current alternate is selected as member, Council may select an alternate from the remaining alternates.

Mayor Gunter stated there was a motion and asked for a second. He preferred to give all the other applicants time to come forward.

There was no second. Motion failed.

Interviews (continued)

Thomas Wayne Shadrach – present

Councilmember Welsh inquired about his applications for the BRC and District 1 vacancy.

Mr. Shadrach stated that he applied for the BRC before the District 1 vacancy occurred.

Councilmember Welsh asked which seat he preferred.

Mr. Shadrach preferred to be considered for the District 1 vacancy.

Interviews (continued)

Melanie Mare Williamson – present

Council polled as follows: Welsh – Scheele, Cosden – Scheele, Gunter – Shadrach, Hayden – Shadrach, Nelson – Scheele, Sheppard – Shadrach

City Clerk Bruns announced the tally, three each for Scheele and Shadrach.

Mayor Gunter noted that one applicant for the BRC has also applied for the District 1 vacancy. If that individual was appointed to the Council seat, then the next meeting we could bring the candidates not selected for another vote.

City Clerk Bruns stated that would be possible with Council's direction.

Mayor Gunter stated that was his desire, noting that individual would have to resign from the BRC.

Council polled again as follows: Welsh – Scheele, Cosden – Scheele, Gunter – Shadrach, Hayden – Scheele, Nelson – Scheele, Sheppard – Shadrach

City Clerk Bruns announced the tally, four for Scheele and two for Shadrach.

Councilmember Nelson moved, seconded by Councilmember Hayden, to appoint Lee Scheele, Jr. as Member to the Budget Review Committee (term expires 2/3/2024).

Council polled as follows: Welsh, Cosden, Gunter, Hayden, Nelson, and Sheppard voted "aye." Six "ayes." Motion carried 6-0.

Discussion held regarding the advertisement.

Councilmember Welsh moved, seconded by Councilmember Nelson, to pick from our current applicants tonight to fill the vacancy of the alternate (for the Budget Review Committee).

Council polled as follows: Welsh, Cosden, Gunter, Hayden, Nelson, and Sheppard voted "aye." Six "ayes." Motion carried 6-0.

Council polled as follows for the alternate position: Welsh – Safranek, Cosden – Safranek, Gunter – Shadrach, Hayden – Shadrach, Nelson – Safranek, Sheppard – Shadrach

City Clerk Bruns announced the tally, three each for Safranek and Shadrach.

Council polled again as follows: Welsh – Safranek, Cosden – Safranek, Gunter – Shadrach, Hayden – Shadrach, Nelson – Safranek, Sheppard – Shadrach

City Clerk Bruns announced the tally, three each for Safranek and Shadrach.

Mayor Gunter voiced his concern about taking an individual who has applied for both positions. If that individual is appointed at a later time to the Council seat, then we can revisit appointing the alternate. He would not want to penalize him for consideration just because he is an applicant for the District 1 position.

Councilmember Welsh asked about the time remaining for the alternate position.

Mayor Gunter stated if Council so desires, Council can wait to fill the alternate position until the District 1 seat is appointed.

City Clerk Bruns noted that the alternate seat would expire on 9/21/21.

Councilmember Nelson moved, seconded by Councilmember Welsh, to table this item (the BRC alternate until after the District 1 vacancy is filled).

Council polled as follows: Welsh, Cosden, Gunter, Hayden, Nelson, and Sheppard voted "aye." Six "ayes." Motion carried 6-0.

Golf Course Advisory Board - 2 Vacancies

Interviews

Duane John Hord – present

David Kenney – present – seeking re-appointment

City Clerk Bruns stated there were two applicants for two vacancies for terms that expired on 12/31/2020 on the Golf Course Advisory Board.

Councilmember Nelson moved, seconded by Councilmember Hayden, to re-appoint David Kenney as Member and appoint Duane John Hord as Member on the Golf Course Advisory Board (term expires 2/3/2023).

Council polled as follows: Welsh, Cosden, Gunter, Hayden, Nelson, and Sheppard voted "aye." Six "ayes." Motion carried 6-0.

Florida Municipal Insurance Trust Board Nomination
– Brought forward by Mayor Gunter

Mayor Gunter announced that there was an opening on this particular Board previously held by former Mayor Sawicki. He volunteered to be on this Board and opened it up for discussion or nomination.

Councilmember Nelson moved, seconded by Councilmember Sheppard, to nominate (select) Mayor Gunter to the Florida Municipal Insurance Trust Board.

Council polled as follows: Welsh, Cosden, Gunter, Hayden, Nelson, and Sheppard voted "aye." Six "ayes." Motion carried 6-0.

ORDINANCES/RESOLUTIONS

Public Hearings

Ordinance 4-21 (LU 20-0007) Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Comprehensive Plan by amending the Future Land Use Map from Commercial/Professional (CP) to Single-Family Residential (SF) land use for property described as Block 4276, Lots 1-9 and 50-59, Cape Coral Subdivision, Unit 61; property is located at 3215-3227 Gulfstream Parkway and 3216-3240 NW 16th Terrace. (Applicant: City of Cape Coral) (2.29 acres)

Planning and Zoning Recommendation: Approval

Community Development Department Recommendation: Approval

City Clerk Bruns read the title of the Ordinance.

Planning Team Coordinator Daltry explained what this Ordinance would accomplish and displayed the following slides:

- Ordinance 4-21 (LU 20-0007)
- Background
- Site (map)
- Aerial Map and Current Zoning Map
- Current Future Land Use Map and Proposed Future Land Use Map
- History
- Comprehensive Plan Analysis
- Conclusion: Staff and P&Z recommends approval
- Correspondence: none

Public Hearing Opened.

Leslie Faccilonga appeared in support of Ordinance 4-21. She noted that Staff did a great job explaining why these parcels should go back to Residential.

Bernard Faccilonga appeared in support of Ordinance 4-21.

Public Hearing Closed.

Councilmember Cosden moved, seconded by Councilmember Hayden, to adopt Ordinance 4-21, as presented.

Councilmember Sheppard requested the aerial map be displayed. He pointed out how services will be needed in this area once it is built out. He voiced his concern about a future Council trying to make Residential into Commercial because of needs in the neighborhood. He stated he was at the P&Z meeting and the decision the Board made was based on today, not tomorrow. He opined it should be kept Commercial.

Councilmember Welsh asked why these seven parcels were selected. Commercial space was so limited. Was it ever considered to possibly only change the four lots closest to the current house and leaving those other three lots Commercial?

Planning Team Coordinator Daltry explained that when they first looked at this Amendment, they looked at a variety of ways to basically draw the line. They used NW 32nd Place which is the north/south local street that runs parallel to Burnt Store Road as a logical limit and the reason why those seven properties were identified. He believed Council could remove some properties from consideration. He deferred to the City Attorney.

Councilmember Welsh noted that as we allow Multi-Family to come in, it will be more difficult for Commercial later on. He did not want Residential to be surrounded by Commercial developers, noting that it would take ten years before someone comes into this area to do that. He did not want to give up our Commercial space but was looking for the ability to keep that pie-shaped lot and the other two as Commercial.

City Attorney Menendez responded to the question that Councilmember Welsh raised. Is this an all or nothing Future Land Use Map Amendment? No, it is not. There should be a logical rationale to remove certain parcels and would not want to leave an interior parcel land use differently than everything around it.

DCD Director Cautero discussed the Comprehensive Land Amendments coming forth in the future. He stated that the Citizens that appeared today were the owners of the property and at this time they cannot make improvements on their property. He suggested keeping the Amendment.

Councilmember Cosden stated she understood the comments presented by the Councilmembers. She would fully support the Ordinance.

Councilmember Sheppard stated that his goal was to protect the Resident. He opined that the parcels on the Parkway should remain Commercial. There could be a large Commercial project on this L-shaped parcel with the entrance on the Parkway instead of on Burnt Store Road. He questioned the future with drivers pulling into properties on Burnt Store Road. He suggested to find a remedy and protect the Citizens with their investment.

Councilmember Nelson stated that the only way to protect the Resident would be to move forward to adopt the Ordinance and make it Residential.

Mayor Gunter stated that there was an obligation to protect the Resident but also protect the Commercial parcels. He suggested the one irregular lot and the other two lots on Gulfstream Parkway to remain Commercial; the other four parcels should stay Residential.

Councilmember Sheppard agreed with the Mayor. He inquired about entrances to Commercial establishments on high speed roads and issues with property depth.

Planning Team Coordinator Daltry explained that Burnt Store Road is a County roadway with some restrictions on driveways. He stated he would need to contact the County DOT to get the information and provide it to Council. He noted that the standard full block depth was 250 feet.

Councilmember Welsh inquired about how to move forward with this item.

City Attorney Menendez stated there was a motion to approve on the floor. She asked the motion maker, Councilmember Cosden, if she wanted to amend her motion.

Councilmember Cosden responded no.

Mayor Gunter stated if there was no further discussion, the roll should be called on that particular motion and then move forward from there.

Council polled as follows: Cosden, Hayden, and Nelson voted "aye." Welsh, Gunter, and Sheppard voted "nay." Three "ayes." Three "nays." Motion failed 3-3.

Councilmember Welsh moved to adopt the Ordinance 4-21, as amended, keeping the three properties mentioned as Commercial and the four properties surrounding the current Single-Family Residential home be rezoned to either Single Family or Multi-Family whichever was proposed before us.

City Manager Hernandez asked Planning Team Coordinator Daltry to identify the Lots in order to avoid confusion between Staff and the public. Which Lots are Councilmember Welsh proposing to move over to Commercial and which ones would stay Residential?

Planning Team Coordinator Daltry understood that Council was considering Lots 8 and 9 Block 4276, and the two parcels on Gulfstream Parkway, Lots 50 and 51 and 52 and 53 of Block 4276. They would be the three easternmost parcels which are adjacent to the existing Commercial/Professional that is not under consideration.

Councilmember Welsh responded in the affirmative.

Councilmember Sheppard seconded the motion.

City Attorney Menendez commented that specific properties needed to be noted as to which ones are staying Commercial and those to be changed to Residential.

Councilmember Cosden asked if this was less than an acre.

Planning Team Coordinator Daltry stated the area to be removed was less than an acre. The remaining area that we would be changing to Residential would be slightly over an acre.

Councilmember Cosden questioned if Council was overriding and disagreeing with Staff's and P&Z's recommendations to remove less than an acre. She would support this Ordinance.

Councilmember Sheppard stated if Commercial was to be developed here, a large area would be needed for rainwater. Most likely, that triangular lot on the interior road may end up as greenspace. He opined that it would not be a hardship for the Resident to remove those three lots because there would probably never be a Commercial structure there.

Councilmember Hayden inquired how many acres was zoned Commercial as shown in red on the Current Zoning Map.

Planning Team Coordinator Daltry stated if the considered properties were to be removed, it would be approximately five on one block and another five or six on the block south of it. There were no plans on any Future Land Use Map to change that over to Residential.

City Clerk Bruns restated the motion: ***To approve Ordinance 4-21, as amended, Lots 8 and 9, Block 4276, Lots 50 and 51, Block 4276, and Lots 52 and 53, Block 4276 to remain Commercial/Professional.***

Planning Team Coordinator Daltry confirmed those were the correct lots.

City Attorney Menendez asked Mr. Daltry what lots would be going to Single Family Residential since that is what the Ordinance would be approving.

Planning Team Coordinator Daltry stated if the motion as stated is adopted, the change would involve Lots 1-7 and 54-59, Block 4276, as being changed from Commercial/Professional to Single Family Residential.

City Attorney Menendez asked the motion maker if that was his intent.

Councilmember Welsh questioned if it was originally Single Family and not Multi-Family.

Planning Team Coordinator Daltry stated prior to being Commercial it was both Single Family and Multi-Family.

Councilmember Welsh agreed to the motion as read.

The second, Councilmember Sheppard, agreed, to taking off the three lots.

Discussion held regarding what happens if the motion fails.

Council polled as follows: Welsh, Cosden, Gunter, Hayden, and Sheppard voted "aye." Five "ayes." Motion carried 5-0.

Ordinance 5-21 (LU 20-0008) Public Hearing for Transmittal

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Comprehensive Plan by amending the Future Land Use Map from Commercial/Professional (CP) to Mixed Use (MX) land use for property described as Lots 35-47, Block 2175, Lots 1-49, Block 2176, and Lots 1-21, Block 2177, all in Unit 32, Cape Coral Subdivision, and a tract or parcel of land lying in Section 30, Township 43 South, Range 24 East, Lee County, Florida; property is located at 1009-1527 Kismet Parkway East and 2500 Del Prado Boulevard North. (Applicant: City of Cape Coral) (182.09 acres)

Planning & Zoning Recommendation: Approval

Community Development Department Recommendation: Approval

City Clerk Bruns read the title of the Ordinance.

Planning Team Coordinator Daltry explained what this Ordinance would accomplish and displayed the following slides:

- Ordinance 5-21 (LU 20-0008)
- Background
- Site (map)
- Aerial Map and Current Zoning Map
- Current Future Land Use Map and Proposed Future Land Use Map
- History
- Comprehensive Plan/LUDR Analysis
- Conclusion: Staff and P&Z recommends approval

Public Hearing Opened.

No speakers.

Public Hearing Closed.

Councilmember Cosden moved, seconded by Councilmember Hayden, to adopt Ordinance 5-21 (for transmittal), as presented.

Councilmember Cosden inquired about the environmental concerns and if they remain the same.

Planning Team Coordinator Daltry stated that the concerns would remain the same, and there are still requirements for review by the Florida Department of Environmental Protection, as well as Florida Fish and Wildlife, regardless of it being Commercial, Public Facilities, or Industrial.

Councilmember Hayden stated that this property has had several zoning changes. He opined that this change may entice development interest.

Council polled as follows: Welsh, Cosden, Gunter, Hayden, Nelson, and Sheppard voted "aye." Six "ayes." Motion carried 6-0.

Ordinance 8-21 Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

The ordinance amends the City of Cape Coral Code of Ordinances, Chapter 12, "Offenses and Miscellaneous Provisions", by creating Article XIV, "Residential Rental Property", Section 12-129, pertaining to the registration of residential rental property in the City of Cape Coral; provides for purpose and intent; provides for definitions; provides for registration of residential rental property required; and provides for enforcement and penalties. (Applicant: Brought forward by City Management)

City Clerk Bruns read the title of the Ordinance.

City Manager Hernandez requested that this item be continued to March 3, 2021 as there has been new information presented to City Management and Staff. He noted that any Citizen who speaks today at the Public Hearing will not be able to speak on the continued date.

Councilmember Cosden agreed with continuing the item. She clarified that the Residents present will not be allowed to speak again on March 3, 2021.

Public Hearing Opened.

Gloria Tate inquired if this will be brought back again and ask for Public Input again. She questioned wasn't this a Final Hearing tonight.

City Manager Hernandez stated it would be brought back. He noted it would be continued because of some additional information. It may come back in the same form, it may not, there may be some revisions. He asked for the opportunity to look at the information submitted to Staff and then re-advertise again.

Ms. Tate questioned why it would not be withdrawn. She stated she was present in support of it and noted she would not speak tonight if there were changes.

City Manager Hernandez explained that if the item is withdrawn, it would have to be re-introduced. He requested that this item be continued.

Ms. Tate withdrew her comments from Government Affairs from the Chamber of Commerce and the Chamber Board. She stated they would respectfully wait until the Ordinance is revised.

City Manager Hernandez stated typically Staff is allowed the opportunity to provide an overview of the item which may address some of the public's issues. He noted that would not be done tonight since there may be some changes when it comes back on March 3, 2021.

City Attorney Menendez explained the process of changing an Ordinance.

City Manager Hernandez stated that Council could adopt the Ordinance as written or continue to a date certain. Staff wanted the opportunity to review information submitted by the public as part of e-comments.

Councilmember Nelson recommended tabling this item.

Mayor Gunter inquired if the request for continuance could have been done during the Adoption of the Agenda.

City Attorney Menendez stated that if Council asked for a continuance outside of the Public Hearing, then it would have to be re-advertised. If Council decided not to continue and treat this as withdrawn, it would need an Introduction and Public Hearing.

Mayor Gunter suggested that in the beginning of the meeting the intentions should be stated to avoid having Residents wait. He asked if there was a motion to table this.

Councilmember Nelson moved, seconded by Councilmember Cosden, to table Ordinance 8-21.

Councilmember Hayden stated that the main points of concern from the e-comments were who would be responsible for the fee, the tenant or property owner and where this information could be found already. He inquired about the reason for the continuance.

City Manager Hernandez explained the reason for the request for continuance. There was some correspondence provided by a trade organization that stated that the City might be pre-empted in applying a registration requirement to Multi-Family Developments with five or more units. The City Attorney's Office requested more time to review the Statute.

Ms. Tate stated that there were several people who have given their position to Staff. She requested that her position be withdrawn as they did not know the possible changes.

Unidentified Speaker wanted to reiterate the comments of the Chamber of Commerce. He requested that their position be withdrawn.

Marsha Lehman commented about the change of the atmosphere with the short-term rentals. She discussed the fee structure, registration requirements, and challenges to enforce the violators.

Ken Karot commented that vacation rentals have gotten out of hand in Cape Coral. He discussed the enforcement issues and rental advertisements. He suggested that the City review and adopt regulations based on Monroe County's laws and ordinances.

Ashley Simonelli appeared to discuss the fee portion of the Ordinance as the timing was not right. She stated that she was a member of the Southwest Florida Chapter of the National Association of Property Managers who have submitted proposed changes for review.

Ed Music stated he owned long-term rentals in the City and that this Ordinance should not affect those landlords since this was a vacation rental/short-term rental issue.

Public Hearing Closed.

Mayor Gunter noted there was a motion on the table to continue this hearing.

City Clerk Bruns stated the motion on the floor is to table Ordinance 8-21, and there was a second.

City Attorney Menendez understood that Council would make a motion to continue this Public Hearing until March 3, 2021. Tabling and continuing are two different things. Tabling removes this indefinitely. If it is Council's intention to see it again on March 3, 2021, a motion to continue would be needed.

Councilmember Nelson had no issue changing her motion from tabling to continuance as long as the research would be completed by March 3, 2021.

City Attorney Menendez stated it was not a matter of it not being able to come back by March 3rd. She explained that there are parameters for amending an Ordinance when there is a continuance to a date certain.

Councilmember Nelson inquired if the Ordinance mirrored any other local Cities.

City Attorney Menendez stated her Staff works closely with DCD Staff. She recalled that there were not any that are based on those immediately adjacent to our City. She understood that the Ordinance was more modeled on ones that are in the State and not our specific region.

Councilmember Nelson stated if Council agreed with her, she wanted her motion to stay as tabled so that we are not limited to the parameters. If the majority disagrees with her, she will go along with the majority.

Councilmember Welsh inquired about withdrawing the Ordinance and having it introduced on the 17th with voting on the 3rd.

City Attorney Menendez stated she did not want to commit to the 17th without knowing the details of the possible changes.

Councilmember Welsh would be in agreement for withdrawing the item. He stated that this would be a registry for contact purpose. He opined that the item could be introduced at a later date.

Councilmember Hayden inquired about the motion and whether it was for tabling or continuing.

City Clerk Bruns restated the motion: ***Councilmember Nelson moved, seconded by Councilmember Cosden, to table Ordinance 8-21.***

City Attorney Menendez understood that Council would like to see it back as soon as possible to be re-introduced as early as February 17th. Continuing this Ordinance would put this Ordinance back on the Public Hearing for March 3, 2021, if Council so chooses. Continuing to a date certain would avoid another Introduction.

Mayor Gunter inquired if the Ordinance would be tabled, could the individuals who spoke tonight speak again at the next Public Input.

City Attorney Menendez opined that they would be able to speak again even though it is generally true that people do not get to speak again if we continued it to a date certain. If there had been any changes made in the meantime, then Council could always allow people to speak to the specific change that was made.

Councilmember Sheppard was not in agreement with tabling the Ordinance.

Councilmember Nelson stated that by tabling the Ordinance this would provide the opportunity to do due diligence.

Mayor Gunter agreed with tabling the Ordinance.

City Manager Hernandez requested that if this is not tabled that the Ordinance be withdrawn. It will be brought back.

Motion maker and second agreed to amend the motion to withdraw Ordinance 8-21.

Council polled as follows: Welsh, Cosden, Gunter, Hayden, Nelson, and Sheppard voted "aye." Six "ayes." Motion carried 6-0.

Recessed at 7:01 p.m. and reconvened at 7:21 p.m.

Ordinance 6-21 Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

The Ordinance approves the sale of municipal surplus real property described as Lots 48 and 49, Block 5464, Unit 90, Cape Coral Subdivision, Pursuant to Section 2-155 of the City of Cape Coral Code of Ordinances and authorizes and directs the Mayor and Clerk to execute a deed conveying the aforementioned surplus real property located at 3731 NW 43rd Avenue to TSAVO Group, Inc. (Applicant: Brought forward by City Management) NOTE: The purchase price is \$50,000.00.

City Clerk Bruns read the title of the Ordinance.

Property Broker Andrews explained what this Ordinance would accomplish and displayed a slide on the location.

Public Hearing Opened.

No speakers.

Public Hearing Closed.

Councilmember Cosden moved, seconded by Councilmember Welsh, to adopt Ordinance 6-21, as presented.

Council polled as follows: Welsh, Cosden, Gunter, Hayden, Nelson, and Sheppard voted "aye." Six "ayes." Motion carried 6-0.

Ordinance 7-21 Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

The Ordinance approves the sale of municipal surplus real property described as Lots 50 and 51, Block 5464, Unit 90, Cape Coral Subdivision, Pursuant to Section 2-155 of the City of Cape Coral Code of Ordinances and authorizes and directs the Mayor and Clerk to execute a deed conveying the aforementioned surplus real property located at 3727 NW 43rd Avenue to TSAVO Group, Inc. (Applicant: Brought forward by City Management) NOTE: The purchase price is \$50,000.00.

City Clerk Bruns read the title of the Ordinance.

Property Broker Andrews explained what this Ordinance would accomplish and displayed a slide on the location.

Public Hearing Opened.

No speakers.

Public Hearing Closed.

Councilmember Welsh moved, seconded by Councilmember Cosden, to adopt Ordinance 7-21, as presented.

Council polled as follows: Welsh, Cosden, Gunter, Hayden, Nelson, and Sheppard voted "aye." Six "ayes." Motion carried 6-0.

Ordinance 9-21 Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

The Ordinance approves the sale of municipal surplus real property described as Lots 40 and 41, Block 4226, Unit 60, Cape Coral Subdivision, Pursuant to Section 2-155 of the City of Cape Coral Code of Ordinances and authorizes and directs the Mayor and Clerk to execute a deed conveying the aforementioned surplus real property located at 902 NW 37th Place to Dennis Dobrunoff and Ekaterina Dobrunoff. (Applicant: Brought forward by City Management) NOTE: The purchase price is \$89,500.00.

City Clerk Bruns read the title of the Ordinance.

Property Broker Andrews explained what this Ordinance would accomplish and displayed a slide on the location.

Public Hearing Opened.

No speakers.

Public Hearing Closed.

Councilmember Welsh moved, seconded by Councilmember Hayden, to adopt Ordinance 9-21, as presented.

Council polled as follows: Welsh, Cosden, Gunter, Hayden, Nelson, and Sheppard voted "aye." Six "ayes." Motion carried 6-0.

Ordinance 10-21 Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance approving the sale of municipal surplus real property described as Lots 44 and 45, Block 5464, Unit 90, Cape Coral Subdivision, pursuant to Section 2-155 of the City of Cape Coral Code of Ordinances; authorizing the directing the Mayor and City Clerk to execute a deed conveying the aforementioned surplus real property located at 3801 NW 43rd Avenue to TSAVO Group Inc. (Applicant: Brought forward by City Management.) NOTE: The purchase price is \$50,000.00.

City Clerk Bruns read the title of the Ordinance.

Property Broker Andrews explained what this Ordinance would accomplish and displayed a slide on the location.

Public Hearing Opened.

No speakers.

Public Hearing Closed.

Councilmember Welsh moved, seconded by Councilmember Hayden, to adopt Ordinance 10-21, as presented.

Council polled as follows: Welsh, Cosden, Gunter, Hayden, Nelson, and Sheppard voted "aye." Six "ayes." Motion carried 6-0.

Ordinance 11-21 Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance approving the sale of municipal surplus real property described as Lots 40 and 41, Block 5464, Unit 90, Cape Coral Subdivision, pursuant to Section 2-155 of the City of Cape Coral Code of Ordinances; authorizing and directing the Mayor and City Clerk to execute a deed conveying the aforementioned surplus real property located at

3809 NW 43rd Avenue to Tax & Financial Consulting, Inc. (Applicant: Brought forward by City Management.) NOTE: The purchase price is \$50,000.00.

City Clerk Bruns read the title of the Ordinance.

Property Broker Andrews explained what this Ordinance would accomplish and displayed a slide on the location.

Public Hearing Opened.

No speakers.

Public Hearing Closed.

Councilmember Welsh moved, seconded by Councilmember Hayden, to adopt Ordinance 11-21, as presented.

Council polled as follows: Welsh, Cosden, Gunter, Hayden, Nelson, and Sheppard voted "aye." Six "ayes." Motion carried 6-0.

Councilmember Sheppard discussed the removal of the bridge near 902 NW 37th Place from Ordinance 9-21. Removing that bridge if it was in bad shape instead of replacing it would not create a safety problem for any of the nearby homes.

Councilmember Welsh inquired about property values in the area with removing that bridge.

Property Broker Andrews stated that she would need to review the comps in the area to provide information.

Introductions

Resolution 19-21 (VP 20-0012*) Set Public Hearing for February 17, 2021

*Quasi-Judicial, All Persons Testifying Must be Sworn In

WHAT THE RESOLUTION ACCOMPLISHES:

A resolution providing for the vacation of plat for an alley right-of-way located between Lots 1-29 and Lots 30-58, Block 4406, Cape Coral Unit 63; providing for the vacation of plat for the easements underlying the alley right-of-way located between Lots 1-6 and Lots 53-58, Block 4406, Cape Coral Unit 63; providing for the vacation of plat for public utility and drainage easements associated with Lots 1-6 and Lots 53-58, Block 4406, Cape Coral Unit 63; property located east of Chiquita Boulevard, south of SW 20th Street, west of SW 15th Place, and north of SW 22nd Street. (Applicant: City of Cape Coral)

Hearing Examiner Recommendation: Approval with conditions in VP HEX

Recommendation 13-2020

Community Development Department Recommendation: Approval with conditions

City Clerk Bruns read the title of the Resolution.

The public hearing was scheduled for February 17, 2021 in Council Chambers.

Ordinance 12-21 Set Public Hearing for February 17, 2021

WHAT THE ORDINANCE ACCOMPLISHES:

The ordinance amends the City of Cape Coral Code of Ordinances, Chapter 2, Administration, Article VI, Pensions, Division 3, General Employees Pension, Section 2-123.1, Definitions, Section 2-123.2, Membership, Section 2-123.5, Contributions, Section 2-123.7, Death Benefits, Section 2-123.15, Miscellaneous Provisions, Section 2-123.23, Military Service Prior to Employment, Section 2-234.24, Deferred Retirement Option Plan, Section 2-123.25, Purchase of Nonqualified Service Credit, and Section 2-123.26, Prior Government Service. (Applicant: Brought forward by the General Pension Board)

City Clerk Bruns read the title of the Ordinance.

The public hearing was scheduled for February 17, 2021 in Council Chambers.

Ordinance 13-21 Set Public Hearing for February 17, 2021

WHAT THE ORDINANCE ACCOMPLISHES:

The ordinance amends Ordinance 74-20, which adopted the City of Cape Coral operating budget, revenues and expenditures, and capital budget for Fiscal Year 2021, by increasing the total revenues and expenditures by a total of \$2,806,877. (Applicant: Brought forward by City Management.)

City Clerk Bruns read the title of the Ordinance.

The public hearing was scheduled for February 17, 2021 in Council Chambers.

UNFINISHED BUSINESS

Follow Up Items for Council

None.

Selection Process for Filling District 1 Council Vacancy – Brought forward by Mayor Gunter (moved after Citizen's Input)

NEW BUSINESS

None.

REPORTS OF THE MAYOR AND COUNCIL MEMBERS

Councilmember Welsh – Topics: Attended the Chairman's Gala hosted by the Chamber of Commerce and met non-profit leaders. He questioned special events permits being on hold until April. He presented some research about the prior Parks Advisory Board from 2005. He requested a second to work with the City Attorney's Office on an Ordinance to create a Parks Advisory Board. Councilmember Sheppard provided the second.

Councilmember Williams – Excused

Councilmember Cosden – Topics: No report.

Councilmember Hayden – Topics: Discussed an employee arrested for embezzlement at FSW who also worked for the Charter School. He suggested auditing the Charter School system and that the Mayor has instructed the City Auditor to do a comprehensive audit of the Charter School system.

Councilmember Nelson – Topics: Attended the opening of the Homeless Resource Center in Fort Myers this past week. She will have more information to share after the Homeless Task Force meeting later this month.

Councilmember Sheppard – Topics: Requested a second to research Public Safety and EMS with Staff. Councilmember Nelson provided the second. He witnessed that an applicant with superior credentials was not selected for a seat at a recent Board meeting. He suggested that the Boards should have term limits to allow fresh minds to allow the opportunity for different viewpoints and knowledge. He requested permission to work with Staff to research maps to point out possible advantages of opportunities to remove bridges that would increase value to properties and would not impede on safety. Councilmember Cosden provided the second.

Mayor Gunter – Topics: Attended teleconference meetings with all Lee County Mayors and County Commissioner Ruane on updates on the vaccination efforts in Lee County. He discussed the challenge with the availability of the vaccines. This past week Lee

County received 2,800 vaccines. Publix is still getting 200 doses per store; there are 17 stores, allocated 3,400 this week. Last week the State received 186,000 doses, this week 203,000. Tomorrow, the site at RSW could accommodate at least 10,000 vaccines. There is 98% for the second shots. The efforts should improve in the coming weeks. Last Thursday, January 21st, he attended the SWFLC meeting and CCCIA meeting. On Friday, January 22nd, he attended the MPO meeting and the Youth Council Meeting. On Monday, January 25th, he attended a ribbon cutting for a business on Del Prado through the Chamber of Commerce. On Wednesday, January 27th, he was a guest speaker at the Biz Chat meeting. On Friday, January 29th, along with Councilmembers Hayden and Welsh, he attended the Chamber of Commerce Chairman's Gala. On Monday, February 1st, he had a meeting with the City Manager and the Fire Chief to discuss an update on the medical service program in our community. On Tuesday, February 2nd, he attended the Third Annual Ground Owl Day Festival and the CRA meeting in the afternoon. He noted that he has directed the City Auditor to conduct an audit involving the Charter School with the report forthcoming to Council.

REPORTS OF THE CITY ATTORNEY AND CITY MANAGER

City Attorney: Topics: The City is a party to a lawsuit entitled Matlacha Civic Association versus City of Cape Coral, Case #17-CA-000123. Pursuant to Section 286.011, subsection 8 of the Florida Statutes, she requested that the City Council convene in a closed Attorney Client Session to discuss settlement negotiations. If Council concurs, the session can be scheduled for Monday, February 8, 2021, at 3:00 p.m.

Discussion held regarding schedules with a preference on a later time.

Consensus agreed, with no objections, to schedule the meeting at 4:00 p.m.

City Manager: Topics: No Report.

Water Quality - Update

Public Works Director Clinghan provided the Water Quality Update. He discussed the following:

- Lake Okeechobee is approximately 2 feet higher than last year at this time
- Army Corps of Engineers are going to double the flow out of the Lake into the Caloosahatchee from 1,000 cfs to 2,000 cfs
- The past month Blue Green Algae has not been observed on Lake Okeechobee, the Caloosahatchee, or in Cape Coral
- There are still patchy blooms of Red Tide in Collier and Lee Counties at low to medium concentrations

COVID-19 Update

City Manager Hernandez addressed the comments made earlier regarding the inconsistencies of special events permits. He stated they would make the appropriate adjustments. He explained that when we entered into the second wave of the pandemic, our general position was that we were going to shy away from authorizing special events where there would be large congregations of people on City-owned property.

Fire Chief Lamb discussed the Cape Coral Emergency Operations Center COVID-19 Data and Surveillance Dashboard:

- Comparison of Information between State, County, and City
- Rates of Positive and Negative Tests
- New cases per week and average
- Lee Health System – Last 14 Days and 30 Days views
- Hospitals and Death Counts – downward
- Cultural Park Blvd Test Site Tests by Day
- Rate of Positivity Rate for New Cases
- Testing Availability – 24 hours results

- Vaccination process: additional pharmacies receiving vaccines
- Continuing to see Private Public Partnerships
- Action Council took tonight will allow flu vaccinations at the site across the street
- There will be another action coming before Council to enter into a more formal agreement for COVID-19 vaccinations possibly at the next meeting

Councilmember Hayden inquired about confirmed cases related to the new strains.

Fire Chief Lamb stated that he has seen cases in the County, and the vaccines would work against the mutations. He encouraged the continuance of washing hands, wearing masks, and social distancing.

Parks and Recreation Director Runyon discussed the special events held by the City and the permit process for outside events. The processes for other events require lists of compliance including Fire and Police. She discussed the application and review process for the events, and several have postponed events to 2022. The City has postponed the Jazz Festival and Bike Nights due to the pandemic. There have not been many events at this time and many organizations have canceled their events.

Councilmember Welsh inquired about the City events being based upon the health and safety of the Parks and Rec Staff.

City Manager Hernandez clarified that there are various Staff available from different departments for City-sponsored events until COVID-19 becomes more manageable.

Councilmember Welsh stated he wanted the public to be made aware that special events permits are not being denied and that the City is working with organizers on the events.

Director Runyon stated Parks and Rec Staff loves to go out and support these special events, and discussions are held with the organizers to get their direction.

Councilmember Welsh inquired about when smaller events could be entertained.

Fire Chief Lamb responded that by the summertime and into the fall he was hopeful that we would be in a much better situation. The rate of contagion and contraction is much less outdoors. The activities outside such as the 5K Run have individuals spaced out and have a much lower risk. The Holiday Festival of Lights this past year was scaled back, so events can still happen, but to do them smart and safely.

TIME AND PLACE OF FUTURE MEETINGS

An Attorney-Client Session Special Meeting was scheduled for Monday, February 8, 2021 at 4:00 p.m.

A Committee of the Whole Meeting was scheduled for Wednesday, February 10, 2021 at 4:30 p.m. in Council Chambers.

A Regular Meeting of the Cape Coral City Council was scheduled for Wednesday, February 17, 2021 at 4:30 p.m. in Council Chambers.

MOTION TO ADJOURN

There being no further business, the meeting adjourned at 8:13 p.m.

Submitted by,



Kimberly Brunis, CMC
City Clerk