

City Council Chamber 735 Eighth Street South Naples, Florida 34102

# City Council Workshop Meeting - May 1, 2006 - 8:30 a.m.

– May 1, 2006 – 8:30 a.m.
ng to order and presided.
ITEM 1
Council Members:
William MacIlvaine
Gary Price, II
John Sorey, III
William Willkomm, III
Greg Krumm
Jack Dwyer
Dorothy Hirsch
Virginia Corkran
Bill Varian
Toni Tuttle
Carl Suarez
Charles Glisson
Judith Chirgwin
Falconer Jones
Henry Kennedy
James Siedel
Steve Wise

#### Media:

Aisling Swift, Naples Daily News

Other interested citizens and visitors.

SET AGENDA.....ITEM 2

City Manager Robert Lee requested that Item 5 be removed from the agenda.

<u>MOTION</u> by MacIlvaine to <u>SET AGENDA</u> removing <u>Item 5</u> ("D" Downtown Amendments); seconded by Nocera and carried 6-0 (MacIlvaine-yes, Nocerayes, Price-yes, Sorey-yes, Taylor-absent, Willkomm-yes and Barnett-yes).

## PUBLIC INPUT.....ITEM 3

**Greg Krumm, 1248 13<sup>th</sup> Avenue North,** stated that he was following up regarding a Council discussion one year ago concerning code enforcement. He said that while he had observed certain progress in this regard, he hoped that Council would consider the interests of neighboring properties when issuing various permits or granting variances. He stressed that the quality of life is well worth the necessary vigilance and asked that these issues be a priority when reviewing the Code. (It is noted for the record that the City Council is in the process of reviewing the entire Code of Ordinances in conjunction with a recodification effort.)

### CONSTRUCTION SITE IMPACTS ......ITEM 4

Robin Singer, Community Development Director, gave an electronic presentation, a printed copy of which is contained in the file for this meeting in the City Clerk's Office. The topics addressed were accountability and hurricane preparedness, raised elevations and pool decks, generators and noise, pile driving and demolition and, finally, drainage and coverage requirements. Ms. Singer stressed that code enforcement must be uniform and thorough, but noted various proposed changes which include that prior to commencement of active construction, notice be given to adjacent properties. This would entail the contractor providing a telephone number for around-the-clock response to address violations. Ms. Singer then noted that on-street parking had become a dilemma, stating that an on-site supervisor may be necessary in order to coordinate the vehicles, especially deliveries. Additionally, she reviewed the penalty process, stressing that in severe and/or repeated abuse, violators would appear before the Code Enforcement Board and if necessary, stop work orders would be imposed.

With respect to hurricane preparedness, Ms. Singer noted the possibility of inspection stickers being issued after a job site has been secured allowing contractors to progress to other sites; this system of marking would also serve to reassure neighbors that an adjacent site is secured. She pointed out however that it is not logistically possible to remove all commercial trash containers, although they must be secured. Nevertheless, penalties could be imposed for non-compliance as well as a provision for reimbursement to the City in cases where City personnel secured a site.

In a review of issues such as electrical generator use, Ms. Singer pointed out that increased elevations and pool decks are primarily involved in beach front properties where these higher elevations are necessary. She also reported that requests for installation of permanent generators in side setbacks are frequent since the recent hurricane activity, explaining that three factors are to be considered; namely, noise, fumes and the aesthetics. Also, using propane or natural gas as fuel entail other issues such as separation requirements and fumes. However, she said, after a storm when the generators would be in use, the City's noise ordinances are suspended; aesthetics could be dealt with through the use of non-flammable shielding. (Please see also discussion by acoustical consultant Steve Wise below.)

Ms. Singer then cited noise and vibration concerns with reference to pile driving and demolition, and while these factors can be monitored, best practices should also be followed and neighbors notified of this process. She also listed a need to reduce allowed hours for this type of work, a requirement for contractor licensing and insurance, and enhanced penalties for non-compliance. In conclusion, Ms. Singer stated that staff was not prepared to address drainage and impervious coverage issues until additional research had been accomplished over the summer months.

Steve Wise of Wise Associates gave a slide presentation (a printed copy is contained in the file for this meeting in the City Clerk's Office) on noise reduction methods and reviewed allowable standards regarding machine produced noise (such as air conditioners, pool equipment, and spas). He also suggested utilizing timers to reduce noise from nighttime operation as well as vibration-reducing mounting. A brief discussion followed concerning placing of equipment in a three-sided alcove which could be lined with sound absorbent materials.

Mr. Wise also explained that equipment currently in the City's inventory can monitor noise output levels for enforcement purposes, and Community Development Director Singer noted that staff had been trained and uses the equipment to test several commercial areas that abut residential. Mr. Wise concluded by recommending a stricter City ordinance similar to that implemented by Collier County but considering grandfathering existing machinery that does not meet new standards.

Public Comment: Dorothy Hirsch, 626 Regatta Road, stated that she had attended meetings conducted by the City regarding construction site impacts and that she felt the real issue to be enforcement as well as stronger measures. Mayor Barnett assured Mrs. Hirsch that Council is well aware of her concerns and that having City personnel available around the clock to document violations is the first step in that direction. Council Member MacIlvaine stressed the need for shortened response time between the notification and the rectification. Mrs. Hirsch also expressed concern that those neighboring construction sites must pay for damages to their property caused by violators or, in some instances, engage an attorney. Vice Mayor Nocera voiced the opinion that adequate rules are in place and perhaps more personnel are needed to enforce them. Virginia Corkran, 213 Ninth Avenue South, expressed her concern that the new construction surrounding her home would cause flooding in the future. She reminded Council Members that she had also come before their March 13 meeting and asked for the same reassurance and asked who will be responsible if the flooding does occur. Greg Krumm, 1248 13<sup>th</sup> Avenue North, urged Council and staff to address setbacks, citing issues involving remodeling versus new construction. Bill Varian, President of Varian Construction and past president of Collier Building Industry Association (CBIA), expressed appreciation for the opportunity to attend the City's meetings with homeowners. He stressed the importance of education where hurricane preparedness is concerned and that the industry must assume a more vigilant posture. He suggested that perhaps a packet containing pertinent information be provided at permit issuance, and that mandatory classes regarding construction site ordinances be conducted for contractors. Mr. Varian then addressed the setback issue, especially with regard to generator installation at existing homes. Furthermore, he explained the advisability of positioning additional electrical equipment in close proximity to the meter and, when installed, to be elevated above the Federal Emergency Management Agency's (FEMA) flood guidelines. He suggested contacting engineers to review the drainage issue and characterized the required job site parking as a problem issue. Toni Tuttle, 87 Sixth Avenue South, stated that, after nearly 50 years with no flooding, last year her home and guesthouse had sustained 21 inches of stormwater which she attributed to drainage from a nearby mega-house (structure built to maximum allowable lot coverage) which she said is prohibited by law. She predicted that megahouses, with limited setbacks and built in compliance with higher FEMA elevations, would continue to cause flooding problems and concluded by expressing the hope that alleyway modifications near her home would work to alleviate the situation. Carl Suarez, 479 Rudder **Road,** expressed appreciation to staff for addressing these issues and cited frustration on the part of contractors and citizens. He said that there is much work to be done which will entail patience from all parties involved. **Charles Glisson, 625 Regatta Road,** agreed with Mr. Suarez and added that just a few are the source of the problem which is nevertheless causing havoc in the City. He said that both he and his wife are weary from having to address the daily problems with nearby construction, including noise which is currently the major issue. He said that an air conditioning unit outside his daughter's bedroom and pool equipment installed just outside his bedroom had caused the family disturbance. Mr. Glisson cited his experience in areas where high fines were effective in achieving compliance from the construction industry and further urged that the seven-and-a-half foot setback be increased along with requirements for acoustical shielding.

Council Member Sorey stated that the enforcement aspect must be strengthened although, most significantly, lot coverage is the issue that should be addressed, particularly due to stormwater. Mr. Sorey also took the position that hours of pile driving operations must be reduced and that he could not support allowing any additional equipment, such as generators, in side setbacks.

Council Member Price thanked staff and the public for their efforts towards solutions of these issues. He stated that his concern has always been impervious lot coverage and suggested that staff examine the requirements of the City of Winter Park, which has a ten-foot setback as well as regulations regarding impervious lot coverage. He also expressed concern with Collier County performing contractor licensing for City projects, citing the recent incident wherein contractors at the Waterside Shops expansion project had been found to be lacking the necessary Worker's Compensation insurance. He urged that Council respond to the concerns of the citizenry. Mr. Price then requested the number of new home permits issued over the past two years, indicating that he felt this may assist in achieving a solution for the stormwater drainage issue.

Vice Mayor Nocera cited a prior lack of public receptivity on efforts to increase setbacks or amend lot coverage. He also stated support for allowing generators in the side setback adjacent to the air conditioning unit as the only acceptable location. He then suggested installing percolation (rock beds containing four-inch corrugated pipes) underground in the side setbacks to mitigate drainage problems.

Council Member Willkomm concurred with Mr. Sorey regarding not allowing generators in side setbacks due to the disturbance to adjacent homes where windows might be open until electricity is restored. He said that generators should be placed in the rear; he also supported Council Member Sorey's position regarding increase of side setbacks and reducing lot coverage.

City Manager Robert Lee requested clarification as to whether staff was to pursue increasing side setbacks, and Council Member Price stated his opposition until a review of the impervious lot coverage could be accomplished. City Manager Lee also stated that staff is in need of direction concerning generators in order to address requests from homeowners in preparation for the upcoming hurricane season. Mayor Barnett suggested that a consensus on the generator issue not be taken until all Council Members could be present, therefore this issue was continued until the Wednesday, May 3, Regular meeting. After further discussion consensus was however given to direct staff to obtain additional information regarding overall lot coverage.

Consensus by Council to direct staff to obtain overall review of building envelope and impervious (driveway, pool, etc.) lot coverage.

Recess: 10:16 a.m. to 10:29 a.m. It is noted for the record that the same Council Members were present when the meeting reconvened, Council Member Taylor being absent.

**Public Comment:** (cont.) **Jack Dwyer, 400 Park Shore Drive,** stated that his home had sustained damage from a nearby pile driving operation and needed clarification as to the party responsible and whether it is possible to recover damages from the City. City Attorney Robert Pritt stated that the City is not liable with reference to permitting issues, adding that the responsibility is with the entity causing the damage.

## "D" DOWNTOWN AMENDMENTS (removed from agenda)......ITEM 5 STORMWATER MASTER PLAN.....ITEM 6

Public Works Director Dan Mercer gave a brief update by electronic presentation characterizing the handling of stormwater as a balancing act entailing several factors: stormwater quality and quantity with natural resources and the amenities that are available. (It is noted for the record that a printed copy of this material is contained in the file for this meeting in the City Clerk's Office.) He stated the master plan would be completed by November. He further explained that the typical elevation in Old Naples is three feet above sea level with some areas even lower, stormwater drainage system being at or below sea level. This is exacerbated when pumps are needed due to tidal surge which occurs on both the Naples Bay and Gulf sides. However, the pump system is aged and must be addressed. Mr. Mercer further stressed that Old Naples, being an area of high rainfall totals, experiences flash flooding on a regular basis during the rainy season. Mr. Mercer gave a brief overview of the schedule of planned stormwater drainage repairs and pointed out that a portion of the funding from the Basin III grant is being redirected to the Solana Road project, resulting in a total of \$300,000 and a 50/50 match with City funding. He reviewed other pending grants, noting the need for an outside consultant to aid in completing the stormwater master plan and to obtain an expert opinion regarding the impact of residential construction on the stormwater situation. He explained that the capacity has not changed but with the higher elevations of new construction, the velocity of that capacity increases, and the water exits properties much faster because of the higher elevations. The stormwater is then stored on the street and in the storm system until the pumping stations can deal with it, he explained. Vice Mayor Nocera inquired as to the cost of this potential consultant, to which Mr. Mercer replied that an approximate figure would be \$100,000 to \$500,000, adding that he now has two staff vacancies which can assist in funding.

Dr. Michael Bauer, Natural Resource Manager, stated that he feels his and Mr. Mercer's duties often overlap because of the relationship of water quality and water quantity. He reviewed water quality sampling activity that the City had recently assumed from the Department of Environmental Protection (DEP) and noted that the DEP has stated that stormwater runoff is the greatest pollutant in Florida waters. He further explained that in order to restore Naples Bay, stormwater quality must be improved. Dr. Bauer then mentioned the Spring Lake experimental project to improve its function as a storage facility for stormwater. He explained that the boundaries of the lake have been replanted to aid in removal of nutrients and turbidity from the water, although apple snails will be introduced on the southern end to deal with an excessive amount of algae.

Dr. Bauer then mentioned a meeting which had been conducted with those that are possible polluters of the Bay, with the hope of developing a BMAP (Basin Management Action Plan) to improve water quality before the DEP imposes the requirement. The DEP had attended the meeting, he said, along with developers, homeowners, industry representatives, and also representatives from the City and Collier County governments. Dr. Bauer urged that developing a plan of action be an immediate priority, including replacement of seawall with riprap because seawalls produce more wave action than riprap and afford no additional habitat for sea life.

Mayor Barnett asked Dr. Bauer to elaborate on the possibility of mandatory training classes for lawn maintenance contractors with regard to proper fertilizer application. He recommended a voluntary program due to the sheer number of these contractors, over two hundred with some 2,000 personnel; otherwise mandatory training would entail a lag time to facilitate training for this number.

Public Comment: Judith Chirgwin, 112 Tenth Avenue South, stated her belief that construction site impact and the stormwater master plan should not be considered as two separate issues. With the increase in population and the corresponding construction, a new approach is needed to offset the impact, she added. Falconer Jones, 1255 Cobia Court, said that the pumping system servicing the south end of the City must be updated and the lakes and swales returned to their maximum capacity condition. He also agreed with earlier comments by Vice Mayor Nocera regarding the side setback percolation system by which rain water would rest before it entered the stormwater system, allowing what is already in the drains to clear first. He concluded by saying he would support an outside engineering consultant to assist staff in developing a system that would accommodate stormwater in an efficient manner, and noted that he strongly feels that the FEMA elevation standards are a major cause of the problems being discussed that day. Greg Krumm, 1248 13<sup>th</sup> Avenue North, requested and was offered a review copy of the above mentioned schedule of planned stormwater drainage repairs. Henry Kennedy, Pelican Avenue, agreed with the comments made by Falconer Jones above but also pointed out that contractors build only what is allowed and that the responsibility rests with Council to amend what is permitted.

Mayor Barnett stated that he feels Council is proactive with these issues and suggested that staff present a total cost to update the stormwater system and clean the Bay so that Council could entertain the possibility of a bonding referendum to assist with the necessary funding. Council Member Sorey stated that he would not support this suggestion, since it is the responsibility of the Council to make that type of decision. Reiterating his position that construction allowed affects the quality and quantity of runoff, Mr. Sorey suggested capturing the first inch of rainwater, also pointing out that beach outfall pipes must be addressed because DEP has stated that no further beach renourishment will be allowed until these pipes are eliminated. He also stated that existing lakes should be dredged and that the slopes must be altered to allow the same type of planting as was done at Spring Lake. He concluded by pointing out that the funding from Big Cypress Basin contains time constraints and that intended projects must go forward on schedule or the funding will be lost.

Council Member Price expressed dismay that funding for Basin III would be diverted to Solana Road improvements, but Council Member Sorey pointed out unless the funding were utilized for Solana Road, it would be sacrificed. Furthermore, Mr. Sorey explained that the stormwater

draining into the Solana Road project is derived from both the City and Collier County, not Royal Poinciana Golf Club (RPGC); therefore it was deemed prudent to redirect the funds. Public Works Director Mercer added that a box culvert for Basin III was on order and that some preparations were still going forward for that project.

Dr. Bauer mentioned that funding was being appropriated to go forward with the planning of the proposed Broad Avenue Linear Park, expressing the hope that the project would become a model for storage and cleaning of stormwater.

# \_\_\_\_\_\_ITEM 7 ATTENDANCE AT MEETINGS FOR VARIOUS BOARD AND COMMITTEE MEMBERS. (Continued from 4/19/06 Regular Meeting.)

City Manager Robert Lee opened discussion by saying that this item was a continuation from the last City Council meeting and that staff has nothing further to add to the discussion which has occurred on April 19. (It is noted for the record that a copy of this material is contained in the file for the April 19, 2006 meeting in the City Clerk's Office.)

Public Comment: James Siedel, 514 Neapolitan Lane, noted that he is a member of the Planning Advisory Board (PAB) and that a recent cancellation of a PAB meeting, due to a lack of quorum, had been inadvertent. Although his absence at that meeting had been excused, he said he had not thought to ask when he advised the staff whether other members would be absent. He stressed that the cancellation of such a meeting was however unacceptable and reaffirmed the dedication of the Board. Mayor Barnett said that comments concerning attendance had not been directed at any particular board or committee, but were concerns in general regarding the importance of the commitment of time to attend meetings. He also assured Mr. Siedel of Council's appreciation of all members of the PAB. Mr. Siedel stated that the PAB is proud of their contribution and thanked Council Members for their time. At this time Council Member Price asked staff to advise whether there were any open seats on PAB.

BRIEFING BY CITY MANAGER.....ITEM 8 (It is noted for the record that a copy of the City Manager's report is contained in the file for this meeting in the City Clerk's Office.) City Manager Robert Lee announced that the City had been named as a 2005 Tree City USA by The National Arbor Day Foundation. He also expressed appreciation to Dockmaster Mike Klein for his follow-up on the consent order for the City Dock (Florida Department of Environmental Protection/DEP). During a notation of tree trimming, Mayor Barnett read into the record a letter from Lynn Mullin (Attachment #1) opposing the City's action and said that it had never been the intent to cut down mahogany trees, but merely to examine them for hurricane damage and trim if necessary. Joe Boscaglia, Parks & Parkways Superintendent said that the goal of the City is to identify trees and retain them, although some trees may not be salvageable. He nevertheless stressed that any tree in the City rights-of-way is the responsibility of the City. Council Member Willkomm inquired as to the consequences of private individuals damaging these trees, and Mr. Boscaglia responded he was not aware of any penalties, but encouraged residents to hire certified arborists so as to insure that work is done correctly. City Manager Lee urged education of the public regarding this issue and perhaps stronger penalties when damage is done to these trees.

City Manager Lee continued his report by briefly addressing an email taking issue with the commercial trash container ordinance and stated his belief that the City must verify that it has the resources to follow-up on legislation before it is enacted. (It is noted for the record that a printed copy of this material is contained in the file for this meeting in the City Clerk's Office.) He explained that the effective date of October 1 for the ordinance was to enable compliance by residents and he added that staff is currently working on criteria for exemptions contained therein.

Chet Hunt, CRA Manager, then gave a brief overview of the Park Street call-back meeting (redevelopment) which was conducted April 22. Mr. Hunt said that a charrette was conducted the year before on the Park Street project which was well attended and that 11 plans had been generated at that time. An architect had been retained to meld these plans into a composite which would be adapted to accommodate the space available, he added. He noted that the callback meeting was to present the plan, which was well received, and that now it is time for the City to step back and let the community take the lead with actual development of the project. Council Member Sorey noted various attendant issues: Park Street is to remain open except for closure in conjunction with special events; Naples Women's Club's impending new building; expansion of the Naples Art Association building; opening of the alley to the west of the Naples Women's Club building; construction of a parking garage; and facilitating a return from the end of Park Street. Mr. Hunt also cited maintaining pedestrian orientation. Council Member Price expressed his concern regarding delivery truck traffic in the alley and noted that residents and merchants had expressed the same concern, therefore this should be added to the list.

**REVIEW OF ITEMS ON THE 5/3/06 REGULAR MEETING AGENDA......ITEM 9** Council Member Sorey noted that a survey of the affected property should be made available to Council to enable consideration of Item 7 (fence and wall waiver petition).

**Public Comment: Henry Kennedy, Pelican Avenue,** expressed amazement and displeasure at the direction that the Park Street project appeared to be taking. He explained that he had attended both the charrette and the call-back meeting and stated that he strongly recommended the final rendering be presented to the public via the City Council forum because it is no longer the intended parking garage, but a town square. Stressing the importance of maintaining Park Street as open conveyance, Mr. Sorey said that it was his understanding that the final plan will be presented to the Community Redevelopment Agency (CRA) in June and then to Council at a later date.

## CORRESPONDENCE/COMMUNICATIONS.....

Council Member Price indicated concerns as to the timing of re-entry into the City after a major storm event, referencing the City Manager's Report which contained a memo from Chief of Police and Emergency Services Steven Moore regarding changes to the existing emergency plan. (It is noted for the record that a copy of this material is contained in the file for this meeting in the City Clerk's Office.) Mr. Price also requested an update on the following: 1) implementation of the program using the larger recycling bins; 2) the tree replacement survey and planting program; 3) status of the River Park needs assessment; and 4) plans for the proposed parking garage design to be located at Sixth Avenue and Eight Street South. In addition, he asked if precautions were being taken to maintain water quality and safety at the May 13 Great Dock Canoe Race. Council Member Willkomm requested an update on the formulation of an annexation policy; City Manager Lee stated that this was to be included in the visioning process. Vice Mayor Nocera stated that he felt that decorative painting would possibly be an option to residents regarding the new trash container ordinance. Mr. Nocera also pointed out that memorial tree planting is an excellent option for those wishing to avail themselves of a commemorative option. Council Member Sorey gave a brief update on the granting of time

# City Council Workshop Meeting – May 1, 2006 – 8:30 a.m. xtensions for the beach renourishment project and stated that he wished to pursu

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12:08 p.m.	
	Bill Barnett, Mayor
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Tara A. Norman, City Clerk	
Minutes prepared by:	
Vicki L. Smith, Technical Writing Specialist	
vicki E. Silitai, Teelinicai viitailig Specialist	
Minutes Approved:5/7/06	

#### Mayor Barnett,

My name is Lynn Mullin. I have recently built a home on 3<sup>rd</sup> Ave. N and am very concerned about the proposed trimming, removing of our mahogany trees. We have gotten support from many of our neighbors on 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> Avenues who do not want to lose these magnificent trees.

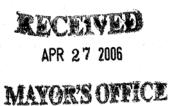
I've included signed petitions from many, and we are expecting more. We've mailed the petition to residents who are gone for the season.

Please consider the opinions and desires of our Naples residents in this matter.

Thank-you,

Lynn Mullin 374 3<sup>rd</sup> Ave. N Naples 34102

263-2761



We the undersigned would like to prevent the removal of any mahogany trees from our Avenues 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd and 4th</sup> North. These trees are the reason we chose these charming Avenues. The lovely shaded canopy they create makes our streets alluring and unlike any other neighborhood in Naples. Much like Crayton Roadsoss of their beautiful Banyans our property values will be DRASTICALLY reduced.

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# My Fellow Neighbor,

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