



City Council Chamber
735 Eighth Street South
Naples, Florida 34102

City Council Regular Meeting – February 21, 2007 – 9:00 a.m.

Mayor Barnett called the meeting to order and presided.

ROLL CALLITEM 1

Present:

Bill Barnett, Mayor (left 3:06 p.m.)
Johnny Nocera, Vice Mayor

Council Members:

William MacIlvaine
Gary Price, II (left 3:39 p.m.)
John Sorey, III (left 3:50 p.m.)
Penny Taylor (arrived 9:03 a.m.)
William Willkomm, III

Also Present:

Robert Lee, City Manager
Robert Pritt, City Attorney
Vicki Smith, Technical Writing Specialist
Tara Norman, City Clerk
Jessica Rosenberg, Deputy City Clerk
Stephen Weeks, Technology Services Director
Denise Perez, Human Resources Director
Victor Morales, Chief of Police & Emergency Services
Robin Singer, Community Development Director
Dan Mercer, Public Works Director
David Lykins, Community Services Director
Tony McIlwain, Planner
Adam Benigni, Planner
Paul Bollenback, Building Official
Ann Marie Ricardi, Finance Director
Michael Bauer, Natural Resources Manager
James Fox

Molly Reed
Richard Yovanovich
Henry Kennedy
Steve Smith
Sue Smith
Ron Palmer
Anthony Pires
Stephen Burgess
John Passidomo
Joseph Biasella
Jon Igelhart
C. Lane Wood
Norm Trebilcock
Tom Spriggs
Gene Calvin

Media:

Aisling Swift, Naples Daily News
Other interested citizens and visitors

INVOCATION AND PLEDGE OF ALLEGIANCE.....ITEM 2

Council Member William MacIlvaine.

ANNOUNCEMENTSITEM 3

- Employee Recognition Awards (It is noted for the record that a listing of employees recognized is contained in the file for this meeting in the City Clerk's Office.)

- The Golden Anniversary Year for the Friends of the Library of Collier County, Inc., and Collier County Public Library; proclamation read by Council Member Sorey.

SET AGENDA (add or remove items).....ITEM 4

MOTION by Nocera to SET THE AGENDA removing Item 8-k (pedestrian waterfront easement from Naples Sailing and Yacht Club) from the Consent Agenda for separate discussion; and continuing to the March 7, 2007, regular meeting the following: Item 11 (Live Entertainment Permit 07-LE4 and Residential Impact Statement Petition 07-RIS4 regarding 495 Bayfront Place), Item 12 (anchorage ordinance), and Item 16 (Memorandum of Understanding/MOU regarding Keewaydin Island). This motion was seconded by Price and unanimously carried, all members present and voting (MacIlvaine-yes, Nocera-yes, Price-yes, Sorey-yes, Taylor-yes, Willkomm-yes, Barnett-yes).

PUBLIC COMMENT.....ITEM 5

(9:28 a.m.) **Molly Reed, no address given**, as a recently retired City employee, suggested that Council more closely monitor employee retention and operational costs.

It is noted for the record that Item 8-k was considered prior to approval of the Consent Agenda.

RESOLUTION 07-11547..... ITEM 8-k

A RESOLUTION ACCEPTING A PEDESTRIAN WATERFRONT ACCESS EASEMENT FROM THE NAPLES SAILING & YACHT CLUB; AND PROVIDING AN EFFECTIVE DATE. Council Member Taylor characterized as too narrow the three-foot width of the public easement located at the southwest perimeter of the subject property, despite the fact of its meeting the Florida Building Code (FBC), she cited concerns for disabled persons and families with children in strollers. Council Member Sorey pointed out however that in December of 2002, Council had approved a three-foot width for the sidewalk. In response to Council Member Willkomm, Building Official Paul Bollenback said that the FBC is based upon federal requirements for handicap access, is incorporated into the City's Code of Ordinances by reference, and the required width for handicap access is 36 inches. The title to this resolution was then read by City Attorney Robert Pritt (9:36 a.m.).

Public Comment: (9:36 a.m.) None.

MOTION by Price to APPROVE RESOLUTION 07-11547 as submitted; seconded by Taylor and unanimously carried, all members present and voting (MacIlvaine-yes, Nocera-yes, Price-yes, Sorey-yes, Taylor-yes, Willkomm-yes, Barnett-yes).

CONSENT AGENDA

APPROVAL OF MINUTES.....ITEM 8-a

January 16, 2007, Workshop and January 17, 2007, Regular Meeting, as submitted.

SPECIAL EVENTS ITEM 8-b

- 1) 4th Annual ProAm Skim Jam and Beach Festival – City of Naples – Naples Municipal Pier beach area – 03/31/07.
- 2) “Celebrate the Children Event” – City of Naples – Norris Center Amphitheatre – 03/31/07 and 04/14/07.
- 3) Bunnymania Easter Carnival and Egg Scramble – City of Naples – Fleischmann Park – 04/07/07.
- 4) Fundraiser – Community Event – Taste of Collier, Inc. – Bayfront – 05/06/07.

5) 21st Fitness Challenge Triathlon – Gulf Coast Runners and the Bike Route – Naples Beach Hotel and Golf Club – 06/03/07.

6) Naples Daily News Jazz Band – City of Naples - Cambier Park Bandshell – 10/14/07, 11/04/07, 12/02/07, 01/27/08, 02/29/08, 03/16/08, 04/13/08, 05/11/08.

7) Gulf Coast Big Band Concert – City of Naples – Cambier Park Bandshell – 11/11/07, 12/16/07, 01/20/08, 02/10/08, 03/02/08, 04/06/08.

8) Romeo and Juliet Redefined – Gulfshore Playhouse – City of Naples – Cambier Park Bandshell – Rehearsals 04/15-18/07, Performances 04/19-21/07.

RESOLUTION 07-11548.....ITEM 8-c
A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF NAPLES AND MULLINGS ENGINEERING SERVICES – LANDSCAPE DIVISION, INC., TO FURNISH LABOR TO PICK UP AND INSTALL MULCH MATERIAL IN DESIGNATED CITY PLANTING BEDS; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 07-11549ITEM 8-d
A RESOLUTION DETERMINING LIVE ENTERTAINMENT PERMIT RENEWAL FOR BISTRO 821, LOCATED AT 821 FIFTH AVENUE SOUTH, MORE FULLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 07-11550.....ITEM 8-e
A RESOLUTION DETERMINING LIVE ENTERTAINMENT PERMIT RENEWAL FOR RIVERWALK TAVERN AT TIN CITY, LOCATED AT 1200 FIFTH AVENUE SOUTH, MORE FULLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 07-11551.....ITEM 8-f
A RESOLUTION APPROVING AN AGREEMENT FOR PURCHASE AND SALE OF GOODS BETWEEN THE CITY OF NAPLES AND BRENNTAG MID-SOUTH TO PURCHASE SODIUM FLUOROSILICATE (FLUORIDE) FOR THE WATER TREATMENT PLANT; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT FOR PURCHASE AND SALE OF GOODS; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 07-11552ITEM 8-g
A RESOLUTION APPROVING AN AGREEMENT FOR PURCHASE AND SALE OF GOODS WITH PAT'S PUMP AND BLOWER FOR THE PURCHASE OF A COMBINATION JET/VACUUM SEWER CLEANING TRUCK TO CLEAN AND MAINTAIN THE STORM DRAIN SYSTEM; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 07-11553.....ITEM 8-h
A RESOLUTION APPROVING AN AGREEMENT FOR PURCHASE AND SALE OF GOODS WITH ENVIRONMENTAL PRODUCTS OF FLORIDA FOR THE PURCHASE OF A VACUUM STREET SWEEPER; AMENDING THE FISCAL YEAR 2006-07 BUDGET AS APPROVED BY ORDINANCE 06-11363; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 07-11554..... ITEM 8-i
A RESOLUTION APPROVING A SOUTH FLORIDA WATER MANAGEMENT DISTRICT LOCAL GOVERNMENT AGREEMENT TO PROVIDE GRANT FUNDING THROUGH BIG CYPRESS BASIN TO ASSIST WITH THE COST OF PREPARING A WATER SUPPLY FEASIBILITY STUDY; AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 07-11555 ITEM 8-j
A RESOLUTION APPROVING A FOURTH AMENDMENT TO THE CONTINUING CONTRACT AGREEMENT WITH JOHNSON ENGINEERING, INC., TO PROVIDE PROFESSIONAL ENGINEERING SERVICES FOR THE DESIGN, PERMITTING, BID SERVICES AND CONSTRUCTION MANAGEMENT FOR THE CONSTRUCTION OF A REPLACEMENT WATER MAIN ON WEST LAKE BOULEVARD; AUTHORIZING THE CITY MANAGER TO EXECUTE THE FOURTH AMENDMENT; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 07-11556 ITEM 8-l
A RESOLUTION APPROVING A REVISED THREE-YEAR URBAN COUNTY COOPERATION AGREEMENT WITH COLLIER COUNTY FOR PARTICIPATION IN THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM FOR FEDERAL FISCAL YEARS 2007, 2008 AND 2009; AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. Title not read.

***MOTION** by Price to **APPROVE CONSENT AGENDA** except Item 8-k; seconded by Nocera and unanimously carried, all members present and voting (MacIlvaine-yes, Nocera-yes, Price-yes, Sorey-yes, Taylor-yes, Willkomm-yes, Barnett-yes).*

END CONSENT AGENDA

It is noted for the record that Items 9-a, 9-b, and 9-c were read and considered concurrently.

ORDINANCE 07-11577.....ITEM 9-a
AN ORDINANCE GRANTING REZONE PETITION 06-R8 FOR PROPERTY LOCATED AT 2200 9TH STREET NORTH, MORE FULLY DESCRIBED HEREIN, IN ORDER TO PERMIT REZONING FROM “HC” HIGHWAY COMMERCIAL, TO “PD” PLANNED DEVELOPMENT TO ALLOW CONSTRUCTION OF A NEW 16,510 SQUARE FOOT WALGREENS STORE AT THE OAKS SHOPPING CENTER; APPROVING THE PLANNED DEVELOPMENT CRITERIA; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.

RESOLUTION 07-11578..... ITEM 9-b
A RESOLUTION DETERMINING PETITION 06-GDSP7 FOR APPROVAL OF A GENERAL DEVELOPMENT AND SITE PLAN FOR A 2.15 ACRE PLANNED DEVELOPMENT LOCATED AT 2200 9TH STREET NORTH, MORE FULLY DESCRIBED HEREIN, TO ALLOW A NEW 16,510 SQUARE FOOT WALGREENS RETAIL STORE AT THE OAKS SHOPPING CENTER; AND PROVIDING AN EFFECTIVE DATE.

RESOLUTION 07-11579.....ITEM 9-c

A RESOLUTION DETERMINING A RESIDENTIAL IMPACT STATEMENT FOR PETITION 06-RIS18 TO ALLOW CONSTRUCTION OF A NEW 16,510 SQUARE FOOT WALGREENS STORE AT THE OAKS SHOPPING CENTER, LOCATED AT 2200 9TH STREET NORTH, MORE FULLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.

Titles read by City Attorney Robert Pritt (9:37 a.m.). This being a quasi-judicial proceeding, Notary Public Vicki Smith administered an oath to those intending to offer testimony; all responded in the affirmative. City Council Members then made the following ex parte disclosures: Willkomm and MacIlvaine/familiar with the site but no additional contact; Price/familiar with the site, spoke with the petitioner's agent and received letters from residents; Nocera/familiar with the site and spoke with the petitioner's agent; Barnett/spoke with the petitioner's agent; Taylor/received letters from residents but no additional contact; and Sorey/spoke with the petitioner's agent and received telephone calls and letters from residents. In response to Council Member Taylor, City Attorney Pritt explained that the amendments previously requested by Council on February 7 were contained in the attachments to the ordinance under consideration at that time.

Planner Tony McIlwain pointed out two typographical errors in the legal description as follows; instead of Lots 1 through 9, the text should instead reflect Lots 4 through 9 since Lots 1, 2, and 3, while owned by Walgreens, are not included within the GDSP (General Development and Site Plan) or the RIS (Residential Impact Statement) under consideration. He also noted that "...West 540 feet of Lot 91..." should reflect "...West 370 feet of Lot 91..." and that staff recommends approval, no new facts relative to the rezone having revealed themselves.

Attorney Richard Yovanovich, agent for the petitioner, gave a brief review of the requested action, pointing out that the rezone will not affect the allowable uses of the subject property, although a conditional use is being proposed for the drive through; a variance for the alleyway setback; and a variance for the setback of the wall. He restated his concurrence with the hours of operation set forth at the February 7 meeting.

Attorney Yovanovich however, expressed concern that a future interpretation of the rezone could possibly limit any additional types of construction on the site, since the title of the ordinance specified a Walgreens. Although City Attorney Pritt agreed that this was a possibility although other uses within that zoning category would most likely be allowed. Mr. Pritt also explained that if the reference to Walgreens were eliminated, the ordinance would be required to undergo another first reading for proper noticing. During additional discussion Attorney Yovanovich stated that he had received the clarification he had sought and therefore would accept the ordinance as drafted.

Norm Trebilcock, engineer and planner of the proposed development, reviewed the improvements contained in the GDSP as follows: the existing access off 22nd Avenue North will be moved farther east and become a full-movement opening; the existing accesses off US 41 will be right-turn-in and right-turn-out and will be widened for safety purposes; two interconnects with the Chamber of Commerce property to the north; pedestrian connects along 22nd and US 41; and pedestrian interconnect and trolley stop on the alley for the Chamber property. He stated that with regard to fire protection, there would be a fire line to the building and also a fire

sprinkler system. The existing water main line and sanitary sewer connections will be utilized with the new construction and also two proposed commercial trash containers for solid waste, which will be enclosed and screened. With regard to stormwater management, a large detention area to the east will provide attenuation for a 25-year storm and meet Federal Emergency Management Agency (FEMA) standards. Mr. Trebilcock pointed out that the live oaks would be retained, and landscape buffers and a wall would be placed between the site and the adjacent residential area. In response to Council Member Taylor, he said that the air conditioning units would be placed on the southeast corner and would indeed meet the City's noise ordinance.

Public Comment: (10:03 a.m.) **Steve Smith, 945 22nd Avenue North**, provided a petition signed by 60 nearby neighbors representing their objection, not to the Walgreens per se, but to the 24-hour operation of a drive-through pharmacy. (It is noted for the record that this petition is contained in the file for this meeting in the City Clerk's Office.) He also noted concern with the placement of the commercial trash containers and the unloading of large trucks on the east and south sides of the building, which would directly impact his property from the standpoint of noise.

Additional discussion ensued during which the following motions were proffered.

MOTION by Nocera to **ADOPT ORDINANCE 07-11577 AS AMENDED:** *Correcting legal description to include "Lots ~~±~~ 4 through 9 inclusive..." and "...West ~~540~~ 370 feet of Lot 91..."; seconded by Price and carried 5-2, all members present and voting (Taylor-yes, Nocera-yes, MacIlvaine-no, Price-yes, Sorey-yes, Willkomm-no, Barnett-yes).*

MOTION by Taylor to **APPROVE RESOLUTION 07-11578 AS AMENDED:** *1) Correcting legal description to include "Lots ~~±~~ 4 through 9 inclusive..." and "...West ~~540~~ 370 feet of Lot 91..."; 2) Revision of Section 2: "...at the Oaks Shopping Center, in accordance with plans submitted with the accompanying Planned Development (PD) document, to allow construction of a...". This motion was seconded by Price and carried 5-2, all members present and voting (Nocera-yes, Sorey-yes, Taylor-yes, MacIlvaine-no, Willkomm-no, Price-yes, Barnett-yes).*

MOTION by Price to **APPROVE RESOLUTION 07-11579 AS AMENDED:** *1) Correcting legal description to include "Lots ~~±~~ 4 through 9 inclusive..." and "...West ~~540~~ 370 feet of Lot 91..."; 2) Revision of Section 2: "...at the Oaks Shopping Center, in accordance with plans submitted with the accompanying Planned Development (PD) document, to allow construction of a...". This motion was seconded by Taylor and carried 5-2, all members present and voting (Willkomm-no, Price-yes, Taylor-yes, Sorey-yes, Nocera-yes, MacIlvaine-no, Barnett-yes).*

Recess: 10:31 a.m. to 10:43 a.m. It is noted for the record that the same Council Members were present when the meeting reconvened except Council Member Willkomm who returned at 10:46 a.m., Vice Mayor Nocera at 10:48 a.m., and Council Member Taylor at 10:49 a.m.

It is noted for the record that Items 10-a and 10-b were read and considered concurrently.

**ORDINANCE (Continued to 03/21/07-see motion below)ITEM 10-a
AN ORDINANCE DETERMINING REZONE PETITION 06-R3 TO ALLOW THE
REZONING OF 49.76 ACRES OF PROPERTY LOCATED EAST OF GOODLETTE-
FRANK ROAD AND NORTH OF GOLDEN GATE PARKWAY FROM HC HIGHWAY
COMMERCIAL AND R3-12 MULTI-FAMILY, TO TRANSITIONAL CONSERVATION,
IN ORDER TO ALLOW COLLIER COUNTY TO CONSTRUCT THE GORDON RIVER
WATER QUALITY PARK; PROVIDING A SEVERABILITY CLAUSE, A REPEALER
PROVISION AND AN EFFECTIVE DATE.**

**RESOLUTION (Continued to 03/21/07-see motion below)ITEM 10-b
A RESOLUTION DETERMINING CONDITIONAL USE PETITION 06-CU2 TO
ALLOW FOR THE OPERATION OF THE GORDON RIVER WATER QUALITY
PARK LOCATED EAST OF GOODLETTE-FRANK ROAD AND NORTH OF GOLDEN
GATE PARKWAY, MORE FULLY DESCRIBED HEREIN, SUBJECT TO THE
CONDITIONS LISTED HEREIN; PROVIDING FOR THE CITY CLERK TO RECORD
SAID CONDITIONAL USE; AND PROVIDING AN EXPIRATION DATE AND AN
EFFECTIVE DATE.** Titles read by City Attorney Robert Pritt (10:43 a.m.) This being a quasi-judicial proceeding, Notary Public Vicki Smith administered an oath to those intending to offer testimony; all responded in the affirmative. During ex parte disclosures, City Council Members indicated no additional contact. Planner Tony McIlwain explained that the petitioner would review the Conditional Use Petition for the proposed learning center on the site.

Bob Massarelli Planning Advisor with CH2M Hill, gave an electronic presentation with reference to the project (a printed copy of which is contained in the file for this meeting in the City Clerk's Office) explaining that the objective is to encourage the public's participation in the water quality park; therefore the learning facility is needed for this purpose. He said that the zoning map amendment would change the designation of the property from HC Highway Commercial and R3-12 Multi-Family to Transitional Conservation, and that the proposed use is permitted under the requested zoning designation.

Mr. Massarelli also stated that ingress and egress is limited to two locations, the northwest corner at Goodlette-Frank Road and on Golden Gate Parkway. He explained that the controversial opening on Golden Gate Parkway had been modified on the GDSP to reflect right-turn-in and right-turn-out, and a controlled, eastbound, left turn on the Parkway; therefore, no opportunity exists to make a left turn out of the site from any location. He pointed out that on-site parking is adequate and that the solid waste container would be screened, be properly landscaped, and located away from the roadways. Mr. Massarelli also said that the majority of the site would remain in its natural state as open space, creating natural screening to adjacent properties. Lighting and signage would be minimal, placed only at the learning center and the parking areas. He noted that the Planning Advisory Board (PAB) had recommended approval in May of 2006 and is to review the General Development and Site Plan (GDSP) in March.

In response to Council Member Taylor, Project Manager Thomas Spriggs, also with CH2M Hill and representing Collier County Transportation Department, reiterated the above referenced description of the ingress/egress from Golden Gate Parkway, pointing out that no full intersection was planned for that site in the future. Council Member Price asserted that he had however seen drawings depicting a full intersection with an opening to the south side of Golden

Gate Parkway, directly across from the entrance to the proposed park. Gene Calvin, Collier County Director of Stormwater Management, said that the County has no plans to construct an intersection at that time, although this was not intended to infer that this could not occur at a future date. He pointed out that this would be determined by demand, that private property abuts the south side of Golden Gate Parkway and therefore is not under County control. Council Member Taylor asserted that the County however does have control of where ingress/egress would be placed, but Director Calvin said that traffic flow and safety is the major concern with regard to placement. Council Member Sorey said that, since the City does have jurisdiction of the subject property only and not the roadway, he would suggest a provision stipulating City approval if the County should wish to construct a full intersection in the future. City Attorney Pritt concurred that this could be incorporated as a condition of approval but suggested amending the Condition Use to the effect that the County would be required to come before Council for approval of any changes to the ingress/egress from Golden Gate Parkway prior to implementing the aforementioned intersection changes; Director Calvin concurred.

Further discussion ensued concerning the specifics of the learning center with regard to the size of the building and the number of available parking spaces to serve the maximum capacity of 300 persons. Dr. Spriggs pointed out that the intent is that the majority of visitors for scheduled events would be children, transported to the site by bus, which would use particularly designated parking areas.

Public Comment: (11:17 a.m.) **Henry Kennedy, no address given**, urged caution in dealing with the documentation presented because the full intersection discussed above was depicted on the site plan for approval (see Attachment 1), although not shown on the presentation version (Attachment 2). During further discussion, Mayor Barnett proffered the motion below for continuance to March 21, and to entail Council review of the GDSP in lieu of consideration by the PAB.

MOTION by Barnett to CONTINUE ITEMS 10-a AND 10-b TO MARCH 21, 2007 REGULAR MEETING; TO INCLUDE REVIEW OF GDSP BY COUNCIL IN LIEU OF PLANNING ADVISORY BOARD (PAB) REVIEW.

This motion was seconded by Price and unanimously carried, all members present and voting (MacIlvaine-yes, Nocera-yes, Price-yes, Sorey-yes, Taylor-yes, Willkomm-yes, Barnett-yes).

EXECUTIVE SESSION.....ITEM 6

(11:38 a.m.) Mayor Barnett advised that Council would enter into an executive session pertaining to A&B Charters, Inc., Byron C. Thomas, and Jeffery Player v. City of Naples.

Executive Session: 11:39 a.m. to 12:01 p.m. It is noted for the record that all Council Members were present when the meeting reconvened except Council Member Sorey who left at 12:01 p.m.

(12:02 p.m.)

MOTION by Barnett to APPROVE AGREEMENT TO SETTLE LITIGATION AS FOLLOWS: A&B CHARTERS, INC. - \$79,000; JEFFERY PLAYER - \$80,000; AND BYRON C. THOMAS - \$25,780.67. This motion was seconded by Taylor and carried 5-1, all members present and voting (MacIlvaine-no, Nocera-yes, Price-yes, Sorey-absent, Taylor-yes, Willkomm-yes, Barnett-yes).

It is noted for the record that consideration of Item 7 was continued until after the following recess.

Recess: 12:05 p.m. to 1:29 p.m. It is noted for the record that all Council Members were present when the meeting reconvened except Council Member Price who arrived at 1:31 p.m. and Council Member Taylor at 1:34 p.m.

.....ITEM 7
FURTHER DISCUSSION OF NAPLES SAILING AND YACHT CLUB – STATUS OF DREDGING/DOCK PERMIT APPLICATION TO DEP (DEPARTMENT OF ENVIRONMENTAL PROTECTION). (1:30 p.m.) City Attorney Robert Pritt explained that no resolution had been prepared for this item per direction of Council at that week's workshop. Furthermore, he said that should Council decide to take action it could do so either by motion or direct that a resolution be forthcoming.

City Manager Robert Lee explained that this item had been approved by Council in 2002 but that discussions at the February 5 workshop had brought to light questions as to how the Naples Sailing and Yacht Club's dredging project became a part of the City's permit for another dredging project in the same area. There had also been a desire to identify any ramifications if Council deemed it necessary to remove the Club from its permit application to the Florida Department of Environmental Protection (DEP). There had also been questions regarding what area is actually to be dredged with regard to the Club.

Referencing a series of maps, Natural Resources Manager Michael Bauer explained that the City's project (Attachment 3) and the Club's project (Attachment 4) actually overlapped and that, per DEP direction, the two projects were combined (Attachment 5) and went forward with the City as the applicant for the now combined efforts. In response to Council Member Sorey, Dr. Bauer stated that, in his opinion, if this same scenario were to recur, he would see no reason not to approve joining the two, Council-approved dredging projects, that this would enable both to go forward in a timely and cost effective manner. In response to Council Member MacIlvaine, Dr. Bauer cited several City-sponsored dredging projects such as Moorings Bay, East Naples Bay, Doctor's Pass and Gordon Pass.

Additional discussion followed regarding the depth of various areas involved in the dredging project and Dr. Bauer pointed out that currently he has four charts available to him and all depict a depth of at least four feet in the dredging area for the new docks at the Club. Council Members Price and Taylor also discussed the criteria of private versus public benefit of past City sponsored dredging projects, that it was their belief that the permit application under discussion was dissimilar to the aforementioned projects in that it is for the benefit of a private entity, not the public.

Council Member Willkomm stated that his concern with this issue is that Council was not made aware of the combining of the two dredging projects, that he felt that this should have been a Council level decision, not staff. City Manager Lee added that the combining of the two permits would have come to him also, but that in retrospect, it should have been returned to Council for amendment of approval to add the Club to the City application.

Jon Igelhart, Director of the South District Office of the DEP, confirmed for Council Member Willkomm that the process for a City dredging permitting application was less involved than for a private entity; that the same criteria had to be met for both but that the private entity must also

attain City approval for the project. Referencing an email (Attachment 6) regarding the Club dredging as a questionable “public” project, Council Member Price asked Mr. Igelhart whether a public benefit would need to exist for the City to continue as the applicant. Mr. Igelhart explained that he believed that the question was whether the necessary easement would be private or public, that often municipalities continue a dredging project to include private entities in the interest of public safety and maintenance issues. Council Member Price said that he felt the only remaining question was whether it would be in the public interest to have the Club project remain on the City’s dredging permit application; namely, whether the public easement is sufficient for this purpose. Mr. Igelhart added that currently the DEP does not consider the Club as part of the City’s application, that it is awaiting Council’s decision before moving the application forward.

In response to Mayor Barnett, Mr. Igelhart stated that the proposed dredging project, with the Club’s portion included, would not pose a navigational hazard to vessels. Council Member Price asked whether a proposed channel marker, to be located at the southeast corner of the turn, would restrict boat traffic, but Mr. Igelhart declined to respond, explaining that this was not his area of expertise.

Public Comment: (2:06 p.m.) **Attorney C. Lane Wood, 4001 Tamiami Trail North, Suite 330**, indicated that he was representing Gordon River Yacht Basin, one of the projects approved to be included with the City’s application. Mr. Wood explained that, in his opinion, it was prudent to combine the projects thereby implementing the dredging of the channel and aiding in the management of the project. He therefore urged Council’s support of the combined project moving forward. **Ron Palmer, 1333 Osprey Drive**, noted concern both with regard to the installation and maintenance of private markers in the channel and the possibility of the markers posing navigational hazards to boaters, and the removal of large amounts of rock, which he claimed covers a freshwater aquifer. He urged Council to consider a new survey of the Club area to be dredged. **Stephen Burgess, 21422 Sheridan Run**, said that as a surveyor, he had been contacted by Mr. Palmer to review materials provided to the City regarding depths in the subject dredging area and to give an opinion asserting that another survey should be undertaken to determine the actual depth of the water. **Attorney Anthony Pires, Jr., 3200 Tamiami Trail North, #200**, representing Mr. Palmer and two neighbors, questioned the history and origin of the combined dredging project, presented Council with supporting documentation (a copy of which is contained in the file for this meeting in the City Clerk’s Office) and urged Council to remove the Club from its permit application. **Attorney John Passidomo**, representing the Naples Sailing and Yacht Club, referencing his proffered supporting materials (a copy of which is contained in the file for this meeting in the City Clerk’s Office) said that a public easement in conjunction with the project represents the public interest, and that the Club membership includes 500 residents of the City who are entitled to the same treatment as the upstream developers with regard to aid in obtaining the necessary permitting for dredging. He therefore requested that the Club remain on the City’s application. **Sue Smith, 11th Avenue South**, cited what she termed safety issues related to the proposed dredging as stated by Mr. Palmer and questioned the practice of removing extensive amounts of rock from beneath the water.

Council Member Price commended all who had offered information on this item, but maintained that confusion remains as to how the Club became a participant of the City’s dredging

application. He said that it nevertheless appeared to him that it is in the best interest of the City to retain the Club as part of the permit application and proffered the following motion.

MOTION by Price to CONFIRM CONTINUANCE OF THE CITY OF NAPLES AS AN APPLICANT ON THE DREDGING/DOCK PERMIT APPLICATION FOR THE NAPLES SAILING AND YACHT CLUB. This motion was seconded by Nocera and carried 5-2, all members present and voting (MacIlvaine-yes, Nocera-yes, Price-yes, Sorey-yes, Taylor-yes, Willkomm-no, Barnett-no).

Recess: 3:06 p.m. to 3:16 p.m. It is noted for the record that the same Council Members were present when the meeting reconvened except Mayor Barnett who left the meeting at 3:06 p.m., and Council Members Price and Taylor who returned at 3:17 p.m.

RESOLUTION (Continued -see Item 4 above).....ITEM 11-a
A RESOLUTION DETERMINING LIVE ENTERTAINMENT PETITION 07-LE4 FOR OUTDOOR ENTERTAINMENT IN THE PROMENADE AREA AT BAYFRONT LOCATED AT 495 BAYFRONT PLACE, MORE FULLY DESCRIBED HEREIN, SUBJECT TO THE CONDITIONS LISTED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION (continued – see Item 4 above) ITEM 11-b
A RESOLUTION DETERMINING A RESIDENTIAL IMPACT STATEMENT FOR PETITION 07-RIS4 LOCATED AT 495 BAYFRONT PLACE, MORE FULLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title not read.

ORDINANCE (Continued-see Item 4 above).....ITEM 12
AN ORDINANCE PERTAINING TO WATERWAYS; AMENDING SECTION 42-81, DEFINITIONS; SECTION 42-141, DEFINITIONS; SECTION 42-142(a), PROHIBITIONS ON MOORING AND ANCHORING; SECTION 42-143(5), (6), AND (7) RULES AND REGULATIONS; SECTION 42-144, MOORING RENTAL RATE; SECTION 42-145, MOORINGS SIGNAGE; OF THE CODE OF ORDINANCES, CITY OF NAPLES, FOR THE PURPOSE OF AMENDING RULES AND REGULATIONS FOR WATERWAYS FACILITIES AND RESOURCES; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title not read.

ORDINANCE 07-11560.....ITEM 13-a
AN ORDINANCE RELATING TO FEES FOR PARKS AND RECREATION SERVICES; AMENDING SECTIONS 28-32, 28-34, AND 28-36, REPEALING SECTION 28-37 OF THE CODE OF ORDINANCES, CITY OF NAPLES, FOR THE PURPOSE OF REVISING RULES, REGULATIONS AND FEES FOR PARKS AND RECREATION SERVICES ADMINISTERED BY THE COMMUNITY SERVICES DEPARTMENT; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (3:16 p.m.).

Public Comment: (3:16 p.m.) None.

MOTION by Sorey to ADOPT ORDINANCE 07-11560 as submitted; seconded by Willkomm and carried 4-0 (MacIlvaine-yes, Nocera-yes, Price-absent, Sorey-yes, Taylor-absent, Willkomm-yes, Barnett-absent).

RESOLUTION 07-11561..... ITEM 13-b
A RESOLUTION AMENDING SECTIONS 28-32 AND 28-37 OF APPENDIX A, FEES AND CHARGES SCHEDULE, OF THE CODE OF ORDINANCES, CITY OF NAPLES, FOR THE PURPOSE OF INCREASING RECREATIONAL ACTIVITY FEES FOR THE USE OF CITY PROGRAMS, PARKS AND FACILITIES, AND TENNIS MEMBERSHIP FEES AT THE ARTHUR L. ALLEN TENNIS CENTER; PROVIDING FOR A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.
Title read by City Attorney Robert Pritt (3:17 p.m.).

Public Comment: (3:17 p.m.) None.

MOTION by Sorey to APPROVE RESOLUTION 07-11561 as submitted; seconded by MacIlvaine and unanimously carried 6-0 (MacIlvaine-yes, Nocera-yes, Price-yes, Sorey-yes, Taylor-yes, Willkomm-yes, Barnett-absent).

RESOLUTION 07-11562.....ITEM 13-c
A RESOLUTION IMPLEMENTING FEES AND POLICIES FOR USE OF CITY PROGRAMS, PARKS AND FACILITIES; AND PROVIDING AN EFFECTIVE DATE.
Title read by City Attorney Robert Pritt (3:17 p.m.).

Public Comment: (3:18 p.m.) None.

MOTION by Taylor to APPROVE RESOLUTION 07-11562 as submitted; seconded by Willkomm and unanimously carried 6-0 (MacIlvaine-yes, Nocera-yes, Price-yes, Sorey-yes, Taylor-yes, Willkomm-yes, Barnett-absent).

ORDINANCE (First Reading).....ITEM 14
AN ORDINANCE AMENDING SECTION 14 OF THE PUBLIC RIGHT-OF-WAY CONSTRUCTION STANDARDS HANDBOOK TO ALLOW FOR THE TEMPORARY PLACEMENT OF DEVICES TO PROTECT GREENSCAPED AREAS WITHIN THE RIGHT-OF-WAY DURING NEIGHBORHOOD CONSTRUCTION ACTIVITIES; DIRECTING THE CITY CLERK TO PREPARE A SUPPLEMENT TO THE RIGHT-OF-WAY CONSTRUCTION STANDARDS HANDBOOK; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (3:18 p.m.). In response to Council Member Willkomm, City Manager Robert Lee explained that if problems arose with regard to implementing this ordinance, staff would return to Council with recommendations for amendment; if an issue arose which he and Mayor Barnett deemed an emergency the matter could be rectified administratively.

MOTION by MacIlvaine to APPROVE THIS ORDINANCE on First Reading; seconded by Willkomm and unanimously carried 6-0 (MacIlvaine-yes, Nocera-yes, Price-yes, Sorey-yes, Taylor-yes, Willkomm-yes, Barnett-absent).

It is noted for the record that Public Comment was heard concerning Item 15 prior to its reading and consideration.

.....ITEM 15
Public Comment: (3:19 p.m.) **Henry Kennedy, no address given**, expressed concern with the four vacancies on the Citizens Police Review Board, explaining that he had appeared before the Board with a complaint against an officer and had been treated rudely by two of the members eligible for reappointment. Furthermore, he said he believed former police officers should not be eligible. In response to questioning by Council Member Taylor, he indicated that he was especially concerned with the possible reappointment of James Rideoutte, that Mr. Rideoutte had accused him of harassing a police officer. Council Member Willkomm then asked the term

limitation for this board, to which Deputy City Clerk Jessica Rosenberg said that no limitation exists.

RESOLUTION 07-11563.....ITEM 15-a(1)
A RESOLUTION APPOINTING ONE MEMBER TO THE AT-LARGE SEAT #2 OF THE CITIZENS POLICE REVIEW BOARD FOR A TWO-YEAR TERM COMMENCING MARCH 19, 2007, AND EXPIRING MARCH 18, 2009; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (3:30 p.m.).

MOTION by MacIlvaine to NOMINATE MARC GERTNER to the at-large seat #2 of the Citizens Police Review Board; carried 4-2 (MacIlvaine-yes, Nocera-no, Price-yes, Sorey-yes, Taylor-yes, Willkomm-no, Barnett-absent).

RESOLUTION 07-11564.....ITEM 15-a(2)
A RESOLUTION APPOINTING ONE MEMBER TO THE AT-LARGE SEAT #4 OF THE CITIZENS POLICE REVIEW BOARD FOR A TWO-YEAR TERM COMMENCING MARCH 19, 2007, AND EXPIRING MARCH 18, 2009; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (3:31 p.m.).

MOTION by Willkomm to NOMINATE RODNEY SCHWASINGER to the at-large seat #4 of the Citizens Police Review Board; carried 4-2 (MacIlvaine-no, Nocera-yes, Price-yes, Sorey-no, Taylor-yes, Willkomm-yes, Barnett-absent).

RESOLUTION 07-11565.....ITEM 15-a(3)
A RESOLUTION APPOINTING ONE MEMBER TO SECTOR 2 OF THE CITIZENS POLICE REVIEW BOARD FOR A TWO-YEAR TERM COMMENCING MARCH 19, 2007, AND EXPIRING MARCH 18, 2009; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (3:35 p.m.).

MOTION by MacIlvaine to NOMINATE RAYMOND HUMPHREY to Sector 2 of the Citizens Police Review Board; unanimously carried 6-0 (MacIlvaine-yes, Nocera-yes, Price-yes, Sorey-yes, Taylor-yes, Willkomm-yes, Barnett-absent).

RESOLUTION 07-11566.....ITEM 15-a(4)
A RESOLUTION APPOINTING ONE MEMBER TO SECTOR 4 OF THE CITIZENS POLICE REVIEW BOARD FOR A TWO-YEAR TERM COMMENCING MARCH 6, 2007, AND EXPIRING MARCH 5, 2009; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (3:36 p.m.).

MOTION by Sorey to NOMINATE JAMES RIDEOUTTE to Sector 4 of the Citizens Police Review Board; carried 4-2 (MacIlvaine-yes, Nocera-no, Price-yes, Sorey-yes, Taylor-yes, Willkomm-no, Barnett-absent).

RESOLUTION 07-11567.....ITEM 15-b
A RESOLUTION APPOINTING ONE CITY RESIDENT WITH PENSION EXPERIENCE TO THE BOARD OF TRUSTEES OF THE GENERAL EMPLOYEES' RETIREMENT SYSTEM FOR A FOUR-YEAR TERM COMMENCING MARCH 4, 2007, AND EXPIRING MARCH 3, 2011; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (3:38 p.m.).

MOTION by MacIlvaine to NOMINATE MURRAY HENDEL to the Board of Trustees of the General Employees' Retirement System; unanimously carried 6-0 (MacIlvaine-yes, Nocera-yes, Price-yes, Sorey-yes, Taylor-yes, Willkomm-yes, Barnett-absent).

(Continued to 03/07/07-see Item 4 above).....**ITEM 16
KEEWAYDIN PARK CONCEPT – REVISED MEMORANDUM OF UNDERSTANDING
(MOU).**

PUBLIC COMMENT.....

(3:40 p.m.) **Sue Smith, 11th Avenue South**, expressed concern regarding salary levels of City employees and disapproval of an administrative ethics policy prohibiting citizens from giving holiday gifts to employees. City Manager Robert Lee responded saying that an ongoing study for comparison of all City employee salaries in conjunction with Collier County salaries is nearing completion.

It is noted for the record that Council Member Sorey left the meeting at 3:50 p.m.

CORRESPONDENCE AND COMMUNICATIONS.....

(3:52 p.m.) Noting a *Naples Daily News* article, Council Member Taylor said that she understood that Collier County would no longer fund Emergency Medical Services (EMS); City Manager Robert Lee said that he would follow up on a letter to this effect which had reportedly been sent to area Fire Chiefs. Additionally, she suggested research into other communities with similar locales (waterfront and surrounded by county territory) for proactive steps to deal with growth pressure of surrounding areas; she noted, in particular, Carmel, California. Council Member Willkomm agreed but also cautioned that the scope of the research initially be limited before additional staff time was authorized in the endeavor. Miss Taylor noted that this input is necessary to preserve the quality of life in the City, especially with such topics as the proposed Keewaydin Island park concept and beach access being pursued by Collier County. City Manager Lee pointed out that the City recently became involved in an online group of municipalities interested in innovation in government, and the exchange of ideas and questions regarding their particular issues, which, he said, had proven most helpful

ADJOURN.....

3:56 p.m.

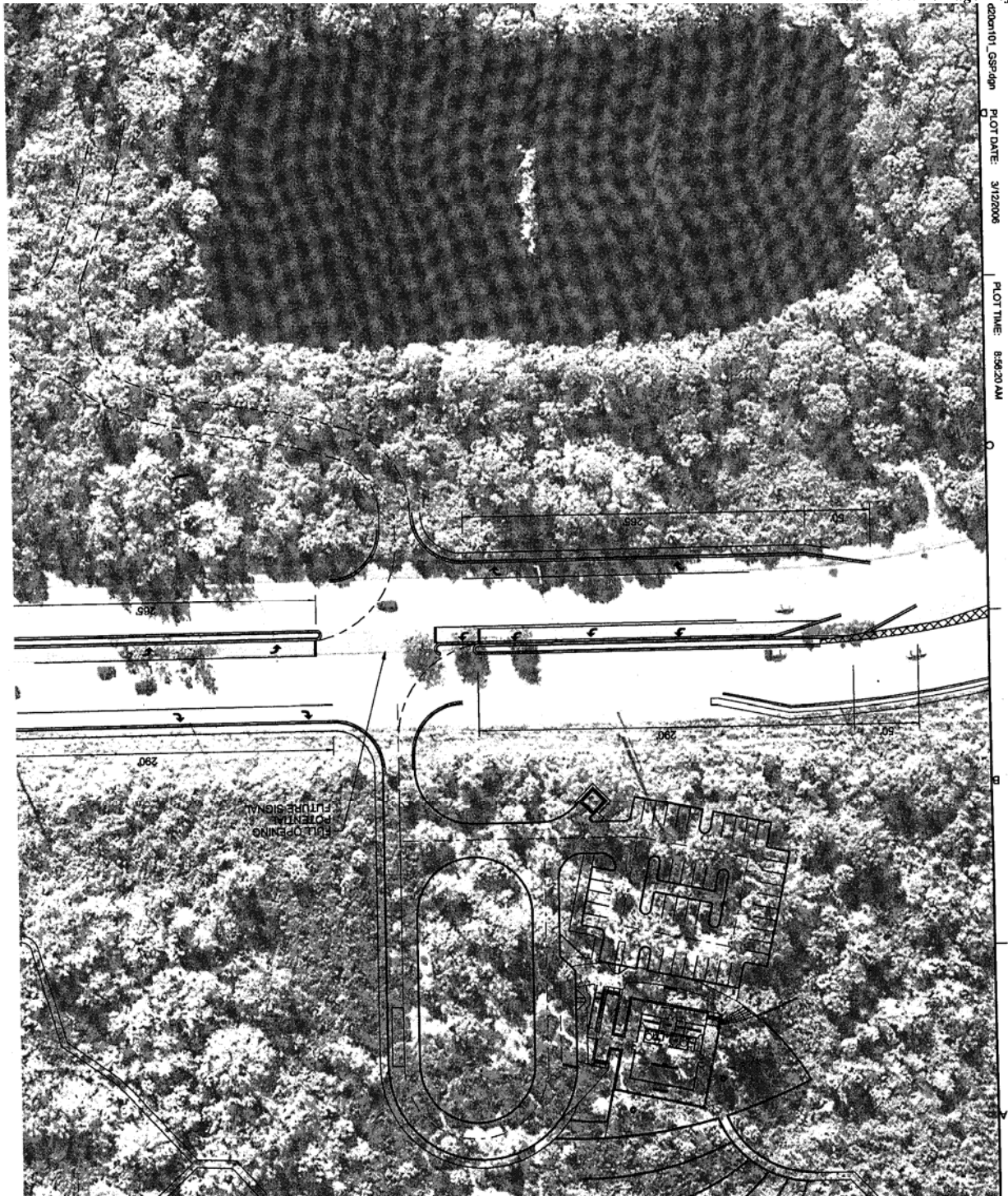
Bill Barnett, Mayor

Tara A. Norman, City Clerk

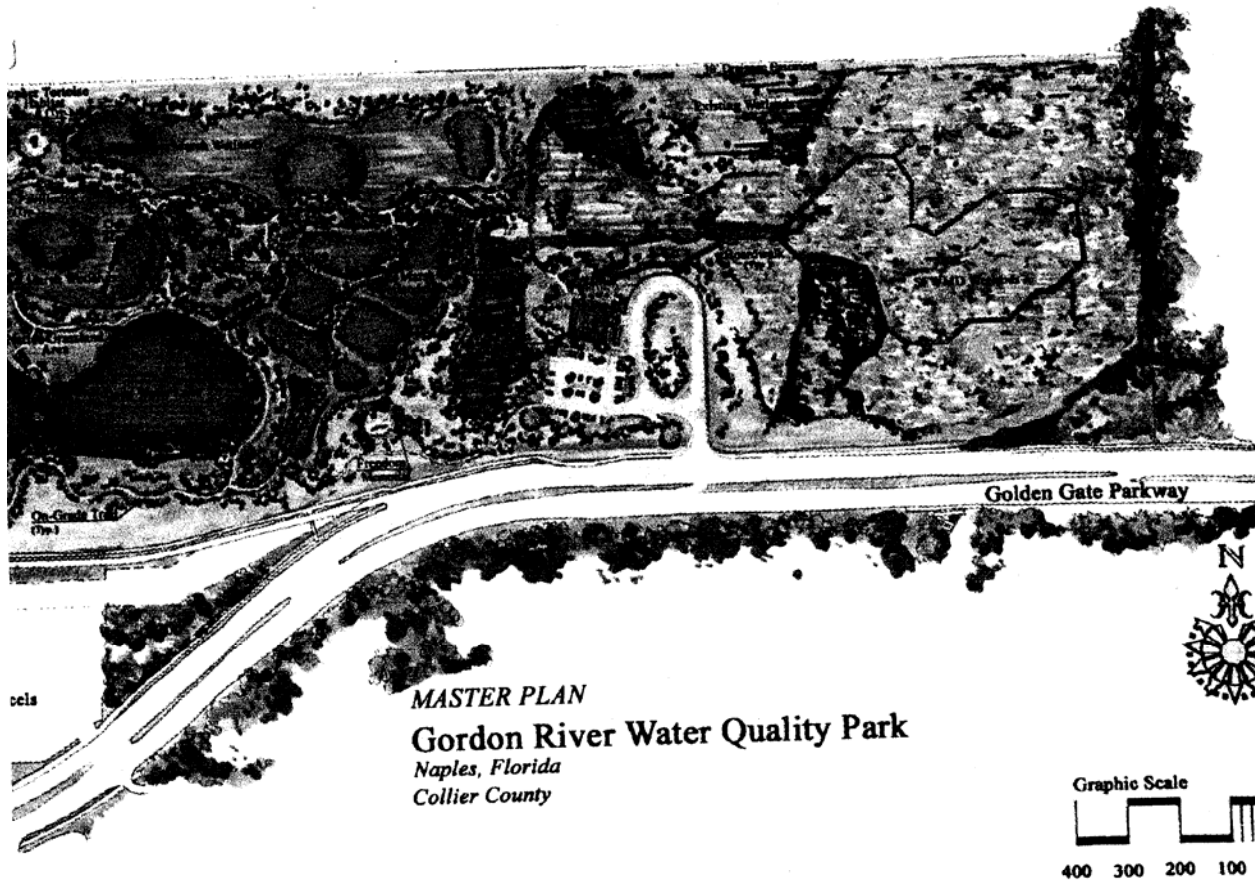
Minutes prepared by:

Vicki L. Smith, Technical Writing Specialist

Minutes Approved: March 21, 2007



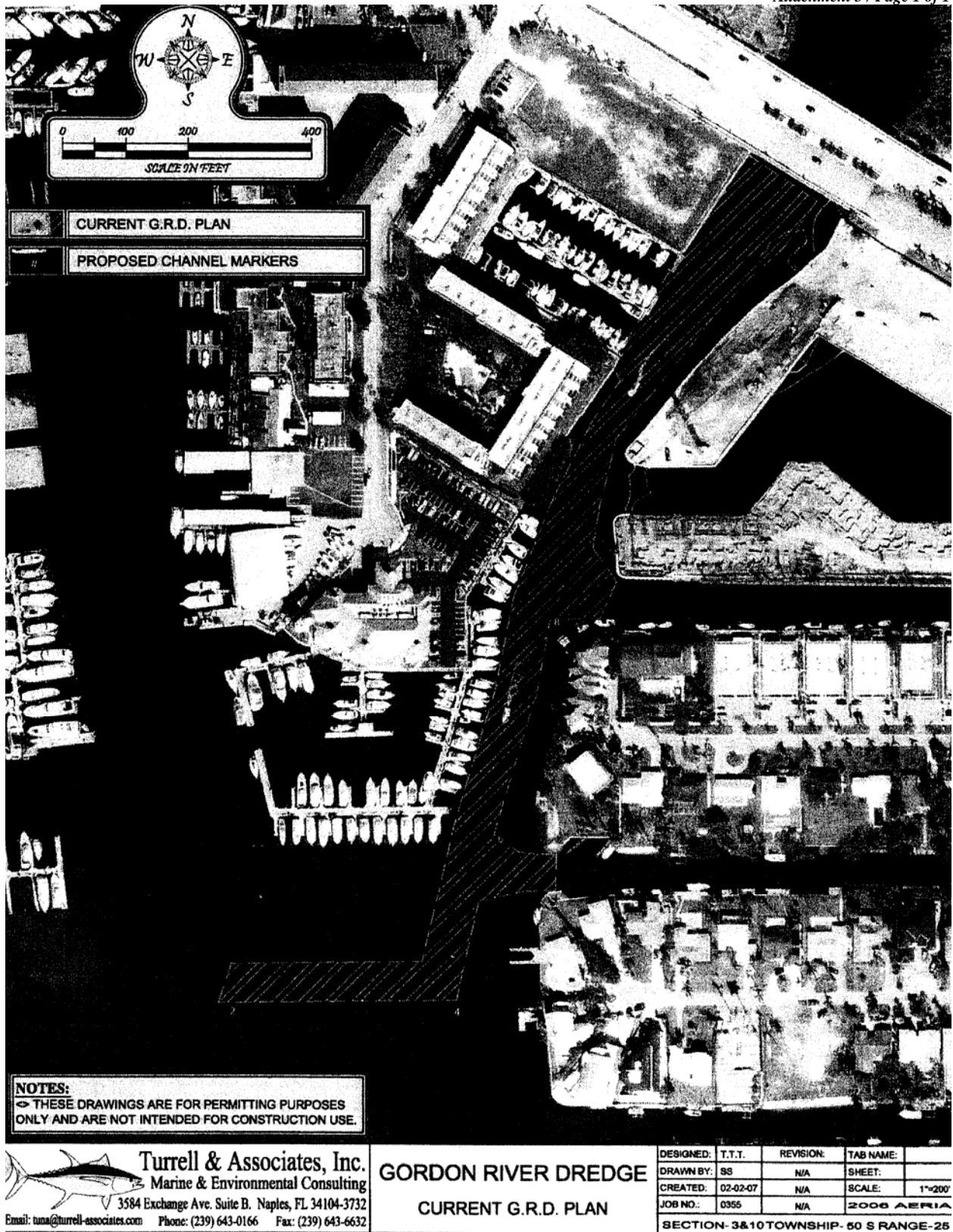
Current Site Plan, 90% Design



Collier County







Miller, Mark (South District Office)

From: Stoutamire, Jim
Sent: Monday, February 05, 2007 12:06 PM
To: Miller, Mark (South District Office)
Cc: Vielhauer, Harold; Blair, Lucy
Subject: Naples Yacht Club

Mark - I am sure you saw this article but I am curious about the comment to the effect that the city only signed the permit (application? for the channel dredging?) to speed up the process and that the city is not paying for the dredging. Not accepting anything in the newspaper as fact this does raise my antenna with respect to exactly who is paying for the dredging and whether or not that dredging really is a "public" project. Any insight?

Jim Stoutamire, Administrator
Off. of Submerged Lands and Environmental Resources
Dept. of Environmental Protection, MS 2500
2600 Blair Stone Rd., Tallahassee, FL 32399

(850) 245-8490

NAPLES DAILY NEWS

Resident hopes evidence convinces city to rethink plans for boat slip expansion

By Aisling Swift
Saturday, February 3, 2007

When Ron Palmer sits on his lanai, he looks out on a vista of clear water on Naples Bay — something that will turn into a wall of large boats when the Naples Sailing and Yacht Club builds a 20-slip expansion just feet away from his dock.

The 25-year Osprey Avenue resident and his neighbors maintain the expansion will extend the channel farther south, creating a dangerous navigational problem for boaters, who will have to make a blind, 90-degree turn into the federal channel.

"There's going to be a 100-foot wall of boats out there," he said, pointing to the expansive bay as a boat drove by. "If there's an accident out here, the city is on the hook and there's bound to be an accident if this stuff goes through. Obviously it's going to change my way of life if I'm going to be looking at boats instead of open water."

What also concerns Palmer is that those docks and boats will be lit up at night. And manatee zones will be marked, dotting the water with signs.

COPIED from FDEP file