



City of Naples

City Council Chamber
735 Eighth Street South
Naples, Florida 34102

City Council Workshop Meeting – November 13, 2006 – 8:29 a.m.

Mayor Barnett called the meeting to order and presided.

ROLL CALL ITEM 1

Present:

Bill Barnett, Mayor
Johnny Nocera, Vice Mayor

Council Members:

William MacIvaine
Gary Price, II
John Sorey, III
Penny Taylor
William Willkomm, III

Also Present:

Robert Lee, City Manager
Robert Pritt, City Attorney
Vicki Smith, Technical Writing Specialist
Tara Norman, City Clerk
Natural Resources Manager Michael Bauer
Serena Jonnet, Floodplain Coordinator
Paul Bollenback, Building Official
Stephen Weeks, Technology Services Director
Dan Mercer, Public Works Director
Robin Singer, Community Development Director
Ron Wallace, Construction Mgmt Director
Victor Morales, Chief of Police & ES
Herb Marlowe
John Soule
Robert Wiley
Doug Finlay
Charles Glisson

Jim Boula
Russell Fraser
Brian Leiding
David Ball
Henry Kennedy
Madelyn Bunster
Terry Brennan
Sue Smith
Joe Karaganis
Alan Ryker
Sharon Kenny
Carl Suarez
Dorothy Hirsch

Media:

Aisling Swift, Naples Daily News

Other interested citizens and visitors.

SET AGENDA ITEM 2

No Changes.

PUBLIC INPUT ITEM 3

Jim Boula, 702 Broad Avenue South, cited what he described as a conflict with state law relative to a vessel mooring ordinance to be considered at that week’s regular meeting; he read from this legislation as follows (House Bill 7175/Chapter 327.60 Paragraph 2, Florida Statutes): “Nothing contained in the provisions of this section shall be construed to prohibit local

government authorities from the enactment or enforcement of regulations which would prohibit or restrict the mooring or anchoring of floating structures or live-aboard vessels within their jurisdictions or any vessels within the marked boundaries of mooring fields permitted as provided in Section 327.40.” Notwithstanding, he said, the local regulation under consideration would prohibit anchoring of non-live-aboard vessels in navigation outside of mooring fields, citing the following from the proposed ordinance: “It shall be unlawful for a vessel no longer exercising its rights of navigation to anchor in any of the navigable waters within the City unless moored to one of the mooring bouys in the City’s north or south mooring fields. This provision shall not apply to vessels anchored or left at anchor to make emergency repairs for the period of time reasonably necessary to make such repairs.” Mr. Boula stated that this presents several conflicts regarding the definition and intent of the ordinance and is extremely restrictive, whether strictly in the recreational context or to those seeking shelter from storms. He urged Council’s careful reconsideration of these issues. **Russell Fraser, 900 Broad Avenue South**, took the position that boaters were being increasingly disregarded. He related a situation where out-of-town boaters had been required by Naples Police Officer Russell Ayers to moor at the City Dock when they were discovered to have anchored their vessel outside the City’s mooring field. However, their stay at the City Dock is limited to five consecutive days, pursuant to Department of Environmental Protection (DEP) regulations. These individuals, Mr. Fraser said, had stopped in Naples because their daughter was undergoing surgery, thus necessitating a more extended stay. Therefore, they were required to moor in the Bay for one night so that they could return to the City Dock for another five-day stay. If the proposed ordinance is enacted, he said, these individuals would not have been able to take the action necessary to allow them to remain in Naples as long as needed. Mr. Fraser also said that the owners of larger vessels were avoiding Naples due to increasingly restrictive regulations in Naples Bay. In conclusion, Mr. Fraser expressed dismay regarding this particular mandate singling out boaters since, he said, pollution suffered by the Bay is largely due to stormwater runoff. **Brian Leiding, 235 Bahia Point**, stated that the aforementioned ordinance applying to the mooring of vessels should be withdrawn until a maritime law expert could evaluate it further, pointing out that House Bill 7175 had been in response to concerns pertaining to abandoned vessels in Marco Island and Miami. He emphasized that the parameters of the City ordinance are unclear. Natural Resources Manager Michael Bauer concurred with the comments above, adding that concern had arisen when the City’s mooring field consultant had learned from the DEP that negotiations for renewal of the City’s submerged land leases by the Internal Improvement Fund had prompted the requirement that the City enact an ordinance prohibiting mooring outside of a mooring field that is within the city limits. The intent, he said, was to alleviate unmonitored discharge of sewage and grey water from unregulated mooring in submerged resources in the area. A similar requirement had been imposed upon the City of Marathon, Dr. Bauer said, and further explained that the proposed Naples ordinance had been modeled after an enactment by Miami-Dade County.

City Manager Robert Lee further explained that the City of Naples was operating under a consent order during the application process to allow use of the Crayton Cove mooring field. The proposed ordinance limits mooring in the field to four days which is consistent with direction from both DEP and Aides to the Governor and Cabinet who have also been assisting the City in terms of this legislation. While the State deems it allowable to moor if exercising the rights of navigation, City Manager Lee said, the discrepancy arose in defining what constitutes the exercise of such navigational rights. City Manager Lee reported that Attorney Segundo

Fernandez was assisting the City in assessing and clarifying the temporary use and the consent agreement so that Council may have a document for review before the next regular meeting (November 15). Evidence of compliance must be provided in conjunction with a subsequent meeting with the Governor and Cabinet Aides, he added.

Council Member MacIlvaine urged retaining a maritime attorney to address these matters as State law appears to conflict with direction from the Cabinet. He also noted that the proposed ordinance had been a result of the permitting process. Council Member Sorey stated that he understood that anyone could use mooring field in a storm event, although the way the ordinance is written indicates that the mooring field is exclusively for transient vessels. Council Member Price expressed dismay at the apparent conflict of the City's proposed ordinance and House Bill 7175 and agreed that clarification by a maritime attorney was needed.

Public Comment (cont.): Dr. David Ball, 1655 Third Street South, said that he had returned to make another statement regarding emergency generators being allowed to be placed in side yard setbacks of existing homes. Otherwise, imposing new construction requirements on existing homes in this regard would result in decreased neighborhood aesthetics. Generators should be positioned near existing equipment (air conditioning compressors, etc), yet not outside the building envelope, he added. In response to Council Member Price, Dr. Ball recommended that in conjunction with remodeling, every opportunity should be taken to maintain the generator within the building envelope so as to minimize visual impact. Council Member Taylor expressed concern that noise would be the overriding factor; however, Dr. Ball explained that newer propane generators are both quiet and efficient. Council Member Sorey pointed out that generators are required to be placed above Federal Emergency Management Agency (FEMA) elevations resulting in their being considerably above grade level. **Henry Kennedy, 498 Devil's Lane,** cited what he described as considerable misconception on the part of the public regarding the proposed ordinance pertaining to placement of emergency generators. He therefore recommended increased dissemination of information in this regard to enhance understanding that the intent is not prohibition of emergency generators. He also said that he strongly recommends the City retain a maritime attorney who would represent the interests of the boating community, maintaining that the proposed ordinance was not a requirement for obtaining the required permitting for the City Dock and mooring field. City Manager Lee responded by pointing out that current circumstances arose from the City's failure to obtain State permitting when the mooring field was established and when renovations had been made to the City Dock. He stated that the City was working with the DEP, state agencies and Cabinet in remedial actions in order to obtain the required permit. He said that he would be utilizing the services of Attorney Segundo Fernandez in this regard. Mr. Kennedy noted that it was important for the public to recognize that the situation is not attributable to the City's legal representation at the State level; however, City Manager Lee stated that he was uncertain whether Attorney Fernandez was a maritime attorney. He also clarified that the policy which the DEP was attempting to enforce pertained to mooring of vessels outside of the Crayton Cove mooring field, however, the practice of exercising the "right of navigation" appeared undefined. He stated that he was confident that Attorney Fernandez would be in a position to advise the City in this regard.

Council Member Taylor expressed frustration that compliance with State law had placed the City in a defensive posture due to issues of clarity with reference to the requirement. Nonetheless,

City Manager Lee cautioned Council that noncompliance may result in denial of the requested permit. Mr. Kennedy, however, maintained that the definition of exercising the rights of navigation had been determined via precedent, since over seven citations had been issued for vessels at the Fleishman live-aboard dock due to active navigation. He further reported that the Naples Police had asserted in court that if one is on a boat, it is considered navigating, and therefore a violation of the ordinance. The court concurred and the fines were paid, he added. Council Member MacIlvaine however, emphasized that police officers are not expert in maritime law and Mr. Kennedy's statement does not have bearing on the matter at hand. City Manager Lee explained that the dilemma was the result of staff action in the 1990's and again recommended appropriate counsel from a qualified legal professional.

Public Comment (cont.) Doug Finlay, Gulf Shore Boulevard, North, stated that he had sent communications to the City regarding this ordinance and expressed concern with possible restriction in the manner he may wish to make use of his own small boat. He urged Council to ensure that the ordinance does not inhibit the rights of boaters' ability to anchor. He advised that the intent of the DEP was most likely to deal with abandoned or derelict vessels that had become problematic in Key West or Palm Beach County. If the intent is other than this, he emphasized his opposition to the ordinance and also questioned the legality of such a mandate.

INTERVIEW WITH DESIGN REVIEW BOARD CANDIDATE.....ITEM 4
(9:11 a.m.) Madeline Bunster was interviewed by City Council.

.....**ITEM 5**
REQUEST BY WGPU-TV FOR FINANCIAL ASSISTANCE IN THE PRODUCTION OF THE HISTORICAL VIDEO DOCUMENTARIES ENTITLED "UNTOLD STORIES"

Terry Brennan, Community Funding Director of WGPU Public Broadcasting, made a presentation including a video regarding the series which he said is part of an extensive effort by public broadcasting to produce documentary programming no longer produced by commercial broadcasters. In order to accomplish the two segments dealing with Naples, WGPU was requesting funding assistance in the amount of \$4,000 each, or \$8,000. City Manager Robert Lee recommended that this funding request be officially acted upon at a subsequent meeting after he had further conferred with the station management. In response to Council Member Taylor, he also clarified that the City had previously funded one Naples segment at \$4,000.

.....**ITEM 6**
UPDATE FEMA (FEDERAL EMERGENCY MANAGEMENT AGENCY) FLOODPLAIN MAPPING PROJECT

Serena Jonnet, City Floodplain Coordinator, and Robert Wiley, Collier County Project Manager, made a presentation regarding the process of floodplain mapping and the cost to date. (It is noted for the record that printed copies of Mr. Wiley's electronic presentation are contained in the file for this meeting in the City Clerk's Office.) Mr. Wiley noted that since the area received notification in 1996 that new floodplain maps were in the offing, the two local jurisdictions had been asserting their objections to the maps and endeavoring to provide data to substantiate their claims, including the joint hiring of Tomasello Engineering as consultant. This eventually included a CTP (Cooperating Technical Partnership) arrangement with FEMA to allow a working dialogue to occur between the federal and local levels which culminated in adoption of new flood insurance rate maps by both Collier County and the City of Naples. Mr. Wiley stressed the spirit of cooperation which had occurred since adoption of the CTP's. Continuing efforts are however underway for the locality to provide any possible information to FEMA that

will result in greater accuracy in area flood maps, although individual property owners in farther reaches of Collier County have joined to some extent in the funding so that their areas could be included in this effort, Mr. Wiley explained. The result will be interactive, digital base flood maps available via the Internet. (To-date cost data is appended as Attachment 1.) Mr. Wiley then related issues that have been dealt with relating to calibration of data which had caused some delay; he exhibited a flowchart which indicated a final implementation in May 2009. However, Mr. Wiley also pointed out that these projected time frames include functions and activities which are imposed by FEMA, including a suspension of local data review pending further federal funding. Nevertheless, he said he remained confident that the aforementioned implementation would take place on schedule, although delays were possible.

Mr. Wiley then provided a listing of engineering studies (Attachment 2), all being within final stages with the exception of the Ave Maria Stewardship District. which was added much later. When all are finalized, map production can begin, he added. Mr. Wiley then cited anticipated outcomes and impacts of the flood insurance study (Attachment 3). This includes an anticipated increase in the area to be identified which takes into account rain-induced flooding never before measured by FEMA. He further defined the term “floodway” which pertains to channels that must not be in any way restricted or obstructed so as to avoid a rise in the flow of stormwater, although he also expressed doubt that, due to little variation in terrain, few of these areas would occur in Collier County apart from the Golden Gate Canal. Another observation Mr. Wiley made concerned the fact that coastal zones are closely reflecting those flood maps adopted in prior decades. He also stressed that if any portion of a property intersects two flood zones, the entire structure is assumed to be in the most restrictive zone.

Council Member Sorey pointed out that it had been deemed most advisable to negotiate with FEMA rather than to pursue litigation; even to the extent of deferring until the process was complete incorporation of the revised maps already completed coastal areas; nevertheless, that deferral has resulted in some coastal properties being considered legal nonconformities. Council Member Sorey therefore asked Mr. Wiley to further explain to the City’s constituency the reasons for this decision, particularly since acceptance of the Ave Maria Stewardship District into the process had translated into further delays. Mr. Wiley explained that despite the number of individual panels contained therein, FEMA recognizes a single map which covers all of Collier County and its municipalities. In fact, he said, FEMA had supported inclusion of Ave Maria so that the entire process could be completed even though development at Ave Maria was to occur in the future. Again, he stressed that data calibration continues to be more of a matter of concern than any delay that may have been attributed to Ave Maria.

Mr. Sorey also ascertained from Mr. Wiley that, once completed, maps could be adopted locally prior to FEMA taking formal action; this could reduce the May 2009 implementation date by as much as six months, Mr. Wiley added.

Council Member Taylor observed that the local jurisdictions were performing the work that would have been done by FEMA if that agency’s computer system had not been inadequate. Mr. Wiley, however, disagreed; pointing out that this was more a function of FEMA’s internal reorganization and a conversion of a FEMA model by the Tomasello firm (local consultant) from mainframe to PC-based computing. This effort had required a line-by-line review of codes,

although some difficulties remain regarding coastal and interior models in the FEMA system; nevertheless, due to the complexity of data, it can take up to 12 hours to run the model even on high-speed computers, Mr. Wiley added. Council Member Sorey then pointed out that this was in fact work that should have been accomplished by FEMA whose model had been based on faulty science. Mr. Wiley clarified, however, that typically FEMA would only model coastal data in Collier County, since it is considered a coastal area, and not model the interior as is being accomplished by the local jurisdictions despite the need for interior mapping to be accomplished throughout the state based on experience in the 2005 hurricane season. Council Member Taylor expressed confidence in the professionalism of the Tomasello firm. Various Council Members also expressed appreciation and commendation to Mr. Wiley for the quality of his presentation.

STANDARDS FOR RENTAL HOUSING ITEM 7

City Manager Robert Lee indicated that staff had researched the issue of enforcement of housing standards in rental units which had been precipitated by experiences in the aftermath of Hurricane Wilma in 2005. (It is noted for the record that a printed copy of the electronic presentation made by Community Development Director Robin Singer is contained in the file for this meeting in the City Clerk’s Office.) Ms. Singer cited the need for an annual inspection process for rental housing in order to protect the health, safety and welfare of residents. She cited similar programs in Tampa, Clearwater, St. Petersburg and Hillsborough County. She listed current local codes which address some of the issues pertaining to rental housing (Attachment 4).

In discussing regulations that may be advisable for rental housing, Ms. Singer pointed out that traditionally, single family homes would not be inspected. A fee would be involved to cover the cost of inspections and a certificate of compliance issued. Collier County, she added, has implemented a rental housing registration process that is separate from occupational license requirements, although the occupational license issuance process would most likely be sufficient for the City. The Code Enforcement Board would be utilized in this process and certificates could be revoked for non-compliance.

Ms. Singer listed various minimum housing standards and said that the staff was seeking a consensus on whether implementing a rental housing policy is desirable. If so, she said that an ad hoc advisory board is recommended to develop standards, including a review process. A time line proposed would include appointment of the board in January with a Planning Advisory Board (PAB) review of a proposed ordinance in May followed by presentation to City Council in June prior to its summer recess.

Council Member Taylor disagreed with establishing an ad hoc board, indicating that this would be a function for the PAB. She also asked for the reason single family rental homes are not included where, she said, abuses also occur. Mayor Barnett, however, said that there could be difficulty in identifying single family homes that were in fact being occupied by renters. City Manager Robert Lee said that a review of this matter with the Presidents’ Council (property owner associations) had indicated opposition to including single family homes; however, he recommended that this be an issue addressed in developing an enforceable piece of legislation. In addition, he said that enforcement costs should be carefully established if single family homes were to be included in the regulations. Miss Taylor also cited the importance of accountability on the part of the property owner to activities which are being conducted in a particular unit.

Council Member Taylor also cited the advisability of developing regulations for commercial rental units which, she said, are also often neglected by landlords. Ms. Singer indicated that commercial could be considered for inclusion, depending on the perspective of the community.

Although Ms. Singer said there had been no estimate at that stage as to the number of units involved, particularly if single family homes were included, Council Member Willkomm asked that this estimate be generated. Council Member Sorey also asked for this data to be presented in categories so that a determination could be made of the extent to which a rental unit code should be implemented. However, he pointed out that the Presidents' Council opposition to inclusion of single family units had not been unanimous, and he said that he preferred single family in fact be included.

Council Member Nocera however advised caution from the standpoint of private property rights, pointing out that many property owners choose to rent when they find that sale of the unit is not advisable at a particular time. He also questioned the extent of the problem being discussed. Community Development Director Singer said that regardless of the frequency of problems with rental units, the City does not possess sufficient codes to address interiors.

At this point Mayor Barnett identified the following consensus:

Consensus that rental standards be developed to include single family units as well as commercial and that these standards be developed by the Planning Advisory Board (PAB).

Public Comment: (10:14 a.m.) **Sharon Kenny, 17th Avenue South, Naples**, said that the Presidents' Council had discussed this issue approximately five years before and it had been precipitated by problems involving short-term rental of single family homes. Some, she said, are actually leased on a weekly basis which could entail groups of individuals renting a multi-bedroom house with attendant noise and disturbance. She indicated her support for the effort contemplated. **Sue Smith, Naples resident**, concurred with the prior speaker, but recommended against creating an ad hoc board to address the matter under discussion. She said she also concurred with Council Member Nocera's warning about infringement on private property rights by the extensive regulations which had been suggested by staff. Mrs. Smith equated proposals like this one to a socialistic perspective, despite the fact that there is a need to address transient rentals in single family neighborhoods by another means.

Council Member MacIlvaine took issue with Mrs. Smith's assertion that the Council was not respecting private property rights, pointing out that the Council was attempting to address the needs of neighbors who suffer from inappropriate rentals. Therefore, personal property rights are in fact being defended in this manner, he added.

City Manager Lee clarified that the staff in this instance had sought to address problems caused in the hurricane aftermath and had recommended the scope be limited to multi-family units; however, since the Council had indicated a desire to include single family, staff would identify and quantify this category as well. He also said that the Presidents' Council had urged enforcement of current codes which allow rentals of single family homes for a minimum of 30 days; the staff will attempt to identify those properties so that action can be taken. In further

response to Council Member Nocera, City Manager Lee provided an example of an unsafe condition being failure to repair a roof on a rental unit which resulted in flooding. However, unlike commercial properties, without additional legal authority to address a public safety matter, code enforcement does not have the right to enter a premises unless admitted, particularly in the case of single family units. Mr. Nocera reiterated his concern that such measures should be enacted carefully and that private property rights not be infringed upon. Council Member Taylor said that she would be satisfied if a means were found for enforcement of the prohibition of transient lodging in single family areas. However, she said she also sought to deal with a landlord failing to make repairs of a single family dwelling considered to be of a serious nature such as a safety issue.

Council Member Sorey distinguished between an owner-occupied residence and a unit that might be rented, which then places that unit into the realm more of a commercial activity.

Recess: 10:28 a.m. to 10:43 a.m. It is noted for the record that all Council Members were present when the meeting reconvened.

BOAT STORAGE IN RESIDENTIAL DISTRICTS ITEM 8

City Manager Robert Lee noted concerns from residents when a neighbor had leased a residential dock to a boat brokerage which was considered a commercial venture. Community Development Director Robin Singer then made an electronic presentation, a printed copy of which is contained in the file for this meeting in the City Clerk's Office. In addition to preventing the above situation from recurring, Ms. Singer also noted that a recent discussion had occurred with reference to allowing boat lift covers and decks and therefore staff was seeking Council's guidance on pursuing further regulations.

In consultation with Natural Resources Manager Michael Bauer, it had been pointed out that the continual shading of a boat lift cover acts to inhibit growth of sea grasses and other types of environmentally important growth beneath the water. There is also an aesthetic issue since they abut canals, she added, and stated that the current prohibition in the Code of Ordinances of boat lift covers should stand. While there have been no issues raised regarding boathouse roof decks, Ms. Singer said, several are in existence where home owners have added outdoor living space above boat lift covers. While such uses are not permitted above garages, if roof decks were determined to be permissible above boat lifts, it should be recognized in the Code of Ordinances.

Ms. Singer then addressed boat storage on land, pointing out that this is allowed in front and side yards provided screening is in place and vessels are 50 feet from a property line; however, boat storage on land is allowed without screening in rear yards and within the building envelope (carport). On double-fronted lots, boats may however be stored anywhere in the yard with administrative approval and screening requirements are at the discretion of the City Manager. There is an inequity between interior and corner lots, Ms. Singer added; therefore, staff is recommending that restrictions be more uniform. (Please see Attachment 5 for a summary of staff's recommendations.)

With regard to the leasing of private docks, Ms. Singer said that prior records indicated a reluctance to prohibit their use for charter boats as long as they are restricted to meeting passengers at another location. However, some restrictions are being contemplated along with addressing the issue of parking requirements, both for single and multi-family districts. The

Department of Environmental Protection (DEP) also imposes other restrictions; namely, if more than two vessels are docked, the slip is considered commercial requiring that agency's review. Staff recommends that one slip behind a single family home be allowed for rental to an individual who either is not residing there or does not own the property; such rentals would also be allowed in multi-family zones provided there was the same parking provided as that required for a marina use. Council's concurrence with the staff's recommendation in this regard, Ms. Singer said, would assist in resolving various pending code enforcement cases.

Council Member Willkomm received clarification that those residences where boat lift covers and decks exist would be considered legal nonconformities; even catastrophic damage could be repaired if the work were done within 12 months. Mr. Willkomm asked the staff to ascertain whether boat slips which are cut into a piece of property are allowed and, if so, to identify the extent of setbacks required from the side property lines. Council Member Nocera said that he believed that this setback is 7.5 feet and that the City's Natural Resources Manager handles permitting; however, he said he believed that the boat slips to which Mr. Willkomm had referred are rarely approved.

Council Member Willkomm said he would however wish to receive input from the boating community regarding the prohibitions proposed on boat lift covers as well as decks in those areas. Ms. Singer also clarified for Council Member Nocera that, regardless of the number of boats that could be accommodated at dockage at single family homes, the restriction to one rental space was being proposed due to citizen complaints.

Public Comment: Henry Kennedy, 498 Devil's Lane, took issue with what he described as a lack of specificity within the agenda description, asserting that the topic under discussion goes significantly beyond merely boat storage in residential districts. Restrictions are being imposed although no publication thereof had occurred. Mr. Kennedy then referred to his 15 year residency in Royal Harbor where leasing of docks has been permitted; he also disputed the actual impact to the neighborhood, stating there should be no restrictions on the number of boats present as long as the dockage is sufficient; however, commercial activities in residential areas should be prohibited. In an exchange with Mayor Barnett, Mr. Kennedy said that should neighbors object to docks being leased, it is a matter to be settled among the individuals involved. He reiterated however that had public notice been sufficient, more citizens would have been present to comment on this matter. In conclusion, he pointed out that a regulation currently exists that a boat and dock cannot extend farther than 25% into the width of a canal and therefore criticized research into matters that had already been addressed in the Code of Ordinances. Mayor Barnett took issue with Mr. Kennedy's position to the effect that the matter before Council was comprehensive of more issues that Mr. Kennedy had mentioned. Although Council Member Taylor pointed out that this matter had been discussed with the Presidents' Council, Mr. Kennedy took the position that a written notice should be provided to every waterfront property owner; Council Member Nocera agreed. Council Member Sorey pointed out that the discussion underway entailed no action other than providing direction for the process to commence, however, he also concurred with notification of waterfront property owners.

Council Member Willkomm reminded Mr. Kennedy of a complaint with which the Council dealt regarding multiple yachts being docked behind a residence with attending traffic from vessel

buyers and disturbance of the neighborhood. The Council was only at the initial stages of addressing this problem, he said, noting that the Council was seeking citizen input.

Consensus for staff to pursue restrictions for boat storage in residential districts and to transmit a written notice of this intent to waterfront property owners, including a schedule of upcoming meetings on this topic.

PAY AND CLASSIFICATION SYSTEM.....ITEM 9

This item will be heard at the next City Council workshop (December 4, 2006).

STAFF PRESENTATION REGARDING CODE ENFORCEMENT BASICS.....ITEM 10

City Manager Robert Lee said that this item had been included in the agenda in response to a request that the Council receive information on the workings of the current code enforcement process. (It is noted for the record that a printed copy of the electronic presentation on this item is contained in the file for this meeting in the City Clerk's Office.)

Victor Morales, Chief of Police and Emergency Services (PESD), reported that on October 1 the code enforcement function had been moved under the auspices of PESD within the Community Oriented Policing (COP) unit so that the following personnel is available for enforcement activities: 2 code enforcement officers, 5 COP officers within the unit, 36 police officers assigned to various sectors, and 2 community service aids. In addition, police officers and community services aids are on duty around the clock, he said. Chief Morales then provided a flow chart delineating the handling of complaints (Attachment 6).

Community Development Director Robin Singer listed the steps in what she referred to as a tiered system for code enforcement, pointing out that, in addition to police officers and code enforcement officers, various City employee positions would be given the authority to issue notices of violation. A third tier includes all other City employees who, while unable to issue a notice of violation, will be able to enter a complaint into the City's computer system for routing to an enforcement officer. The computer system will eventually be open to the public for this purpose, Ms. Singer added. Ms. Singer then reviewed the process for dealing with a complaint, pointing out that the status could be obtained from the City's website. She also listed additional methods of enforcement which can be employed which apply to building and zoning matters as well as life safety issues. Finally, Ms. Singer reviewed enforcement capabilities with reference to construction site maintenance. (Please see Attachment 7 for enumeration of the points in Ms. Singer's presentation.)

City Attorney Robert Pritt then addressed enforcement procedures, including dealing with recurring, uncorrected and repeat violations (Attachment 8). Mr. Pritt pointed out that notification procedures distinguish between the powers of the code enforcement officer and the police officer who is able to issue a citation upon observing the offence; however, a code enforcement officer is allowed only to issue a notice of violation, pursuant to Chapter 162, Florida Statutes, which must be followed by municipalities in this process. A reasonable time is allowed for the violator to make the necessary correction; however, for repeat violations (either uncorrected or corrected but recurring), the matter may be taken to the Code Enforcement Board. Depending on the nature of the violation, the Code Enforcement Board may issue an order to correct the violation and can set a fine to accrue should corrective action not occur.

City Attorney Pritt then reviewed issues regarding repeat violations which he clarified as those which may occur at a different location by the actions of the same respondent, particularly with reference to temporary signs; in such cases, enforcement does not entail an allowance for a time to correct and incorporates increases in fines which can run from the day in which the inspector discovers the violation.

Mr. Pritt then reviewed levels of fines, including issues involving Chapter 162, pointing out that the Council in certain instances has a role in considering the reduction or elimination of a lien imposed with reference to a Code Enforcement Board fine. He also noted that in certain relatively rare instances, repairs may be effected by the City, as authorized by the City Council upon the request of the Code Enforcement Board. However, although permissible under Chapter 162, the City at this time does not assess costs of prosecuting a case; notwithstanding, these amounts must be reasonable and supported by testimony as to the amounts involved.

City Attorney Pritt explained that citations are filed in County Court and, since they are judicial, are heard by a judge; there are other investigatory requirements as well as a fine limit of \$500 per violation. However, should the City determine that it is advisable to allow violators to pay an amount so as not to undergo the court process, the amount set should be sufficient so that individuals do not merely look upon it as a cost of doing business. With regard to notices to appear, which is a civil notice issued by a zoning enforcement inspector, the statute also allows the City to file a civil action which is a procedure that has not been used to date.

In conclusion, City Attorney Pritt listed the elements of procedural due process contained both in the federal and state Constitutions: notice, opportunity to be heard, and an impartial tribunal. The Council, as well as the Code Enforcement Board, must adhere to these principles when acting in a quasi-judicial capacity; however, a special master could also be integrated into the code enforcement process.

Public Comment: Carl Suarez, 479 Rudder Road, who indicated that he is a member of the City's Code Enforcement Board, cited the positive result expected from recently enacted codes with reference to new construction sites. He urged vigilant and consistent enforcement to maintain governmental credibility, pointing out that he had however observed various inconsistencies in the City's handling of this process while serving on the above board. An area he said he believes is in need of particular attention is the illegal placement of off-site real estate sales signs. Mr. Suarez however commended the City for the new computerized system which would allow citizens greater access to the code enforcement process. **Dorothy Hirsch, 626 Regatta Road**, related difficulties she had experienced in the past in initiating enforcement by the City with reference to construction site issues. At one point, she said, new construction had been simultaneously underway across the street and on the parcel of land behind her home. She said that after citizens became involved, new codes had been written; however, there remained a deficiency in enforcement, particularly with reference to activities on new construction sites, pointing out that yet no cases of this nature had been brought before the Code Enforcement Board. Mrs. Hirsch also pointed out that sand migrating from construction sites often blocks storm drains and therefore causes flooding; she also cited problems with litter and cracks caused in foundations of neighboring homes. None of these matters have been corrected, she said, despite her contacts with the City, and despite passage of enhanced codes. Mrs. Hirsch therefore

said that she was making an impassioned plea for the Council to take action to prevent damage to the properties of citizens whose rights are, in her view, not being protected. She indicated that the next speaker, **Dr. Dave Ball**, had left the meeting, but had intended to speak on the placement of emergency generators and indicated that the Collier Building Industry Association (CBIA) had been aware for some months of this issue since representatives of the CBIA had attended a meeting with citizens. **Charles Glisson, 625 Regatta Road**, said that in August 2005 meetings had begun in an effort to upgrade construction codes, and he complimented the City staff for its efforts in this regard. Mr. Glisson however cited the importance of the using stop-work orders which he said can be more effective than fines with reference to construction projects since fines are often seen as a cost of doing business. In conclusion, he urged vigilance on the part of the Council in ensuring that all codes are enforced by City staff, including fines and other penalties.

Council then discussed various aspects of this issue, including the availability to citizens of relief from such matters as after-hours construction site noise. As noted by City Attorney Pritt, enforcement options include issuance of a stop-work order by the Building Official, issuance of a criminal citation through the State Attorney, or issuance of a notice of violation which could culminate in a proceeding before the Code Enforcement Board, particularly in recurring violations, or an action before the courts. Council Member Willkomm received clarification that after-hours work in more than one location by the same entity could in fact be considered a repeat violation or the basis of an action against the contractor's license. Mr. Pritt also cited various other options such as pursuit of civil action by the City against an offending party, the seeking of injunctive relief, or revocation of a building permit. However, Mr. Pritt pointed out that the standard code enforcement process is most often effective in this regard. Council Member Taylor also received clarification that a stop-work order could be utilized on an initial infraction for violations of the building code, which resides in the authority of the Building Official. Miss Taylor then urged that this be done; however, City Attorney Pritt said that should such an order be issued in error, the City would incur liability. City Manager Lee also pointed out that this enforcement process is restricted to the building code and not allowed on various other types of violations which may nevertheless occur on a construction site such as allowing sand to block storm drains. Mr. Pritt further explained that on recurrence of this type of violation, other code enforcement remedies noted above are also available. Miss Taylor, however, expressed dismay that an activity such as this could continue while an enforcement process goes forward. Paul Bollenback, Building Official, further explained that stop-work orders have under certain circumstances been issued for matters involving lack of construction site maintenance if these violations can be directly related to the Florida Building Code, although this must be done judiciously so as to prevent liability on the part of the City. Miss Taylor urged staff to however implement this type of enforcement as soon as possible within the law.

Council Member Sorey confirmed with City Manager Lee that the City has the ability to maintain a history of code compliance on individual contractors so that repeat violations can be cited. Mr. Bollenback confirmed that this is in fact the case. City Manager Lee, however, indicated that he did not believe that a mechanism exists to allow the City to document the cost of enforcement so as to have the ability in the future to assess these charges. Mr. Sorey urged that this be accomplished both from a recordkeeping standpoint and to add to the code enforcement process. Mr. Sorey also recommended that the City develop an appropriate fee

involved with offenders paying an amount in lieu of a court appearance. In conclusion, Council Member Sorey recommended that the City enhance the Florida Building Code with more restrictive requirements; City Attorney Pritt explained that the administrative section of the Florida Building Code can be amended locally in a limited manner, although approval of the Florida Industry Licensing Board is required in such instances. Council concurred with Mr. Sorey in the following consensus:

Consensus to direct staff to determine the various types of repeat violations which should be further addressed in local codes.

Council Member Price said that, as a homeowner, he shares the feeling of helplessness expressed by the speakers above with the difficulty in achieving enforcement of construction site violations. He said that effective action must be taken and stressed the need to provide the public with access to information on repeat violations. City Attorney Pritt said that while this information is in the public record, due process for violators is an essential component in any enforcement strategy. While expressing frustration that stop-work orders have the limitations cited above, Mr. Price nevertheless reiterated the importance of providing the public with information on violations via the new database cited earlier by staff. City Manager Lee said that this would be available on the City's website.

Council Member Taylor supported the inclusion of prosecution costs in the code enforcement process; City Attorney Pritt said that there is the possibility that this could be implemented without further amendment of the Code of Ordinances. Council Member Willkomm stressed his belief that there had been no intent by the participants in this discussion to cause harm to those in the building industry who abide by regulations; however, enforcement should be stringent on repeat violations, particularly those that may be committed by the same entity on disparate locations. He said he believed that this would be effective due to the cost to the violator. Council Member Nocera cited the need for reasonableness on the part of all concerned, noting that a small minority of building contractors are actually the ones causing difficulties. Mayor Barnett expressed appreciation to citizens for their assistance in achieving improved regulations and stressed that all involved sought effective code enforcement.

Recess: 12:28 p.m. to 2:49 p.m. It is noted for the record that all Council Members were present when the meeting reconvened.

It is noted for the record that at this point in the meeting the Council's consensus occurred to continue Item 9 to the December 3, 2006, workshop.

UPDATE ON GULF SHORE BOULEVARD ONE-WAY PLAN.....ITEM 11

City Manager Robert Lee cited a recent public meeting on this topic and indicated that the staff and the consultant had incorporated input from this session as well as from City Council Members to compile the presentation offered that day. (It is noted for the record that John Soule of Kimley-Horn & Associates made an electronic presentation, a printed copy of which is contained in the file for this meeting in the City Clerk's Office.) Construction Management Director Ron Wallace said that the information provided that day would be more comprehensive than in the abbreviated version presented at the aforementioned public session.

Mr. Soule listed the steps required for the Gulf Shore study, pointing out that details of the City's Comprehensive Pathways Plan would be interwoven due to the interrelatedness of these two efforts. (Please see Attachment 9 for excerpts from Mr. Soule's presentation.)

Mr. Soule pointed out that all the streets listed were operating well within the Level of Service (LOS) standards adopted by the City resulting in significant capacity remaining. He pointed out that Gulf Shore Boulevard operates more like a resort destination than a commuter route, peak hours being early morning to mid-afternoon. If Gulf Shore were one-way south bound, using one lane for such uses as pedestrians and cyclists, there would be a shift in traffic, particularly Second Street South, he said, but reiterated that capacity remains on all these facilities. Should Second Street be converted to one-way, north bound, and Gulf Shore one-way south bound, traffic volumes would remain well within the adopted levels of service. Nevertheless, he said, LOS standards often are not reflective of the observed situation as to increases due to realignment of traffic flow, an observation that had been made by a Second Street resident who said that it was not appropriate to divert traffic to that thoroughfare.

Mr. Soule then reviewed criteria for construction of sidewalks, bicycle paths, and the like (Attachment 9). He said that the ten-foot standard had been used for the assumption regarding a multi-use path which allows safe passage of two cyclists and two pedestrians traveling abreast in opposite directions. However, if such a shared use path were implemented, there also must be a five-foot separation from other vehicular traffic if no barrier is used. Barriers, he said, are not recommended however due to the fact that they represent a serious hazard for cyclists who easily lose their balance if one wheel touches the barrier. Mr. Soule then displayed photographs of the area in question, noting that he had also ridden a bicycle on this corridor. He said that a variety of uses had been observed, pointing out that pedestrians will choose a route satisfactory to them, regardless of where actual facilities have been placed. On Gulf Shore, due to landscaping and obstacles, pedestrians tend to walk in the roadway resulting in a dangerous condition, he said. In addition cyclists often use the roadway instead of a bicycle lane which also can impede traffic, although this is permitted under law since bicycles are considered vehicles.

In further illustration of conditions on Gulf Shore, Mr. Soule also cited a paved shoulder that is present in some locations but which is not the four foot width required for a bicycle lane. He also cited obstacles created by landscaping which often enlarges over time, although property owner maintenance to the edge of the roadway is required. Additionally, he pointed out that while the sidewalk appeared in this instance to have been installed after the roadway, it had been done in such a way that it did not impact existing homes or larger trees.

Mr. Soule then listed the alternatives which had been considered, noting that Alternative 2 (two-way with single sidewalk) comported with City sidewalk policy. He also listed three suggested options and their respective cost estimates. (It is noted for the record that the aforementioned information is appended as Attachment 10.) He pointed out that, contrary to the assumptions of some, the one-way option for Gulf Shore would nevertheless entail some encroachment upon properties due to the need to relocate mailboxes and landscaping. With regard to a multi-use path (Option 2), Mr. Soule clarified for Council Member Taylor that this surface should be slightly elevated from the travel lane to afford motorists with a visual clue to avoid migrating into that area. However, because the travel lane is one-way, motorists making turns into side streets or driveways can fail to take into account that the multi-use pathway also accommodates two-way traffic, often making the roadway a safer alternative for cyclists. Also, this configuration can be confusing to newcomers to the area, Mr. Soule added.

With regard to Option 3, Mr. Soule pointed out that, regardless of its being less disruptive and in conformance to the City's sidewalk policy, it does not fully address the needs of recreational cyclists who heavily use Gulf Shore Boulevard. Therefore, in light of the Comprehensive Pathways Plan, he said, this thoroughfare should be viewed as integral to the use of cyclists.

Mr. Soule then reviewed costs associated with the three options (See Attachment 10), noting that the multi-use option is the most expensive due to the need to reconstruct the roadway so that the current slope is eliminated.

He then reviewed survey responses from participants at a public forum on this topic held on November 6 (Attachment 11) which showed that the majority were in favor of adding a sidewalk along one side of the existing roadway. However, Mr. Soule pointed out that traditionally the individuals who are the most vocal at meetings such as this are the ones who disagree with a particular proposal. Among the eight individuals who opted for no action were however those who favored merely delaying until after formulating the Comprehensive Pathways Plan which could at least minimize disruption.

Mr. Soule's recommendations were therefore as follows:

- Maintain two-way traffic due to operational issues;
- Focus on connecting important destinations;
- Adopt a phased approach to improvements; and
- Adhere to City's sidewalk policy.

He also pointed out that the stretch of roadway between Fifth Avenue South and the entrance to the Fishing Pier should be considered a retro-fit project and therefore prudent from the standpoint of coordination with the Comprehensive Pathways Plan. Mr. Soule then delineated the following phases: Phase I: construct sidewalk on west side between Fifth Avenue South and 12th Avenue South (Pier); and Phase II: analyze all of Gulf Shore Boulevard as part of Comprehensive Pathways Plan to fully address bicyclist/pedestrian needs. In response to Council Member Sorey, Mr. Soule indicated that data collection for Phase II was nearing completion and that one initial public feedback session had been held. On December 7th another such meeting will be used to communicate the results of the data collection as well as seek additional public input. Then, a draft Comprehensive Pathways Plan will be drafted and made public after the first of the year.

Council Member Taylor asked for the extent to which signage is effective in directing cyclists and pedestrian to sidewalks. Mr. Soule said signs might have some effect, but reminded Council that it is known that people will take the shortest route possible to their destinations, regardless of whether a pathway had been provided. She said she believed that due to fewer curb cuts it would be less costly to construct a bicycle path on the east side of the roadway. Mr. Soule, however, said that while the costs would be similar on either side, the more pertinent questions involve disruption and projected frequency of use, reiterating his point that pathways should be placed in locations where people desire to traverse.

Council Member Willkomm criticized the November 6 presentation, characterizing it as childish and incomplete, including drawings that had not been prepared to scale. He said that while

Kimley-Horn had, with that day's presentation, covered the provisions in its contract, the contract should nevertheless be terminated and the City consider requesting a refund. He said that he had heard these same sentiments from attendees at the public meeting and that if the services of the firm did not improve he would in fact propose that the contract be rescinded. Council Member Sorey said that, having also attended the November 16 meeting, he believed 71 members of the public had been in attendance. He said he concurred with Mr. Willkomm's views and had commented to the City Manager in this regard; however, the presentation to City Council that day had provided a much better understanding of the matter. Council Member Taylor, however, pointed out that the staff would not have been able to accomplish this type of analysis in conjunction with their other responsibilities. Council Member Nocera said that he had been opposed to the proposal to make Gulf Shore Boulevard a one-way thoroughfare at the time former Vice Mayor Tamela Wiseman had made the suggestion. He said that the funds invested in the consultant would have better been spent on sidewalk construction which had already been proposed by the staff. Mayor Barnett thanked Mr. Soule for his presentation that day and characterized it as excellent.

Public Comment: Joe Karaganis, 890 Gulf Shore Boulevard, said that he had attended the aforementioned public meeting and asked that the plan be tabled until it could be coordinated with the Comprehensive Pathways Plan but also expressed concern that the City's sidewalk policy may not conform. He also said that at the aforementioned public meeting attendees were told that the grass separation between the sidewalk could be less than the four feet noted during the consultant's current presentation, thus representing further incursion toward private homes. He characterized this as having a devastating impact on older structures, in particular. In addition, Mr. Karaganis pointed out that if the surfaces were concrete as noted by the consultant, runners and joggers would use the street because of a preference for the asphalt surface. He cited a current pedestrian corridor connecting the Fishing Pier via Third and 12th Streets South which already provides access from the Fifth Avenue South shopping area to Third Street and to the Pier, and conforms to the City's existing sidewalk policy. Homeowners should be protected from incursion of new sidewalks so as to preserve what he termed the high quality amenities which currently exist and that a Comprehensive Pathways Plan should be compatible with these amenities. The difficulty in the plan as noted is its incremental disruption. Gulf Shore should not be a thoroughfare to attract recreational users, he added. Council Member Willkomm said that his children had grown up on Gulf Shore Boulevard and Second Street South where there were no sidewalks, therefore, he said he had been in constant fear for their safety and he is for the safety of other families and children he sees on the street at the present time. Mr. Karaganis, however, maintained that the aesthetic character of the area should also be taken into account. **Sue Smith, 11th Avenue South,** recalled that she had for at least 20 years been pleading with Council to deal with the problems on Gulf Shore Boulevard. She stressed the safety issues and said that the City had been deficient in providing for the safety of bicyclists and pedestrians. Due to the limited roadway access to the southern end of the community, Gulf Shore is also heavily traveled by large vehicles servicing the shopping districts as well as contractors such as lawn care providers, she said, also pointing out the numerous alleyways and streets which intersect, compounding the difficulties being experienced on Gulf Shore. There should therefore be an area designated for sports cyclists that could be created in cooperation with Collier County to protect an area that was in its first manifestation a residential neighborhood. She urged the Council to deal with these competing interests. **Doug Finlay, 3430 Gulf Shore Boulevard,** stated that the homeowner had in fact encroached on City property through installation of

landscaping. He said that the extension of a sidewalk to the south would be as beneficial and just as popular as the northern extension; he also said that he does not believe it appropriate to convert the street to one-way for six tenths of a mile only. Gulf Shore must be viewed in conjunction with the Comprehensive Pathways Plan as a recreational amenity to the community, he concluded. **Alan Ryker, 300 Fifth Street South**, stressed the need for furthering pedestrian safety throughout the community and supported installation of a sidewalk on the west side of Gulf Shore Boulevard which he said is more appropriate because this affords access to the Gulf of Mexico which draws pedestrians to the area. Four-foot-wide bicycle lanes should eventually be installed on both sides, however.

City Manager Robert Lee clarified that the presentation heard at that meeting was designed as a follow-up to the public meeting and that the study was performed initially in an effort to avoid using additional public right-of-way for installation of a sidewalk, using the existing hard surface in conjunction with the possibility of converting the thoroughfare to one-way. While he said he believed this to no longer be considered practical, utilization of some of the right-of-way for a sidewalk will nevertheless be required. He also stressed the importance of the Comprehensive Pathways Study and therefore recommended deferring further action on Gulf Shore until its completion, especially since modifications to Gulf Shore could undergo further changes in the future. The aforementioned additional information could be available as early as December, he added.

Council Member Taylor said she had learned from residents who had been involved in early community planning; that there had been a deliberate decision not to construct sidewalks. Private homeowners, she said, most likely did not feel that they were encroaching on the street because none were in favor of sidewalks; many of these individuals had come from large cities and therefore desired as much green space as possible. People then walked the beach for exercise, Miss Taylor added. She also said that while she respected the concerns expressed by Doug Finlay, there should be recognition that avoiding sidewalks was a conscious decision. Mayor Barnett agreed. Council Member Willkomm however said that traffic levels have over the years drastically increased, although he said he was in no way criticizing those who had built their homes in a prior era. He said that he would however welcome a sidewalk installed in front of his home on the east side of Gulf Shore. Again referring to the photographs presented in the Kimley-Horn presentation, Council Member Nocera pointed out that extensive tree removal would be necessary in order to extend sidewalks on Gulf Shore, although safety has now become a significant concern.

Mayor Barnett then indicated that further discussion of sidewalks on Gulf Shore Boulevard would be deferred until the December review of the Comprehensive Pathways Plan. Construction Management Director Ron Wallace clarified that public meetings on the Comprehensive Pathways Plan had been planned for December, as well as in either January or February, although an initial presentation would be made in December with recommendations in place prior to commencement of the budget cycle for the upcoming fiscal year. Mr. Wallace, however, noted that for several years installation of a sidewalk had been discussed for the southern extension of Gulf Shore Boulevard. This, he noted, is among the most passive of improvements and, unlike a major bicycle path program, could be installed so as to avoid some of the conflicts identified. Mr. Wallace also observed that despite there having been some

opposition in virtually each sidewalk project, once completed, only positive feedback had resulted. In response to Council Member Price, Mr. Wallace indicated that on Neapolitan Way, the separation between the sidewalk and the roadway had in fact been varied in order to provide as little disruption of individual properties as possible. Therefore, he confirmed that encroachment can occur in some instances. Council Member Sorey said that there would be an encroachment issue in seven instances on the west side of Gulf Shore between Fifth Avenue South and the Fishing Pier into the City right-of-way.

Recess: 4:07 p.m. to 4:19 p.m. It is noted for the record that all Council Members were present when the meeting reconvened.

VISIONING PROCESS ITEM 12

Herb Marlowe of Arlington-Marlowe expressed appreciation for the opportunity to work with the City on this project and reviewed the plan for the visioning process, indicating that some interviews with Council Members had been scheduled for the following day. (Please see Attachment 11 for the phases outlined for this process.) As part of data gathering, Mr. Marlowe stressed the importance of the community survey in order to obtain accurate information. He said that his firm will be asking for the City to identify community leaders for interview and that focus groups and town hall meetings would also be arranged. Council will then be asked to approve survey questions even though the process must be expedited so that the schedule can be adhered to. At the City Council Workshop of March 5, the survey results will be presented, Mr. Marlowe said.

In response to Council Member Willkomm, Mr. Marlowe indicated that homeowner organizations could be used, although he would seek advice in interviews with Council Members and staff in order to identify these groups. Council Member Sorey pointed out that the survey would be statistically driven so that as much information as possible would be received from the City's population as a whole. Mr. Marlowe indicated that the survey would be a scientific random sample via telephone, although the Council could choose other methods of dissemination such as the City's website. He also said that 800 survey results would provide the level of statistics needed. Council Member Taylor urged that some manner be devised to distinguish full-time residents from visitors in the survey project.

City Manager Robert Lee confirmed that Council concurred with the schedule as presented (See Attachment 11) and no additional action was contemplated at that week's regular meeting.

BRIEFING BY CITY MANAGER ITEM 13

(It is noted for the record that a copy of the City Manager's written report is contained in the file for this meeting in the City Clerk's Office.) He highlighted the underground power consortium in which the City is participating in order to obtain consultant services with reference to undergrounding electric utilities; a proposed 25% tariff had been offered by Florida Power & Light (FPL), however, the study revealed a figure of 50.5%, a factor which he characterized as significant. These findings will be presented to the state Public Service Commission (PSC) on December 19 which entails further costs being funded by the Council on December 6. This would entail an additional expenditure of \$12,000 over and above the \$12,000 already expended by the City. In another matter, City Manager Lee noted that, although in the past the City had provided the Collier County Courthouse Complex with both water and sewer service, water pressure difficulties experienced by the City immediately after Hurricane Wilma had resulted in the County connecting to its own water system for the Courthouse Complex. At that time the

County had also connected to its own system for sewer. Following negotiations with the County staff, the Courthouse Complex has subsequently been returned to both the City's water and sewer systems. However, discussions have continued with reference to the need to address various issues involving a 1970's era utilities service agreement between the two entities, eventually necessitating action by the Collier County Commission and City Council. The County Manager had at this juncture however determined to discuss this matter with the County Commission, making it advisable to bring this information to the City Council as well, City Manager Lee said. Council Member Nocera asked whether volume in sewer treatment could be identified as to source. Public Works Director Dan Mercer said that there was no means to identify the location of increased flows into the sewer system, making it even more difficult to discern at the sewer plant since variations in flow occur throughout each 24-hour period. Mr. Nocera urged that staff investigate further a means of identifying when any unauthorized connections to water or sewer are made. City Manager Lee also indicated that discussion with the County had in fact centered around the Courthouse Complex eventually being serviced by the County's own water/sewer system. The City is willing to consider this if there was assurance that no decrease in revenues would result through substitution of other service opportunities.

REVIEW OF ITEMS ON THE 11/15/06 REGULAR MEETING AGENDAITEM 13

It was noted that at that time there were no items to either add or delete from the November 15 regular meeting agenda. Council Member Sorey requested that Item 6-c (landscape maintenance contract) be removed from the Consent Agenda for separate discussion in order to determine the vendor's compliance with the City's goals in landscape licensing; also Mr. Sorey said he sought to ascertain whether it is feasible to use vacuums rather than leaf blowers to preclude organic matter from entering the stormwater system. Mr. Sorey also asked, with reference to Item 9 (anchorage ordinance), that issues raised earlier in this meeting be addressed (see Public Comment, Item 3) as well as clarifications provided on usage of the mooring field. Mayor Barnett indicated that Item 14 (City Clerk evaluation) would be continued to the next meeting. Council Member Price received confirmation with reference to Item 7 (parking garage and condominium building at Fourth Avenue South and Fourth Street) that the reduction in the number of residential units from 18 to 12 would at that time not affect public notices on this petition.

CORRESPONDENCE / COMMUNICATIONS

Council Member Taylor expressed appreciation for a letter Mayor Barnett had written regarding the salinity of the Caloosahatchee. Mayor Barnett requested that Council concur that, other than the pending petition from Collier Park of Commerce, no annexation proposals will be considered until completion of the visioning process. City Manager Robert Lee confirmed that no official petitions for annexation had been received.

Consensus that no additional petitions for annexation be considered until the visioning process is complete; however, this will be discussed formally at the first meeting in December.

Council Member Price requested clarification of the existing land use in Collier Park of Commerce and its compatibility with City zoning so that this could be recognized in the annexation process. Mayor Barnett suggested that the Planning Advisory Board (PAB) be asked to review the matter. Council Member Willkomm requested that video tapes of the most recent presentation by planning consultant Andres Duany be made available on the City's website. He said that he believed this would be helpful information in light of the proposals for various

City Council Workshop Meeting – November 13, 2006 – 8:29 a.m.

parking garages in the Fifth Avenue South Special Overlay District. Technology Services Director Stephen Weeks indicated that this could be accomplished.

ADJOURN.....
4:52 p.m.

Bill Barnett, Mayor

Minutes prepared by:

Tara Norman, City Clerk

Minutes approved: 12/6/06

Costs to Date

- Total Approved Contract Cost to Date = \$723,309.00
 - \$616,309.00 Collier County
 - \$47,000.00 City of Naples
 - \$60,000.00 Special District
- The details of these costs are as follows:
 - \$235,000 (\$188,000 County; \$47,000 City) – Initial and follow-on coastal study
 - \$57,007 – Golden Gate Estates “Sheet 2D” studies
 - \$49,425 – Certification of County’s LIDAR GIS data base to meet National Mapping Standards
 - \$61,877 – 57 miles of survey elevation monument control throughout the Estates
 - \$200,000 – addition of 5 basin studies
 - \$120,000 – Ave Maria Stewardship District studies (\$60,000 County, \$60,000 Special District)

List of Engineering Studies

- Coastal Hazard Analysis Model to evaluate coastal surge and analysis of storm damage
- Seven Inland Drainage Basin studies to revise the entire set of Flood Insurance Rate Maps (FIRMs) for Collier County
 1. Cocohatchee River including CREW
 2. Golden Gate Main Canal and downstream of 951 Canal
 3. District 6 – Rock Creek, Haldeman Creek, Lely Canal
 4. Henderson Creek/Belle Meade
 5. Southern Coastal Basin
 6. Golden Gate Estates (east of 951 and north of I-75)
 7. Ave Maria Stewardship District studies

Anticipated Outcomes and Impacts of the Collier County Flood Insurance Study

- More total area is expected to be identified as part of the floodplain than the current mapping which only analyzes for coastal surge flooding.
- The new flood studies account for coastal surge flooding and rising water (rainfall induced) flooding.
- Much of the current Zone X just inland from the current Zone AE area may reflect new Zone AE definition from rising water analyses.
- Floodways may be established along major canals and wetland sloughs.
- Preliminary coastal analysis has identified flood zone elevations similar, but not identical to the former flood maps.
- The aerial extent of coastal flood zones will change due to improved topographical mapping (LIDAR).
- The new FIRMs (flood insurance rate maps) will be in digital format and known as DFIRMs.
- Street information will be improved to help interested parties more readily locate their property.

Attachment 4 / Page 1 of 1

Current Codes

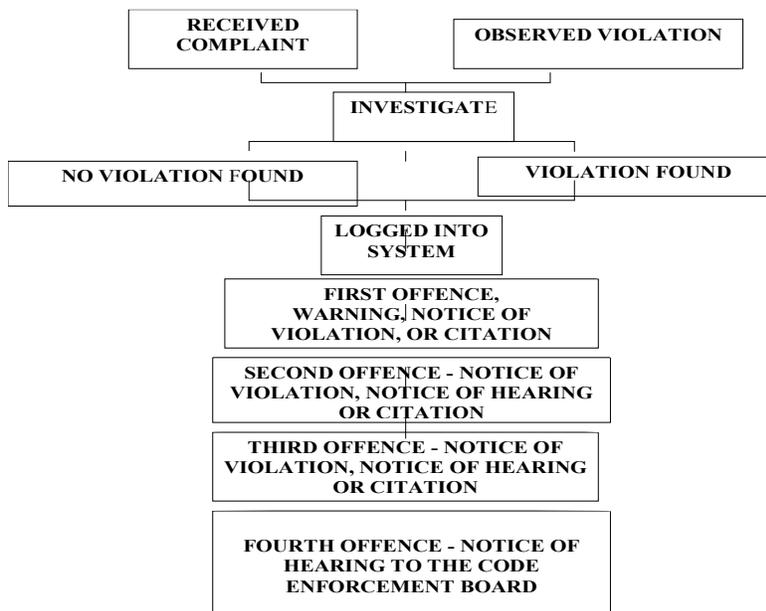
- Building Code – Structural, Electrical, Mechanical, Plumbing
- Property Maintenance Code (Code Enforcement) – Exterior
- Collier County Health Department
- Florida Department of Business and Professional Regulation
 - Division of Hotels and Restaurants
- Building Codes apply at time of construction – Buildings are inspected prior to issuance of C/O or on complaint basis
- Property Maintenance Code applies to exterior only – standards are enforced upon observation or complaint
- Minimum Housing Standards
- Annual Inspection
 - Exterior inspection of all rental structures; sample inspection of interiors – 1-5 units/all; 6-10 units/50%; 11-29 units/20%; 30-49 units/15%
- Certificate of Compliance
- Certification Fee

Recommendations Regarding Boat Storage

- Not allow lift covers
- Not allow living space on boathouses
- Require screening for all boats on land
- Allow only in side yards of double-fronted lots
- Allow one dock rental per property in single family districts
- Require one parking space per four slips for multiple family
- Better define “marina”
- Adopt consistent criteria in single family districts

Timeline for changes

- December 2006 discuss with City Attorney and draft amendments
- January 2007 bring to Planning Advisory Board and notify contractors and homeowners associations prior to meeting
- February 2007 City Council



Tiered System of Code Enforcement

Personnel:

- 1. PESD – Code Enforcement and COP**
- 2. Designated Officers in Other City Departments – Solid Waste, Natural Resources, Construction Site Management, Right-of-Way Maintenance and Permits, Utilities**
- 3. All Other Employees**
- 4. The Public**

Process:

- 1. An employee or citizen observes a problem and enters it into the system (or calls the City where an employee makes the entry)**
- 2. The problem is routed to the appropriate department and a designated officer or PESD staff is sent to investigate and pursue the appropriate course of action**
- 3. The individual who entered the complaint is updated on its progress**
- 4. Complaints and cases are listed on the City's web site.**

Additional Methods of Enforcement:

- 1. Stop Work Orders – Issued by Building Official for violations of the building code**
- 2. Garbage Charges, Land Fill Charges, Special Pick-Ups – added to the utility bill**
- 3. Notification of outside agencies – DEP, Army Corps of Engineers, Collier County**

Construction Site Maintenance:

- 1. Construction Site Inspector and all Building Inspectors**
- 2. Available weekends and evenings at 564-9109**
- 3. Contractors and property owners are cited**
- 4. Collier County addresses licensing of contractors**

Code Enforcement Procedures:

- **Notice of violation**
 - Use same methods of service as 162.12
- **Reasonable time to correct**
 - Reasonable time varies
 - Unless: repeat, emergency, immediate threat to public health, safety, welfare

Recurring or Uncorrected Violations:

- **May take to Code Enforcement Board**
- **Notice of violation not complied with**
- **May get finding of violation and order**
- **Repeat violators will be heard by the Code Enforcement Board**
- **If not corrected by time ordered, fine may accrue**

Repeat Violations:

- **Finding of same violation by same person within 5 years**
- **Could be different locations**
- **Don't have to give reasonable time to correct**
- **Fines doubled \$500/day**
- **Fines may run from date inspector finds violation**

Fines:

- **Up to \$250/Day (determined by code board)**
- **Up to \$500/Day=Repeat Violation**
- **Up to \$5000 per violation if irreparable or irreversible**
- **Due process & statute require findings**
 - Gravity of violation
 - Attempts to correct
 - Previous violations

Study Requirements of the One-Way Gulf Shore Study

1. Collection of traffic data for Gulf Shore, 2nd Street South and 3rd Street South and specific intersections between Central Avenue and 20th Avenue South.
2. Analysis of above traffic data for existing patterns and Level of Service (LOS).
3. LOS Analysis of traffic re-allocation for one-way pair involving Gulf Shore southbound one-way and Gordon Drive northbound one-way between Central and 20th Avenue South.
4. Alternative analysis.
5. Cost analysis.
6. Recommendations.

Established LOS data for the study area is as follows: (The study utilizes the City Level of Service (LOS) ‘C’ standard for the City street system.)

▪ Gulf Shore Boulevard South	1960 Peak Hour Trips
▪ 2nd Street South	1320 Peak Hour Trips
▪ Gordon Drive/2nd Street South	570 Peak Hour Trips
▪ 3rd Street South	1320 Peak Hour Trips
▪ Central Avenue	1960 Peak Hour Trips
▪ 5th Avenue South	‘Constrained’
▪ Broad Avenue South	1080 Peak Hour Trips

Summary of Intermodal Design Criteria

Sidewalk Widths:

- Minimum Clear With per ADA: 36 inches
- City of Naples – residential: 5 feet
- City of Naples – commercial: varies between 8 & 10 feet
- FDOT – State Roads: 6 feet

Sidewalk Separation (desirable criteria per FDOT):

- At or near the right-of-way line
- Outside the design clear zone:
 - a) pending speed, minimum of 6 feet on rural cross-section
 - b) pending speed, minimum of 4 feet on urban section

Bike Lane Widths:

- Minimum of 4 feet for designated directional bike lanes.
- Recommended 5 feet adjacent to parking.

Bike Lane Separation:

- Typically adjacent to the travel lane.

Shared Use Paths-Width:

- Typically varies between 8 feet and 12 feet.

Shared Use Path Separation:

- Minimum of 5 feet without barrier.

Conceptual Alternatives

1. Existing Two-Way
2. Two-Way with single sidewalk (5'-6')*
3. One-Way with shared use pathway (8'-10')
4. One-Way with single bike lane and pathway
5. One-Way with sidewalks on both sides
6. Two-Way with a single pathway (8'-10') **
7. Two-Way with sidewalks on both sides **
8. Two-Way with bike lanes (4') on each side **
9. Two-Way divided with sidewalks on both sides **
10. Two-Way divided with bike lanes (no sidewalks) **

* Per City Council Policy

** Included in Comprehensive Pathway Study

City Sidewalk Policy:

- Priority #1: Missing links on collector roads (small scale).
 - Lengths of roadway two blocks or less in length in areas where there is a concern for the safety of pedestrians.
- Priority #2: Missing links on collector roads (large scale).
 - Lengths of roadway two blocks or less in length in areas where there is a concern for the safety of pedestrians.
- Priority #3: Complete remaining collector system:
 - Installing new sidewalks on roadways that currently do not have sidewalks.
- Priority #4: Neighborhood requests on local streets.
 - Sidewalks in neighborhoods as proposed by local neighborhoods.

Option 1: No Action

- Pros:
 - No costs incurred.
 - No residential impacts.
- Cons:
 - Insufficient pedestrian and bicycle access.
 - Safety concerns.

Option 2: Single, One-Way Lane with Shared-Use Path

- Pros:
 - Sufficient capacity on 2nd St. South and 3rd St. South to handle additional traffic.
 - Sufficient Right-of-Way.
 - Creates facility for bike/pedestrian traffic.
- Cons:

Not recommended by transportation/engineering professionals and state/national standards.

 - Shared-use paths should have minimal cross flow by motor vehicles. (AASHTO)
 - FDOT/AASHTO notes 8 operational problems when shared-use paths are located along roadways.

- FDOT guidelines recommend bike lanes for bicycle traffic and sidewalks for pedestrians along roadways.
- Too many conflict points from driveway and other roadway openings.
- “The frequency of driveways and intersections alone is ample reason not to build...” (FDOT: Florida Bicycle Facilities Planning and Design Handbook)
- One-way travel inconvenient and potentially confusing for tourists.
- Complicates travel to important destinations along corridor.

Option 3: Two-Way Lanes with Sidewalk on One Side

- Pros:
 - Supports City Sidewalk Policy.
 - Provides missing sidewalk connections with no changes to existing traffic patterns.
 - Less disruption to existing setbacks.
 - Creates pedestrian facility between prominent destinations.
 - Sufficient Right-of-Way.
- Con:
 - Does not fully address recreational cyclists.

Cost Estimates:

- Option 1:
 - No cost.
- Option 2: Multi-Use Path (10 ft.)
 - \$800,000-\$1,000,000 per mile
 - Approximately \$600,000 between 5th Ave. So. and 12th Ave. So.
- Option 3: Sidewalk (6-8 ft., one side of road)
 - \$150,000- \$200,000 per mile
 - Approximately \$125,000 between 5th Ave. So. and 12th Ave. So.

Results	
No Action	8
One Way Road w/Multi-use path	6
Add Sidewalk along one side of existing roadway	29
No Response (Comments only)	6
Double Responses	3
Invalid Responses	1