

Item Number:	B.(1)
Meeting Date:	5/14/2018
Item Type:	ORDINANCES/RESOLUTIONS - Introductions

**AGENDA
REQUEST FORM
CITY OF CAPE
CORAL**



TITLE:

Ordinance 36-18 Set Public Hearing Date for June 11, 2018

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision?
 If Yes, Priority Goals Supported are listed below.
 If No, will it harm the intent or success of the Strategic Plan?

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

An ordinance amending the City of Cape Coral Code of Ordinances, Chapter 2, Administration, Article II, Fees, by establishing Division 9, Impact Fee Deferral Pilot Program; providing definitions; establishing a Single-Family Impact Fee Deferral Program; providing program eligibility and procedures; requiring developer agreements; requiring owner agreements; providing for expiration or extension of the Impact Fee Pilot Program.

LEGAL REVIEW:

Brian R. Bartos, Assistant City Attorney

EXHIBITS:

- Ordinance 36-18
- Staff Presentation from 3/27/2017 Committee of the Whole meeting
- Memo from 3/27/2017 Committee of the Whole meeting
- June 5, 2017 Regular Meeting Minutes

PREPARED BY:

Division- Department- City

Attorney

SOURCE OF ADDITIONAL INFORMATION:

Amy Yearsley, Housing Coordinator

ATTACHMENTS:

Description	Type
▣ Ordinance 36-18	Ordinance
▣ Staff presentation - Cow backup 3/27/2017	Backup Material
▣ Memo - COW backup 3/27/2017	Backup Material
▣ 6/5/2017 Regular Meeting Minutes	Backup Material

ORDINANCE 36 - 18

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL CODE OF ORDINANCES, CHAPTER 2, ADMINISTRATION, ARTICLE II, FEES, BY ESTABLISHING DIVISION 9, IMPACT FEE DEFERRAL PILOT PROGRAM; PROVIDING DEFINITIONS; ESTABLISHING A SINGLE-FAMILY IMPACT FEE DEFERRAL PROGRAM; PROVIDING PROGRAM ELIGIBILITY AND PROCEDURES; REQUIRING DEVELOPER AGREEMENTS; REQUIRING OWNER AGREEMENTS; PROVIDING FOR EXPIRATION OR EXTENSION OF THE IMPACT FEE PILOT PROGRAM; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Cape Coral desires to encourage and support the development of affordable single-family owner-occupied housing within the city; and

WHEREAS, City of Cape Coral Comprehensive Plan goals include providing good quality housing in safe, clean neighborhoods, offering a broad choice of options in both types (single family and multi-family) and tenure (owner and renter occupied) to meet the needs of present and future residents of the City, regardless of age or income status; and

WHEREAS, the City of Cape Coral Affordable Housing Incentive Plan identified impact fees as an impediment to the development of affordable housing; and

WHEREAS, the City Council finds that the health, safety, and welfare of the city will be enhanced by providing programs to encourage the development of these types of housing units.

NOW, THEREFORE, THE CITY OF CAPE CORAL, FLORIDA, HEREBY ORDAINS THIS ORDINANCE AS FOLLOWS:

SECTION 1. The City of Cape Coral Code of Ordinances, Chapter 2, Article II, Division 9, is hereby established as follows:

DIVISION 9 – Impact Fee Deferral Pilot Program

§ 2-24.50. Purpose and intent.

It is the purpose of this article to encourage and support the development of affordable housing by implementing an impact fee pilot program.

§ 2-24.51. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings set forth herein, except where the context clearly indicates a different meaning.

- (a) "Extremely low income families" means families whose incomes do not exceed 35 percent of the median income for the area as determined by the Secretary of the U.S. Department of Housing and Urban Development.
- (b) "Very low income families" means families whose incomes do not exceed 50 percent of the median income for the area as determined by the Secretary of the U.S. Department of Housing and Urban Development.
- (c) "Low income families" means families whose incomes are more than 50 percent but do not exceed 80 percent of the median income for the area as determined by the Secretary of the U.S. Department of Housing and Urban Development.
- (d) "Moderate income families" means families whose incomes are more than 80 percent but do not exceed 120 percent of the median income for the area as determined by the Secretary of the U.S. Department of Housing and Urban Development.

§ 2-24.52. Single-Family Impact Fee Deferral Pilot Program.

- (a) Purpose and Intent. The Single-Family Impact Fee Deferral Pilot Program is intended to encourage the provision of new units of owner-occupied affordable housing within the City of Cape Coral by providing for deferral of payment of City imposed fees on qualifying units of affordable housing. This program is intended to further the affordable housing goals and objectives in the Housing Element of the City's Comprehensive Plan.
- (b) Applicability. The Single-Family Impact Fee Deferral Program is limited to not-for-profit entities acting as developers who participate in the City of Cape Coral's Affordable Housing Programs and that are approved by the Department of Community Development.
- (c) Impact fees not subject to Single-Family Impact Fee Deferral Pilot Program. Utility capital expansion fees and impact fees collected on behalf of Lee County are not subject to this pilot program. The deferral of an impact fee under this article shall not in any way result in a refund of previously paid impact fees or previously paid impact fee installment payments.
- (d) Eligible dwelling unit categories. Agreements for the deferral of impact fees under this section may only be approved for single-family units.
- (e) Qualifying owner-occupied dwelling. To qualify for an affordable housing impact fee deferral, an owner-occupied dwelling unit must meet all the following criteria:
 - (1) The owner(s) or anticipated owner(s) of the dwelling unit must have an extremely low, very low, low, or moderate income level, as defined in Section 2-24.51, at the time of final execution by the City of the Owner's Impact Fee Deferral Agreement.
 - (2) The monthly mortgage payment, including taxes and insurance, must not exceed 30 percent of that amount which represents the percentage of the median annual gross income for the applicable household category as indicated in Section 2-24.51. However, it is not the intent to limit an individual household's ability to devote more than 30 percent of its income for housing, and housing for which a household devotes more than 30 percent of its income shall be deemed affordable if the first institutional mortgage lender is satisfied that the household can afford mortgage payments more than the 30 percent benchmark.
 - (3) Once the property has been transferred from the developer to the owner(s), the dwelling unit must be the homestead of the owner(s). The owner must apply for and be granted a homestead tax exemption pursuant to Chapter 196, Florida Statutes, for the next available tax year.
 - (4) The owner(s) of the dwelling unit must be at least 18 years of age and must be either citizen(s) of the United States or be legal alien(s) who permanently reside in the United States. Proof of United States Citizenship or permanent legal residency must be established to the City's sole satisfaction.
- (f) Application. Application for the Single-Family Impact Fee Deferral Pilot Program must be submitted to the Department of Community Development prior to submission of the building permit application. Applications may take up to sixty days for approval or denial.

The application, at a minimum, will require the following:

- a. Name and address of the Developer;
- b. Legal description of the site upon which the development is proposed to be located;
- c. The square footage and number of bedrooms in each dwelling unit; and

- d. Type of construction as classified by the Florida Building Code.
- (g) Developer Impact Fee Deferral Agreement. Approval of the application shall be contingent upon an executed impact fee deferral agreement between the Developer and the City in a form approved by the City. The Developer's impact fee deferral agreement may be accepted by the City in lieu of prompt payment of the impact fee that would otherwise then be due and payable but for the agreement.
- (h) Developer Time of Performance. Title to the property must be conveyed to a qualified buyer within 180 days from the date of the Certificate of Occupancy issuance.

If title to the property is not conveyed to a qualified buyer within the 180-day period, then:

- (1) The deferred impact fee is considered in default as of the date that the fee would have been due without the deferral; and
 - (2) The developer shall pay all the impact fees, including delinquency fees and interest dating back to the date that the fees would have been assessed but for the deferral.
- (i) Owner's Impact Fee Deferral Agreements. The qualified buyer receiving an impact fee deferral shall enter into an impact fee deferral agreement with the City that is recorded in the Official Records of Lee County at the owner's expense. A separate deferral agreement shall be executed for each qualifying owner-occupied dwelling. The deferral agreement shall provide for, at a minimum, the following and shall further include such provisions deemed necessary by the City to effectuate the provisions of this article:
 - (1) Legal description of the property, including the parcel tax identification number and street address.
 - (2) Throughout the period of deferral, the dwelling unit must be the homestead of the owner(s) under Section 4, Article X of the State Constitution, and pursuant to Chapter 196, Florida Statutes.
 - (3) For each such owner-occupied dwelling unit, the amount of impact fees deferred shall be paid to the City in full upon sale. Such fees shall be accelerated and thereby be automatically due and payable prior to that period if there is any breach in the subject impact fee deferral agreement by the non-city party.
 - (4) The deferred impact fees shall be a lien on the property. The lien may be foreclosed upon in the event of noncompliance with the requirements of the agreement. The agreement described herein shall operate as a lien against the dwelling unit. The lien shall terminate upon the recording of a release or satisfaction of lien in the public records of Lee County. Such release shall be recorded upon payment in full. Neither the deferred impact fees nor the agreement providing for the deferral of impact fees shall be transferred, assigned, credited or otherwise conveyed from the dwelling unit.
 - (5) Upon satisfactory completion of the agreement's requirements, the City shall record any necessary documentation evidencing same, including, but not limited to, a release of lien.
 - (6) In the event the owner is in default under the agreement, and the default is not cured within 30 days after written notice is provided to the owner, the City may at its sole option collect the impact fee amounts in default, foreclose, or bring a civil action to enforce the agreement or declare that the deferred impact fees are then in default and immediately due and payable. The City shall be entitled to recover all fees and costs, including attorney's fees and costs, incurred by the City in enforcing the agreement, plus interest at the then maximum statutory rate for judgments calculated on a calendar day basis until paid.

(j) Repayment for owner-occupied units.

- (1) All impact fees deferred for owner-occupied dwelling units shall become due and payable and shall be immediately paid in full to the City upon:
 - a. The sale of the dwelling; or
 - b. Refinancing of the purchase mortgage or loans secured by senior real property security instruments with cash out; or
 - c. A loss of the homestead exemption under Section 4, Article X of the State Constitution, and pursuant to Chapter 196, Florida Statutes; or
 - d. The first occurrence of any sale or transfer of any part of the affected real property, and in any such event the deferred impact fees shall be paid in full to the City not later than the closing of the sale, or not later than the effective date of the transfer.
- (2) Repayment shall include any accrued interest. Interest shall be computed at the rate of five percent per annum, but in no event shall it exceed 25 percent of the total impact fee amount.

(k) Repayment obligations.

- (1) Generally. The impact fees deferred shall be a lien on the property until all requirements under this article and the agreement have been satisfied.
- (2) Owner-occupied dwelling units. If the household income of the qualified owner-occupied dwelling unit rises above the standards for deferrals set forth in subsection (e) of this section, the owner shall maintain the deferral. Notwithstanding the foregoing, all outstanding impact fees deferred shall be paid in full upon sale or transfer of the dwelling unit as set forth in subsection (j) of this section.

(l) Subordination. Impact fee deferrals for all owner-occupied dwelling units will automatically be subordinate to the owner's first mortgage and/or any government funded affordable housing loan. Requests for subordination shall be in accordance with the City of Cape Coral Subordination of Mortgage Policy.

(m) Ceiling on deferrals.

- (1) The aggregate number of impact fee deferrals granted pursuant to the Impact Fee Deferral Pilot Program shall be limited, in total, to 100 units. The City Council may, by ordinance, adjust the aggregate cap.
- (2) Deferrals shall be available on a first-come, first-served basis.
- (3) The City shall maintain a tracking system to ensure that the aggregate number of impact fee deferrals do not exceed the deferral ceilings established in this subsection.

(n) Time period of pilot program. The Impact Fee Deferral Pilot Program shall expire upon completion of 100 units, or on September 30, 2022, whichever occurs first. The City Council may, by ordinance, extend or terminate the program at any time prior to the expiration date of the program.

SECTION 2. Severability. If any portion or Section of this ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or Sections of this ordinance which shall remain in full force and effect.

SECTION 3. Effective Date. This ordinance shall become effective immediately after its adoption by the Cape Coral City Council.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS _____ DAY OF _____, 2018.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
STOKES	_____	GUNTER	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2018.

REBECCA VAN DEUTEKOM
CITY CLERK

APPROVED AS TO FORM:



BRIAN R. BARTOS
ASSISTANT CITY ATTORNEY
ord\Affordable Housing Impact Fee Deferrals

Single Family Impact Fee Deferral Pilot Program For Workforce Housing

City Council
Committee of the Whole
March 27, 2017

Single Family Impact Fee Deferral Pilot Program

- Impact fee deferral program for the development of owner occupied single family dwelling units
- Limited to established not-for-profit housing development entities approved by the City of Cape Coral
- Up to \$7,000 in impact fee deferrals
- Does not include school impact fees collected on behalf of Lee County School District (LCSD)
- Maximum of 150 homes over a five year period



Next Steps

- Identification of best practices
- Draft Program Parameters
 - Buyer Requirements
 - Developer Requirements
 - Program Ceiling on maximum number/amount per year
 - Deferral Period/Repayment
 - Staffing – long term monitoring (Department of Community Development), fiscal impact (Finance)

MEMORANDUM

CITY OF CAPE CORAL
CITY MANAGER'S OFFICE

TO: Mayor Sawicki and Council Members

FROM: John Szerlag, City Manager 
Kelley Fernandez, Business Manager 

DATE: March 22, 2017

SUBJECT: Single Family Impact Fee Deferral Program for Workforce Housing

We recently met with Habitat for Humanity President Kitty Green and Board Member Gary Aubuchon to discuss a proposed program for impact fee deferral for single family homes. During that meeting, they demonstrated the need for such a program in order to achieve their mission of providing workforce housing within Cape Coral. This pilot program would consist of a maximum of 150 houses over the course of five years and would apply to other agencies the City partners with which fulfills our statutory obligations to provide workforce housing.

Representatives of Habitat for Humanity will be in attendance at the March 27, 2017 Committee of the Whole meeting to provide information about this potential pilot program along with City staff.

City Management supports the concept of a deferral program for single family impact fees within parameters and, as such, believes further exploration of a program should be pursued.

Should you have any questions, please feel free to contact my office.

JS/KF

C: Dolores Menendez, City Attorney
Brian Bartos, Assistant City Attorney

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

June 5, 2017

Council Chambers

4:30 p.m.

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

Moment of Silence – Councilmember Cosden

Pledge of Allegiance – Skylar Muncy – Oasis Elementary

Roll Call: Mayor Sawicki, Council Members Burch, Carioscia, Cosden, Erbrick, Leon, Stout, and Williams were present.

CHANGES TO AGENDA/ADOPTION OF AGENDA

Mayor Sawicki announced that Item 10D will be moved to after Citizens Input, 11A has been withdrawn, and the public hearing for Ordinance 22-17 will be held on June 12, 2017.

Councilmember Williams moved, seconded by Councilmember Cosden to approve the agenda, as amended.

Council polled as follows: Cosden, Erbrick, Leon, Sawicki, Stout, Williams, Burch, and Carioscia voted “aye.” Eight “ayes.” Motion carried 8-0.

RECOGNITIONS/ACHIEVEMENTS

None.

APPROVAL OF MINUTES

Regular Meeting – May 1, 2017

Councilmember Burch moved, seconded by Councilmember Erbrick to approve the minutes for the May 1, 2017 regular meeting as presented. Voice Poll: All “ayes.” Motion carried.

BUSINESS

PUBLIC COMMENT - CONSENT AGENDA

No speakers.

CONSENT AGENDA

Councilmember Williams pulled item 4.

Councilmember Erbrick pulled item 2 for a brief discussion.

- (1) Resolution 78-17 Adopt the 2017 Lee County Joint Unified Local Mitigation Strategy (LMS), and repeal Resolution 13-12 which adopted a previous version of the plan. Recovering from an emergency or a disaster could take several weeks, months, or even years, and cost jurisdictions millions of dollars. The 2017 LMS lays out specific mitigation strategies and projects that could be funded should federal mitigation dollars be available after a declared disaster. The Federal Emergency Management Agency and the Florida Division of Emergency Management require Lee County and all six municipalities therein

to adopt the updated plan to be eligible for federal disaster funding; Department: Fire; Dollar Amount: \$0; (Fund: N/A)

- (2) Resolution 80-17 Approve Contract PB-CON-PD17-1/GM which piggybacks the City of Sarasota RFP15-33BK awarded to Action Labor of Florida, LLC dba Staffing Connection for the purchase of School Crossing Guard Services at the hourly rate proposed, not to exceed budgetary limits, in accordance with City of Cape Coral Code of Ordinances Chapter 2, Article VII, Division 1, Section 2-144(f) Purchases of Goods or Services from Contracts Awarded by Other Governmental Entities by Competitive Bid, and authorize the City Manager, or designee, to sign the contract and any renewals; Department: Police Department; Estimated Dollar Value \$218,000; (General Fund)
- (3) Resolution 82-17 Award of competitive solicitation - ITB-UT17-41/KR Galvanized Pipe Replacement Program – Section 2A to Boyd Irrigation, Inc. of North Fort Myers, FL to replace 18,240 LF of existing galvanized pipe, as the lowest responsive, responsible bidder, in the amount of \$2,455,820, with a City controlled contingency amount of 10%, \$245,582 for a total \$2,701,402 dollars and authorize the City Manager or designee to execute the contract; Department: Utilities; Dollar Value: \$2,701,402; (Water and Sewer Fund)
- (4) Resolution 83-17 Approve the waiver of the procurement process for the purchase of medical supplies and entering into an agreement with Cooperative Services of Florida, Inc. (CSF) LeeSar, Inc., at the unit prices stated not to exceed budgetary limits, and authorize the City Manager or Designee to execute the agreement, renewals and any other pertinent document; Fire Department; Annual Estimated Dollar Value: \$113,982; (General Fund)
- (5) Resolution 87-17 Approve contract CON-UT03-17/KR for the Underground Fire Line Improvement Project with TKW Consulting Engineers, Inc. of Fort Myers, FL. for Professional Engineering Services for Phase II and authorize the City Manager or designee to execute the contract and any renewals or amendments. Phase II is to develop complete design, permitting, bidding and construction services for twenty-one (21) properties for conversion of water supply for fire protection from non-potable irrigation to potable water system. Phase I agreement was approved via Resolution 35-15 on March 30, 2015 in which the agreement also allowed entering into negotiation for Phase II; Department: Utilities; Dollar Value: \$269,392; (Water & Sewer Fund)
- (6) Resolution 90-17 Approval of Contract for Purchase of Lots 73 and 74, Block 3003, Unit 43, Cape Coral Subdivision, 1312 NW 25th Street, Cape Coral, for the Festival Park project for the purchase price of \$14,950 plus proration costs not to exceed \$500; Department: Financial Services/Real Estate; Dollar Value: \$15,450; (Parks Capital Project Fund) Note: Trade offer rejected by Seller
- (7) Resolution 91-17 Approval of three (3) Purchase Contracts for the purchase of Lots 81 through 85, Block 80, Cape Coral Subdivision Unit 9, 604 – 612 SE 47th Terrace, for the construction of a new wastewater Master Pump Station; Combined purchase price is \$137,500 plus proration/closing costs not to exceed \$2,500; Department: Financial Services / Real Estate Division; Dollar Value: \$140,000; (Water and Sewer Fund) Note: Trade offer rejected by Sellers.

Councilmember Leon moved, seconded by Councilmember Burch to approve Item 8(B)(1), 8(B)(3), 8(B)(5), 8(B)(6), and 8(B)(7) as presented.

Council polled as follows: Cosden, Erbrick, Leon, Sawicki, Stout, Williams, Burch, and Carioscia voted “aye.” Eight “ayes.” Motion carried 8-0.

Councilmember Erbrick inquired with Chief of Police Newlan why it was going for outsourcing.

Chief of Police Newlan explained that there are 8 team contract crossing guards. We have been in communication with Crossing Guards Now through letter and phone calls. Approval will facilitate a meeting with the company to offer them all the same positions.

Councilmember Erbrick moved, seconded by Councilmember Burch to approve Item 8(B)(2), as presented.

Councilmember Carioscia questioned how much money privatization will save.

Chief Newlan stated it would save approximately \$65,000.

Council polled as follows: Cosden, Erbrick, Leon, Sawicki, Stout, Williams, Burch, and Carioscia voted "aye." Eight "ayes." Motion carried 8-0.

Councilmember Williams questioned Fire Chief Cochran about the bidding process on item 4.

Fire Chief Cochran explained that currently the Fire Department utilizes over 250 different medical supplies throughout the year from seven different vendors. The real savings in the future will be when we are able to lower our inventories because currently we have to purchase in bulk amounts.

Councilmember Williams stated he was more concerned about the process.

Procurement Manager Roop stated we have bid this project before and ended up with multiple vendors. The analysis that was conducted showed that this would be cost neutral. The only reason we're asking for a waiver versus a piggyback because we can utilize other entities' contracts including not for profit. This group goes directly to the manufacturers to get the best price.

Councilmember Williams moved, seconded by Councilmember Burch to approve Item 8(B)(4), as presented.

Councilmember Stout shared her experience from the Lee Health Board and remarked about the savings with this type of bid process.

Councilmember Burch agreed with the bidding done by the Fire Chief and the Procurement Manager to be current, accessible, and affordable.

Council polled as follows: Cosden, Erbrick, Leon, Sawicki, Stout, Williams, Burch, and Carioscia voted "aye." Eight "ayes." Motion carried 8-0.

CITIZENS INPUT TIME

Sean Hetz, a local clinical mental health counselor, stated the agenda shows an item to decrease the number of homes for Habitat for Humanity, adding that rents are up 29 percent in this City. A lot of his clients are on Medicaid and ask him where they can get money for rent and food. The complaint against LCEC should not be withdrawn. He commented about solar power, minimum wage, and taking away services.

Brian Delant discussed tiny houses, noting it was a waste of City resources. He could only find two in the State. He stated we should wait for a developer before wasting time. Council should look to Habitat for Humanity for social norm housing.

Wendy Blake submitted a Petition to Council to discuss best practices by the Real Estate Division. She requested to speak to the Council as a whole and will be reaching out individually to address some concerns. She wanted to share her family's first hand experiences involving the City's Real Estate Division. She stated the City has approximately 877 properties in their pipeline. She read from a website www.gray-

robinson.com, who is an eminent domain attorney. Best practices must be in place; results can be catastrophic in court.

Dennie Hamilton, Executive Vice President and CEO of LCEC, spoke about item 10D. LCEC appreciates the recommendation from the City Manager about the item being withdrawn. Their preference has always been negotiation rather than defending against litigation, and their hope was to negotiate a mutually beneficial franchise agreement within a reasonable time frame. They were optimistic that the withdrawal of the complaint and efforts toward good faith negotiations will result in a timely and acceptable agreement.

Richard Osman appeared to speak about the decline in wearing hats and how there will be an increase in skin cancer. City staff working outside should be protected with headgear.

Dan Sheppard discussed the area south of Cape Coral Parkway off Chiquita to El Dorado regarding the new infrastructure being installed for phone and cable underground City-wide. They are doing these as far back as 24 feet; the right of way was 15 feet but it varies throughout the City. He spoke about the irrigation water crisis. There is not enough shade in our City; our ground is very hard so it does not restore our water. He spoke to the engineer on the job and they are putting the pipes three feet down. The problem is you can't plant trees there. If they could put it at a depth of 5 to 6 feet, it won't impede on any planting. He stated while this job is just starting out can we look into this.

John Karcher stated on April 17th he hand delivered a petition to speak to Council. He had a meeting with the City Manager on May 24th who was going to bring that forward. He was hoping that it would be on the agenda next week; if not, when?

Mike Hollow spoke about the impending water towers. He discussed an act under Florida State Statute Chapter 70 that has to do with the Burt Harris Act.

Mayor Sawicki stated she was inclined to hear the Bunch Family petition next week at the June 12th meeting. She requested that the City Clerk add that to the agenda. She stated Pearl will be sending out the petition to all Councilmembers.

Councilmember Leon clarified that Habitat for Humanity is not limiting what we're doing as a City but it's more of a pilot program. He questioned if Mr. Sheppard's request was a possibility. He thanked Mr. Hamilton for coming and bringing up some valid points regarding LCEC.

Mayor Sawicki addressed Mr. Karcher's Petition to Council. She will not accept or allow petitions to go on our agenda that are politically motivated or to politicize a particular candidate's stance.

Councilmember Williams requested the Bunches call the office to set up an appointment.

Councilmember Burch stated he was glad that everything was somewhat resolved for the Bunch Family. It was appropriate for Mr. Hamilton to speak tonight. He clarified that Cape Coral had no interest in fighting with LCEC. He hoped we could get into negotiations and be proud of the final franchise agreement.

Recommendation to Withdraw Public Service Commission Action Against LCEC for Rate Structure Discrimination

City Manager Szerlag stated this was being done in the spirit of cooperation. It would benefit all parties if the City would drop this filing with prejudice which means we cannot go back to the Public Service Commission if we are unsuccessful in any franchise negotiation.

Councilmember Stout stated she was never in favor of action against LCEC. She has been approached by many citizens who have told her that they do not want the City to take over the electric.

Councilmember Williams stated it was never the intention of the City of buying LCEC. He noted there were some issues, and we needed to move forward.

Councilmember Williams moved, seconded by Councilmember Stout to approve the withdrawal of the Public Service Commission action against LCEC with prejudice.

Council polled as follows: Cosden, Erbrick, Leon, Sawicki, Stout, Williams, Burch, and Carioscia voted "aye." Eight "ayes." Motion carried 8-0.

PERSONNEL ACTIONS

Resolution 93-17 Approval and ratification of the Tentative Collective Bargaining Agreement between the City of Cape Coral and the Fraternal Order of Police, representing the Officers and Sergeants of Cape Coral Lodge #33

City Manager Szerlag explained what this Resolution would accomplish. He asked all who were involved on the labor and management team to stand up. He stated Doug Lozen can explain what we did with the excess monies from Act 185 that has to be allocated toward pension improvement.

Doug Lozen, Foster and Foster, stated they provided the actuarial calculations during negotiations. In the future as State monies increase, the City will continue to have some access to those increased monies.

Councilmember Burch commented on how we needed to catch up when he first was elected to office. Over time we have corrected the situation, but this is the ultimate achievement.

Councilmember Burch moved, seconded by Councilmember Stout to approve Resolution 93-17.

Council polled as follows: Cosden, Erbrick, Leon, Sawicki, Stout, Williams, Burch, and Carioscia voted "aye." Eight "ayes." Motion carried 8-0.

Resolution 94-17 Approval and ratification of the Tentative Collective Bargaining Agreement between the City of Cape Coral and the Fraternal Order of Police, representing the Lieutenants of Cape Coral Lodge #33

Councilmember Burch moved, seconded by Councilmember Cosden to approve Resolution 94-17.

Council polled as follows: Cosden, Erbrick, Leon, Sawicki, Stout, Williams, Burch, and Carioscia voted "aye." Eight "ayes." Motion carried 8-0.

PETITIONS TO COUNCIL

None

APPOINTMENTS TO BOARDS / COMMITTEES / COMMISSIONS 529 p.m.

Charter Review Commission - 7 member vacancies and 2 alternate vacancies

Assistant City Clerk Brunns stated the Clerk's Office began advertising for the Charter Review Commission vacancies in December 2016. There are seven member

vacancies and two alternate vacancies. Advertising was done in the newspaper, Cape Coral website, and a Face Book page. Thirteen applications were received. Applicants Jenkins, Solofra, Weiss, and Ollmann have indicated that they are unable to attend this evening based on prior commitments and have asked to be considered.

Interviews

Anthony Bennie
Phyllis Jenkins (not present)
K (Skip) Kitchen II
John McNamara
Tim Ollman (not present)
Ryan Peterson (2/3 vote needed)
Giovanni Robinson (2/3 vote needed)
James Solofra (not present)
Joe Stewart
Andrew Sund
David Thompson (not present)
Christopher Tompkins (not present)
Victoria Weiss (not present)

A majority tally for the seven members was received for Phyllis Jenkins, Skip Kitchen, John McNamara, Ryan Peterson, Giovanni Robinson, Anthony Bennie, and Andrew Sund.

Councilmember Leon moved, seconded by Councilmember Williams to appoint the following to the Charter Review Commission as full members: Phyllis Jenkins, Skip Kitchen, John McNamara, Ryan Peterson, Giovanni Robinson, Anthony Bennie, and Andrew Sund.

Council polled as follows: Cosden, Erbrick, Leon, Sawicki, Stout, Williams, Burch, and Carioscia voted "aye." Eight "ayes." Motion carried 8-0.

A majority tally for the two alternates was received for Victoria Weiss and Joe Stewart.

Councilmember Leon moved, seconded by Councilmember Erbrick to appoint the following to the Charter Review Commission as alternate members: Victoria Weiss and Joe Stewart.

Council polled as follows: Cosden, Erbrick, Leon, Sawicki, Stout, Williams, Burch, and Carioscia voted "aye." Eight "ayes." Motion carried 8-0.

Councilmember Burch stated this was an important Committee and the alternates should attend all meetings.

ORDINANCES/RESOLUTIONS

Public Hearings

Ordinance 14-17 Second and Final Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the Cape Coral Land Use and Development Regulations, Article II, District Regulations, Section 2.5, Schedule of Land Use Classifications, by adding "Sports Academy" to the schedule of Land Use Classifications; amending Section 2.7, District Regulations, by providing that Private Parks shall be allowed as a permitted use in Single-Family Residential (R-1A and R-1B) and Multi-Family (R-3) districts; and providing that Cultural Facilities; Hotels/Motels-Resorts Only; Recreation, Commercial, Group II; and Schools, Commercial (Sports Academy Only) uses shall be allowed as special exception uses in the Single-Family Residential (R-1A and R-1B) and Multi-Family Residential (R-3) districts under certain identified conditions;

amending Article XI, Definitions, by revising the definition of "Resort" and adding a definition for "Sports Academy."

P&Z recommendation: At the March 1, 2017 meeting, the Planning and Zoning Commission/Local Planning Agency voted (7-0) to recommend approval of Ordinance 14-17.

City Management Recommendation: Recommends approval of the requested amendment.

Assistant City Clerk Bruns read the title of the Ordinance.

Planning Team Coordinator Daltry presented a power point with the following slides:

- Ordinance 14-17
- Summary
- Analysis/Purpose
- Recommendation

Public Hearing opened.

No Speakers

Public Hearing closed.

Councilmember Erbrick moved, seconded by Councilmember Williams to adopt Ordinance 14-17, as presented.

Discussion held regarding locations where these uses would be allowed.

Discussion held regarding the benefit of passing this Ordinance.

Council polled as follows: Cosden, Erbrick, Leon, Sawicki, Stout, Williams, Burch, and Carioscia voted "aye." Eight "ayes." Motion carried 8-0.

Ordinance 22-17 (PDP 16-0010*) Public Hearing (At the applicant's request, this item will also be continued to June 12, 2017)

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

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending Ordinance 14-05 which approved a Planned Development Project entitled "Entrada," providing for Planned Development Project approval for property located at the intersection of Del Prado Boulevard North and De Navarra Parkway, granting rezoning of a 10.57 acre tract from Multi-Family Residential (R-3) to Pedestrian Commercial (C-1); granting a special exception for an Automotive Service Station - Limited with Convenience Store use; granting subdivision approval.

HEX Recommendation: The Hearing Examiner recommends approval of the Project, subject to the terms and conditions set forth in the PDP HEX Recommendation Order 2-2017.

City Management Recommendation: City Management recommends approval with conditions.

INTRODUCTIONS

Ordinance 25-17 Set Public Hearing Date for July 24, 2017

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the Code of Ordinances, Chapter 2, Administration, Article III, Personnel Rules and Regulations, Division 11, Attendance and Leave, to change the list of designated holidays by removing Columbus Day and adding Christmas Eve Day

Assistant City Clerk Bruns read the title and scheduled the public hearing date.

Human Resources Director Sonogo stated she was available to answer any questions.

Councilmember Williams questioned why this was being done.

Director Sonego stated there were some requests from directors and managers that the dates be changed. She stated we approached the unions and asked if they had a preference to do that as well. The two contracts that just went through has that change. The General Unions are looking at ratifying that this month.

UNFINISHED BUSINESS

Water Quality

Councilmember Carioscia asked what staff was doing to address the one day watering to go back to the normal two days a week.

City Manager Szerlag stated he will be speaking with Mr. Pearson tomorrow about lifting the restriction. We are in the 90 days stage to have a drawdown of the reservoir of 17 million gallons a day. There has been a complaint against us that we caused a well to go dry. He instructed Mr. Pearson to have the geologists determine if pumping 17 million gallons a day from the reservoir into our canal system has an adverse effect on the surrounding wells. DEP and FDOT will want to know as well. If we go back to a two day a week watering, he will need to stop the pumping of the reservoir. Before he does that, he wants to know if there is an impact on the well system.

Councilmember Leon inquired about the location of the well that went dry.

City Manager Szerlag stated it was a well in a correctional facility north of the reservoir in Charlotte County.

Legislative Issues – Update

None.

Update Single Family Impact Fee Deferral - Housing Coordinator Yearsley

Housing Coordinator Yearsley provided an update on the single family impact fee deferral. Slides included:

- Background
- Considerations
- Initial Proposal
- Proposed Changes
- Cape Coral Housing Elevations
- Habitat for Humanity Elevations
- Photos

Councilmember Leon explained why he could not support this; he did not think it was right to ask the citizens to help bear that cost. It should be up to the private sector.

Councilmember Stout requested that Kitty or Bonnie to come forward and explain the Ordinance as far as what it would do to them.

Kitty Green, Habitat for Humanity, stated it would help to reduce costs that it takes to put someone in an affordable home so that we can provide more affordable homes. There is a huge need.

Bonnie Schnell, Cape Coral Housing Development Corporation, stated the more people we can help the better it is for us. She appreciated Council bringing this forward for both agencies.

Councilmember Burch thanked them for the leadership they have provided in Lee County for many years. He stated this was a deferral and not an elimination of impact fees. This will help the quality of life in the community.

Councilmember Burch moved, seconded by Councilmember Williams to approve the single family impact fee deferral.

Mayor Sawicki requested that the City Manager clarify what he was looking for on this topic.

City Manager Szerlag stated that Gary Aubuchon and Kitty Green asked to meet with him about this program; and he thought it was a good idea to advance it to City Council. He recommended this program.

Financial Services Director Bateman explained the analysis that was done by Finance. She stated the deferral is up to ten years on 100 homes. We would not be losing the original impact fees; it would be for the interest for those years if you did not pay the impact fees. Over ten years the interest would be \$420,000. At the same point, we would be getting ad valorem for ten years of \$1.1 million that we would not get today if it was just vacant land.

City Manager Szerlag stated a consensus was being requested and a resolution could be brought forward next week.

Mayor Sawicki stated there was already a motion with a second. She commented that affordable housing was critical, and we are going in the direction of providing it. She stated this is part of a bigger problem of not having the wages for the jobs in your community for people to afford housing. It would be nice to see an update on our Economic Development on what we are doing. It's not just about lost revenue or impact fees. We need to have discussion on what we are continuing to do to bring in higher wage jobs. She noted this could be addressed at the Strategic Planning meeting to be held soon.

Councilmember Carioscia stated he would support this because of the revenue stream from ad valorem taxes, as well as the Public Service Tax, and the Fire Service Assessment.

City Attorney Menendez stated there will be a need to adopt an Ordinance in order to accomplish this amendment to the impact fee structure.

Councilmember Burch amended his motion to accept the deferral of the impact fees and all the associated items that go in the Resolution that come forward. Second agreed.

Council polled as follows: Cosden, Erbrick, Sawicki, Stout, Williams, Burch, and Carioscia voted "aye." Leon voted "nay." Seven "ayes." One "nay." Motion carried 7-1.

Recommendation to Withdraw Public Service Commission Action Against LCEC for Rate Structure Discrimination
item 10D moved directly after citizens input

NEW BUSINESS

Councilmember Appointment to the Tourist Development Council (TDC)
item 11A withdrawn

REPORTS OF THE MAYOR AND COUNCIL MEMBERS

Councilmember Cosden – Topic: Coral Ridge Memorial Day

Councilmember Erbrick – Topics: Thanks to the family at Coral Ridge for the excellent service; Fire Department Annual Recognition Ceremony, congratulations to all promoted and those who retired; last Friday three new members were sworn in to our Cape Coral Police Department; update on Mid Cape have met with business owners and have had a couple of sweeps with Waste Pro, went through community cleaned up the corridors, alleyways, and streets.

Councilmember Leon – Topic: No report

Councilmember Stout – Topic: No report

Councilmember Williams – Topics: Attended the Fire Department Recognition Ceremony; Memorial Day attended the ceremonies at Coral Ridge, Iraq Memorial, and the Military Museum; Friday Youth Council meeting. He inquired if there was any interest in Festival Park now that there is a Parks Master Plan. We need to start putting together a plan. There are things that could be done now or next year without having millions of dollars. He wanted staff to gather information on what it would cost us to move forward with a plan for Festival Park.

Councilmember Leon seconded it. He agreed 100 percent. He noted all the nearby events going on even in fields for concerts.

Councilmember Williams stated he agreed with the concept of the bands. He was looking as a first step for staff to tell us how much it would cost to get a Master Plan made for Festival Park.

Mayor Sawicki stated the Parks Master Plan was recently done. She wanted to be cautious that we do not circumvent the money that we already spent. She wanted to know where that falls and what staff has done so far. She asked the City Manager to provide an update.

City Manager Szerlag stated as opposed to a Master Plan, the question is what will it take to have a performance venue at Festival Park for 5,000 people. Staff will provide a scope of work. He mentioned that it is in our plan document and unfunded needs are document as well.

Mayor Sawicki stated she was not in favor for spending any money on additional studies.

City Manager Szerlag stated he would see what can be done in house first.

Councilmember Williams stated we need to know what we want to do with the whole park. He suggested the City Manager, Director Pohlman, and whoever else to brainstorm. He wanted to get something going without costing the City a lot of money that would provide a big benefit to the residents.

Councilmember Erbrick stated she thought that once the Parks and Master Plan was developed, we would start looking into this. She mentioned a potential referendum. She was in support of starting something since the venue at Sun Splash is getting tight for the Coconut Festival.

Mayor Sawicki stated she wanted to see how it falls within the Parks Master Plan and if it is a priority. City Manager Szerlag stated they would come back with some information.

Councilmember Burch stated his concern for the Old Golf Club Property, 178 acres sitting in the most populated part of the City, and we allow it to sit, and yet there is no population near Festival Park.

Councilmember Leon stated Festival Park is land that is currently owned by the City unlike the golf course. This is a good discussion for the Youth Council to get involved. He asked Councilmember Williams if he would work with them and staff to get their feedback and have them come and present what they think of this for the future.

Councilmember Williams stated the next meeting for the Youth Council will be on June 16. Parks and Recreation Director Pohlman will be presenting the Parks Master Plan. He stated in response to Councilmember Burch that these are two different venues.

Councilmember Williams – Topic: No report

Councilmember Burch – Topic: No report

Councilmember Carioscia – Topic: No report

Mayor Sawicki – Topics: May 25th attended the Cape Coral Fire Awards Ceremony; Attended Memorial Day events at Coral Ridge, Iraq Memorial, and Military Museum.

Mayor Sawicki inquired of City Manager Szerlag what it would take to get a City flag for the Military Museum.

City Manager Szerlag stated they would accommodate that request.

Mayor Sawicki – June 1st and 2nd Daytona Insurance Trust meeting; June 8th panelist for the Above-Board Chamber; June 8th Cape Coral Fire Department hosting a Hurricane Seminar in Council Chambers at 5 p.m.; Oasis Charter School local grants.

REPORTS OF THE CITY MANAGER AND CITY ATTORNEY

City Attorney – Topic: No report.

City Manager – Topic: No report.

TIME AND PLACE OF FUTURE MEETINGS

A regular meeting of the Cape Coral City Council was scheduled for Monday, June 12, 2017 at 4:30 p.m. in Council Chambers.

MOTION TO ADJOURN

There being no further business, the meeting adjourned at 6:59 p.m.

Submitted by,



Rebecca van Deutekom, MMC
City Clerk