



City Council Chamber
735 Eighth Street South
Naples, Florida 34102

City Council Regular Meeting – March 7, 2007 – 9:00 a.m.

Mayor Barnett called the meeting to order and presided.

ROLL CALLITEM 1

Present:

Bill Barnett, Mayor
Johnny Nocera, Vice Mayor

Council Members:

William MacIlvaine
Gary Price, II
John Sorey, III
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
Stephen Weeks, Technology Services Director
David Lykins, Community Services Director
Ralph Lacivita, Comptroller
Ann Marie Ricardi, Finance Director
Tony McIlwain Senior Planner
Robin Singer, Community Development Director
Dan Mercer, Public Works Director
Chet Hunt, Assistant City Manager
Ronald Wallace, Construction Mgmt Director

Robert Bohl
Ted Soliday
Everett Thayer
John Passidomo
Pierre Bruno
Virginia Corkran
Teresa Heitmann
Henry Kennedy

Media:

Denise Zoldan, Naples Daily News

Other interested citizens and visitors

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

Reverend Robert Bohl, First Presbyterian Church

ANNOUNCEMENTSITEM 3

Certificate of Achievement for Excellence in Financial Reporting presented to Finance Director Ann Marie Ricardi and Comptroller Ralph Lacivita by Mayor Barnett.

SET AGENDA.....ITEM 4

MOTION by MacIlvaine to ***SET THE AGENDA*** continuing Item 6-a (minutes), Item 8-b (Rezone Petition 07-RI regarding Vista Royale subdivision plat), Item 9 (Live Entertainment Permit 07-LE4 and Residential Impact Statement 07-RIS4 regarding Bayfront located at 495 Bayfront Place), Item 12 (amendments regarding Section 14 of the Public Right-of Way Construction Standards Handbook), Item 13 (waterways ordinance), and Item 14 (Keewaydin Park

Concept-revised Memorandum of Understanding (MOU)); removing Item 6-g (800 MHZ portable communication radios) from the Consent Agenda for separate discussion; withdrawing Item 16 (State tax proposals involving local governments); and adding Items 5-a (report on airport extraction of rock/concrete recycling) and 17 (request for an executive session with reference to the Pulling litigation). 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

(9:06 a.m.) **Virginia Corkran, 213 Ninth Avenue South**, expressed concern regarding drainage issues, which she said she believes were created by the construction of a large home next door at 214 Eighth Avenue South. Ms. Corkran also questioned to what entity liability would accrue in the event of water damage in a storm event, the City or the homeowner. Council Member Taylor noted the response from Community Development Director Robin Singer to Ms. Corkran's written inquiries in this regard, a copy of which is contained in the file for this meeting in the City Clerk's Office. **Everett Thayer, 1690 Avion Place**, said that he had recently followed a truck which had left the Naples Municipal Airport carrying a load of crushed rock to Marco Island and that the truck had off loaded its cargo onto a street at the south end of the island. He also asked whether the dust from the recycling of the rock and concrete occurring on the airport property could cause a health hazard to residents of Avion Park and users of the nearby marina. **Teresa Heitmann, no address given**, expressed appreciation for recent focus group meetings regarding the reclaimed water project; she also noted issues which she recommended be addressed in the visioning process, such as sidewalks and bicycle paths to provide safer access to the schools.

CONSENT AGENDA

**APPROVAL OF MINUTES (Continued to 03/21/07-See Item 4).....ITEM 6-a
SPECIAL EVENTS ITEM 6-b**

- 1) Fundraiser Concert for PACE Center for Girls in Immokalee – Soroptimist International of Naples – Cambier Park Bandshell – 03/01/07.
- 2) Downtown Naples Festival of the Arts Fine Art Show – Downtown Naples Association – Fifth Avenue South and Park Street – 03/23/07, 03/24/07, 03/25/07.
- 3) Relay for Life – American Cancer Society – Gulfview Middle School – 04/20/07, 04/21/07.
- 4) Amended Event – Entertainment – The Village on Venetian Bay Shops – 03/15/07 (time change – originally scheduled from 6 p.m. to 9 p.m. – now requesting 12 Noon to 9 p.m.) and adding 03/16/07.
- 5) Third in Bloom – Third Street South Association – Third Street South Shopping District – 03/29/07, 03/30/07, 03/31/07, 04/01/07.
- 6) Private Block Party – 2nd Avenue North between Gulf Shore Boulevard North and Third Street North.

RESOLUTION 07-11568.....ITEM 6-c

A RESOLUTION AUTHORIZING THE SUBMITTAL OF THREE CATEGORY “A” 2007 GRANT APPLICATIONS FOR COLLIER COUNTY TOURIST DEVELOPMENT COUNCIL FUNDING FOR THE POST DREDGING MONITORING OF DOCTORS PASS, MAINTENANCE OF THE CITY BEACH, AND RESTORATION OF THE DOCTORS PASS JETTY; AUTHORIZING THE MAYOR TO EXECUTE THE GRANT APPLICATIONS; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 07-11569 ITEM 6-d
A RESOLUTION APPROVING A MARINE SITE WORK PERMIT APPLICATION TO PLACE RIPRAP ALONG A RESIDENTIAL SHORELINE OF LANTERN LAKE AT 345 GALLEON DRIVE; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 07-11570..... ITEM 6-e
A RESOLUTION ACCEPTING THE ANNUAL REPORT OF THE COMMUNITY SERVICES ADVISORY BOARD FOR CALENDAR YEAR 2006; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 07-11571..... ITEM 6-f
A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF NAPLES AND TAMIAMI BUILDERS, INC., FOR CONSTRUCTION AND INSTALLATION OF A METAL ROOF-OVER PROJECT AT THE CITY’S EQUIPMENT SERVICES BUILDING; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 07-11572..... ITEM 6-h
A RESOLUTION APPROVING AN AGREEMENT FOR PURCHASE AND SALE OF GOODS WITH CHEMICAL LIME COMPANY OF ALABAMA, INC., FOR THE ANNUAL PURCHASE OF QUICKLIME FOR THE WATER AND WASTEWATER TREATMENT PLANTS; 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 07-11573..... ITEM 6-i
A RESOLUTION APPROVING A FIRST AMENDMENT TO THE AGREEMENT BETWEEN THE CITY OF NAPLES AND WORLD WASTE SERVICES, INC., TO PROVIDE ADDITIONAL HAULING SERVICES FOR ROLL-OFF AND COMPACTOR CONTAINERS; 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 07-11574 ITEM 6-j
A RESOLUTION EXPRESSING OPPOSITION TO HOUSE BILL 529 KNOWN AS THE “CONSUMER CHOICE ACT OF 2007” (H529), URGING FLORIDA LEGISLATIVE REPRESENTATIVES TO REFRAIN FROM ANY FORM OF SUPPORT OR CO-SPONSORSHIP OF H529 AND TO VOTE IN OPPOSITION TO H529, REQUESTING GOVERNOR CRIST TO ADVISE THE HOUSE AND SENATE LEADERSHIP THAT HE DOES NOT SUPPORT H529 IN ADVANCE OF THE OPENING OF THE 2007 REGULAR SESSION, AND DIRECTING THAT THIS RESOLUTION BE FORWARDED TO FLORIDA GOVERNOR CRIST, THE MAYOR OF EACH MUNICIPALITY IN COLLIER COUNTY, THE FLORIDA LEAGUE OF CITIES, AND EACH MEMBER OF THE COLLIER COUNTY BOARD OF COMMISSIONERS; PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 07-11575..... ITEM 6-k
A RESOLUTION RESCHEDULING THE JUNE 20, 2007, REGULAR CITY COUNCIL MEETING TO JUNE 13, 2007; RESCHEDULING THE JULY 4, JULY 18, AND AUGUST 1, 2007, REGULAR CITY COUNCIL MEETINGS TO THE REGULAR CITY COUNCIL MEETING OF AUGUST 15, 2007; AND PROVIDING AN EFFECTIVE DATE. Title not read.

MOTION by Price to APPROVE CONSENT AGENDA except Items 6-a and 6-g; 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).

END CONSENT AGENDA

ADDED ITEM (See Item 4)ITEM 5-a
EXTRACTION OF ROCK AND CONCRETE RECYCLING AT NAPLES MUNICIPAL AIRPORT. (It is noted for the record that documentation and exhibits pertaining to this item and referenced during the discussion are contained in the file for this meeting in the City Clerk's Office.) Ted Soliday, Executive Director of the Naples Airport Authority (NAA), utilizing two photographs of the airport property (Attachment 1), gave a brief history regarding its relationship with Quality Enterprises the entity responsible for the aforementioned rock crushing and concrete recycling activity. He gave the following information:

- 2000-2001 – storage of over 100,000 cubic yards of rock began in the west quadrant of the airport property from clearing of land for hangar construction, cleanup of Airport-Pulling Road which included additional excavation of the adjacent lakes;
- 2005 – Taxiway E, entry road, and utility project in the north quadrant brought to light the need for the crushing of the stored rock due to the market cost of \$35 per cubic yard needed for the aforementioned projects; and
- February 17, 2005 – Quality Enterprises provided a rock crusher at the north quadrant and began processing aggregate for airport projects.

Mr. Soliday also reported that for a short time the airport accepted rock from Collier County, which was crushed and used in airport projects thereby lowering the cost and that ongoing projects in the south quadrant are now utilizing the crushed rock on the airport site.

Director Soliday then noted the February 28 stop-work order issued by Community Development Director Robin Singer, but explained that 80% of the rock is to be or has been used for NAA projects, 10% is waste materials that are removed from the site, and the remaining 10% generated with no immediate need by NAA projects had been removed from airport property by Quality Enterprises for use on its other projects around the area. Director Soliday agreed that this excess crushed rock would remain on the airport property for its use if Council so desired. Council Member Taylor pointed out that these figures contradict an email from Erv Dehn, NAA Director of Engineering and Planning, dated February 28, which stated that all materials, except waste, were however used for airport projects. Director Soliday explained that he had recently met with Quality Enterprises and the aforementioned percentages were ascertained from that discussion. Council Member MacIlvaine asked whether the 10% removed had been sold by Quality Enterprises. Director Soliday said that the company had been renting space in the west quadrant for their activities such as storing the rock crusher and other vehicles when not in use; however, in all probability the aforementioned rock transported to Marco Island had indeed been sold by Quality Enterprises.

Council Member Sorey identified the issue as being whether the use was one that was permitted and whether the crushing of the rock on site for use by the airport was permissible. The stop-work directive might then be reconsidered due to it being economically prudent. Council Member Willkomm pointed out that a construction site had however apparently evolved into a manufacturing site; Community Development Director Singer agreed, adding that this use should have had prior Council approval; nevertheless, if the material had indeed been sold off-site by Quality Enterprises, this in itself constitutes violation. Vice Mayor Nocera asked whether any entity, other than the NAA and the City of Naples, was benefiting from the rock production taking place on the airport property, and Director Soliday explained that Quality Enterprises currently had six contracts with NAA for projects and that no further materials, other than waste, would leave the airport property.

Citing traffic on North Road adjacent to the airport, Council Member Price asked for an assessment of the traffic generated by the above referenced activity and whether material was being brought to the airport site for crushing. Director Soliday restated that Collier County had been transporting rock to the site for crushing but that this material was being utilized by the airport. Mr. Price also questioned the advisability of additional Quality Enterprises vehicles using the airport site as a staging area for other projects not affiliated with the airport, noting again the additional traffic this would generate on North Road. Director Soliday said that the contract with Quality Enterprises for the storage space had been terminated but asked that Council allow the NAA to retain the already crushed rock so that trucking charges could be avoided when it is needed at a later date.

In response to Council Member Sorey, Director Singer explained that when the NAA first decided to utilize the property in the above referenced manner, the request should have been brought before Council under the provisions of the airport utilization plan, as would the storage of vehicles for other than airport use.

City Manager Robert Lee noted that the NAA and Quality Enterprises had been notified to cease the above referenced activities, that crushing was to take place only at the location that the material would be utilized. He said that he would suggest that the NAA propose the necessary amendments to the airport utilization plan during a public hearing in order to assure due process in the matter. He also noted a public records request made by the City for NAA's correspondence and contracts with Quality Enterprises and explained that with regard to North Road, that Public Works Director Dan Mercer was currently assessing the situation.

Council requested the following items for future discussion:

- The parameters of the upcoming fair share discussion regarding North Road as noted in the March 6 memo from Public Works Director Dan Mercer;
- A copy of the lease between the NAA and Quality Enterprises and whether the NAA lease with the City of Naples contains a subleasing clause;
- Whether Collier County, since 2005, has sub-contracted with Quality Enterprises and, if so, the extent of the transactions between the two entities, including the number of truckloads and tonnage.

Public Comment: (10:11 a.m.) None.

RESOLUTION 07-11576.....ITEM 6-g
A RESOLUTION APPROVING AN AGREEMENT FOR PURCHASE AND SALE OF GOODS BETWEEN THE CITY OF NAPLES AND COMMUNICATIONS INTERNATIONAL, INC., FOR THE PURCHASE OF 57 800 MHZ PORTABLE COMMUNICATION RADIOS FOR THE PUBLIC WORKS DEPARTMENT; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (10:11 a.m.). Council Member Price asked whether alternatives had been sought to the requested radios, expressing budgetary concerns. Public Works Director Dan Mercer referenced his March 6 memorandum (a copy of which is contained in the file for this meeting in the City Clerk's Office) and said that while other alternatives had been researched, it was necessary to coordinate the units with the Collier County system which is accommodating City traffic on its transmission towers. He also noted that during Hurricane Wilma, the City had lost two communications towers and its base unit, which must be replaced if the City continued with this type of radio.

Public Comment: (10:13 a.m.) None.

***MOTION** by Price to **APPROVE RESOLUTION 07-11576** as submitted; seconded by MacIlvaine and unanimously carried, all members present and voting (MacIlvaine-yes, Nocera-yes, Price-yes, Sorey-yes, Taylor-yes, Willkomm-yes, Barnett-yes).*

ORDINANCE (First Reading).....ITEM 7
AN ORDINANCE REGARDING CONSTRUCTION SITE MANAGEMENT; AMENDING SUBSECTION 16-291(b)(10)d, OF THE CODE OF ORDINANCES, CITY OF NAPLES FOR THE PURPOSE OF ALSO ALLOWING A CITY-APPROVED INSPECTOR TO CONDUCT A PRE-CONSTRUCTION OR PRE-DEMOLITION SITE INSPECTION; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (10:14 a.m.). Community Development Director Robin Singer noted that this ordinance requires a notice to adjacent property owners as well as an offer of inspection prior to any construction activity that entails pile driving or demolition; however, the specifics of actual seismic monitoring had not be included. She reported various conversations with the registered public speaker to follow, pointing out that she believed he would comment regarding geo-technical issues not addressed in the ordinance.

Public Comment: (10:14 a.m.) **Pierre Bruno, 1896 Seville Boulevard, #1712**, explained that as a geologist, he questioned the criteria to be used in the City's process to approve an inspector, although the current regulation in place requires that an engineer be in charge. He also asked which department would oversee the enforcement and choice of the inspectors and expressed concern with regard to liability. In response to Council Member Taylor, he stressed that a licensed engineer should be responsible for the final review of any data gathered regarding seismic monitoring and any structural damage that might result to surrounding property. Council Member Sorey stated that the changes to the ordinance under consideration at that time were regarding the pre-construction or pre-demolition site inspection, not seismic activity; a pre-activity inspection was to be offered to adjacent property owners to determine structural integrity. Director Singer noted that Building Official Paul Bollenback would be responsible for establishing a policy for the City approved inspector qualifications.

MOTION by Sorey to **APPROVE THIS ORDINANCE** on First Reading as submitted; seconded by MacIlvaine and unanimously carried, all members present and voting (MacIlvaine-yes, Nocera-yes, Price-yes, Sorey-yes, Taylor-yes, Willkomm-yes, Barnett-yes).

ORDINANCE (First Reading).....ITEM 8-a
AN ORDINANCE DETERMINING REZONE PETITION 07-R1 FOR PROPERTY LOCATED AT 201-271 HARBOUR DRIVE, MORE FULLY DESCRIBED HEREIN, IN ORDER TO PERMIT REZONING FROM R3-12 TO PD, PLANNED DEVELOPMENT, FOR VISTA ROYALE; APPROVING THE PLANNED DEVELOPMENT DOCUMENT FOR NAPLES HARBOUR, LTD.; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (10:29 a.m.), who also explained that Item 8-b was to be continued to the Second Reading of Item 8-a. 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: Price/visited the site, spoke with the petitioner's agent and reviewed the Planning Advisory Board (PAB) February 14 minutes; Nocera/visited the site and spoke with the petitioner's agent; Barnett and MacIlvaine/familiar with the site and spoke with the petitioner's agent; Taylor/familiar with the site, and received an email from Doug Finlay regarding docks at the site; Sorey/visited the site, spoke with the petitioner's agent, reviewed the aforementioned PAB minutes and received numerous telephone calls and emails regarding this item; and Willkomm/spoke with the petitioner's agent, familiar with the site and reviewed recording of the PAB meeting.

Senior Planner Tony McIlwain explained that the petition is for the rezone of approximately 2.15 acres from R3-12 Multi-family Residential to PD Planned Development, to allow fee-simple ownership of eight single family residences with zero side setback lines for an existing development located at 201-271 Harbour Drive.

Recess: 10:32 a.m. to 10:47 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 10:49 a.m.

Attorney John Passidomo, agent for the petitioner, explained that the subject property had contained a 12-unit development (Barbados Club) until its replacement by a new design which included eight single-family residences surrounding a central courtyard, each unit having its own amenities package and functioning as a townhouse. He pointed out that the petitioner had decreased the density and increased the parking from 1.5 to 3.0 spaces per unit; however, he said, market preferences indicated the need for zero lot line townhouses in lieu of condominiums, as well as a fee-simple form of ownership. Following the January issuance of a Certificate of Occupancy (CO), a violation of the subdivision regulations had come to light with the only apparent remedy being the subject rezone petition. He concluded by asserting that the issue is not what had been constructed or whether it complies with City regulation, but rather the form of ownership; therefore a rezoning to PD is the only avenue available to the petitioner to allow the fee-simple form of ownership. Attorney Passidomo then noted prior, similar zoning which had occurred in approximately 1986 for the Villas of Park Shore and in 1988 for Bellaire of Park Shore and The Muse of Naples. All are townhouses which had the same zoning concerns as the project currently under consideration, he said.

In response to Council Member Willkomm, Senior Planner McIlwain explained that one parcel in the subject development (Lot 10) is actually under water and Lot 9 is considered a common area for parking and ingress/egress. The staff recommends approval, he added.

Responding to Vice Mayor Nocera, Attorney Passidomo explained that Federal, State, and City marine permitting requirements govern future placement of docks on Lot 10 prior to construction. City Attorney Pritt suggested that Section 4 of the ordinance be amended to reflect Attorney Passidomo's comments regarding the docks (see motion below).

MOTION by MacIlvaine to APPROVE THIS ORDINANCE amended as follows: Section 4: "Approval of the ~~rezone does not include the proposed floating dock~~; docks will be reviewed and approved under future federal, state and city marine permitting guidelines requirements prior to construction." This motion was seconded by Nocera and carried 6-1, all members present and voting (Taylor-yes, Willkomm-no, Sorey-yes, Nocera-yes, MacIlvaine-yes, Price-yes, Barnett-yes).

**RESOLUTION (Continued to 03/21/07-See Item 4 and Item 8-a).....Item 8-b
A RESOLUTION DETERMINING PETITION 07-SD1 FOR A PRELIMINARY AND
FINAL SUBDIVISION PLAT FOR "VISTA ROYALE" IN ORDER TO CREATE 10
INDIVIDUAL LOTS ON PROPERTY LOCATED AT 201-271 HARBOUR DRIVE,
MORE FULLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.
Title not read.**

**RESOLUTION (Continued-See Item 4)ITEM 9-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) ITEM 9-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.**

**RESOLUTION 07-11577.....ITEM 10
A RESOLUTION RANKING THE TOP PROFESSIONAL ENGINEERING FIRM TO
PROVIDE FOR HVAC IMPROVEMENTS TO THREE CITY FACILITIES;
AUTHORIZING THE CITY MANAGER TO NEGOTIATE A CONTRACT WITH THE
TOP-RANKED FIRM; AND PROVIDING AN EFFECTIVE DATE. Title read by City
Attorney Robert Pritt (11:44 a.m.), who noted that one proposal had been received regarding this
item, from CDM (Camp Dresser & McKee).**

Public Comment: 11:45 a.m.) None.

***MOTION by Taylor to APPROVE RESOLUTION 07-11577 as submitted;
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).***

RESOLUTION 07-11578ITEM 11
A RESOLUTION RANKING THE TOP TWO (2) PROFESSIONAL ENGINEERING FIRMS TO PROVIDE FOR IMPROVEMENTS TO THE SOLANA ROAD AND EAST NAPLES POTABLE WATER PUMP STATIONS; AUTHORIZING THE CITY MANAGER TO NEGOTIATE A CONTRACT WITH THE TOP-RANKED FIRM; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (11:45 a.m.), who noted that the top ranked firm was Malcolm Pirnie, Inc., and second was Tetra-Tech, Inc.
Public Comment: (11:46 a.m.) None.

MOTION by MacIlvaine to APPROVE RESOLUTION 07-11578 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).

ORDINANCE (Continued to 03/21/07 - See Item 4).....ITEM 12
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 not read.

ORDINANCE (Continued to 03/21/07 - See Item 4).....ITEM 13
AN ORDINANCE PERTAINING TO WATERWAYS, AMENDING SECTIONS 42-5(d), 42-52, 42-53(a)(3), 42-81, 42-83(1), 42-85, 42-112, 42-113, 42-141, 42-142(a), 42-143(5), (6), (7) and (10), 42-144, 42-145, 42-175, AND 42-202(a) AND (e) 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.

(Continued to 03/21/07 - See Item 4)ITEM 14
KEEWAYDIN PARK CONCEPT-REVISED MEMORANDUM OF UNDERSTANDING (MOU).

RESOLUTION 07-11579.....ITEM 15
A RESOLUTION AUTHORIZING THE CITY MANAGER TO DEVELOP A REQUEST FOR QUALIFICATIONS (RFQ) FOR THE DESIGN AND CONSTRUCTION OF A PARKING GARAGE ON CITY-OWNED PROPERTY AT 8TH STREET SOUTH AND 6TH AVENUE SOUTH; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (11:46 a.m.). City Manager Robert Lee explained that a request for qualifications (RFQ) was currently being drafted by staff regarding this item and that a timeline had been provided (Attachment 2). Additionally, Council Member MacIlvaine noted the special Community Redevelopment Agency (CRA) meeting on February 21 during which the decision for City Council review was rendered. Council Member Price urged that an RFQ be developed as soon as possible and that all interested and necessary parties, including the public, have the opportunity to offer input. He also requested that the parking garage construction begin within the next 45 to 60 days since a prior one-year projection for commencement of construction was unacceptable to him. Council Member Willkomm stated that the Fifth Avenue South Action Committee (FASAC) also supports the proposed site, as does the Old Naples Association. He

also noted several suggestions from FASAC as follows: relocate the existing mature trees on the site; include an approximately 20-foot first floor commercial space along Eighth Street South; and provide sufficient setback to appropriately landscape the perimeter of the property.

Council Member Sorey pointed out that Jeff Birr, agent for the Barron Collier Companies, owner of property immediately east of the site, had expressed interest in working with the City. Mr. Sorey also listed features he said he deemed necessary in the proposed structure: the east wall should be designed to facilitate the potential development of the aforementioned Barron Collier property (such as ingress to allow access to the garage from the east); sensors should be included to indicate when the structure is at capacity; necessary conduit for machinery should be installed at the time of construction if the decision were made in the future to charge for parking; electrical should be above Federal Emergency Management Agency (FEMA) flood elevations; the façade on Eighth Street South should be aesthetically comparable to those along Fifth Avenue South; research should be done into the width of the alley to ensure the necessary space for delivery trucks to access adjacent businesses; and offers to buy parking spaces in the proposed garage should be accepted to allow developers to move forward with their projects.

Mayor Barnett asked whether the timeframe proposed by Council Member Price above would indeed be possible. Construction Management Director Ron Wallace gave the following three options: 1) utilize the design-build concept; 2) hire an architect and put the final design out for bid; and 3) hire the architect and use the construction-manager-at-risk process which, he said, the City had found successful in the past. He said that with the third option, a maximum guaranteed price is secured from the construction manager prior to the design actually being completed, thereby lessening the time for construction to begin; staff recommends this option, he said, and Council concurred.

Public Comment: (12:05 p.m.) **Henry Kennedy, no address given**, stated that he believed that the current demand for parking dictates that the proposed structure should contain parking spaces only and that no more commercial development is needed in the area.

City Manager Lee expressed concern regarding the existing timeline and the following amendments were forthcoming:

- 1. 03/07/07 – Council authorization to proceed;
- 2. 03/16/07 – Request for RFQ distributed to vendors;
- 3. 04/16/07 – Proposals received and distributed to Selection Committee;
- 4. ~~05/01/07~~ 04/16/07– Selection Committee meeting;
- 5. ~~05/16/07~~ 05/02/07– Ranking of proposals to Council for approval and authorization to negotiate fee;
- 6. ~~05/17-06/08/07~~ 05/03-05/24/07– Development of final project scope and fee;
- 7. ~~06/20/07~~ 06/06/07– Design contract to Council for approval;
- 8. 06/21-12/21/07 – Geotechnical analysis, structural design, architectural design, Advisory Board review and approval (FASAC, PAB, City Council). Selection of a construction manager at risk;
- 9. 1/08 – Approval of construction contract and guaranteed maximum price;
- 10. 12/07-3/08 – Procurement, fabrication and mobilization;
- 11. 3/08-11/08 – Construction.

Construction Management Director Wallace pointed out that once the design professional is under contract, Items 8 and 10 would be more definite and that these timeframes could therefore possibly be shortened.

Council Member Price stated that he believed that the proposed flex-space had been mentioned at the CRA meeting as an item to be researched regarding additional time needed for construction and had not actually been approved as part of the design; it would replace 14 much-needed parking spaces and therefore should be clarified before approval is given to this resolution as submitted.

In response to Council Member Willkomm, Director Wallace indicated that the design of the current Fifth Avenue South parking garage had been very similar in size to the garage under discussion and that this design could be a future consideration.

During discussion that followed, the following motion was proffered:

MOTION by Sorey to APPROVE RESOLUTION 07-11579 amended as follows: Section 1: “(The structure will include ground floor commercial flex-space 22 feet deep on the 8th Street South side only using the construction-management-at-risk process.)” This motion was seconded by MacIlvaine and carried 5-2, all members present and voting (Sorey-yes, Price-no, MacIlvaine-yes, Willkomm-yes, Taylor-no, Nocera-yes, Barnett-yes).

**WITHDRAWN (See Item 4)ITEM 16
CONSIDER STATE TAX PROPOSALS INVOLVING LOCAL GOVERNMENTS.**

**ADDED ITEM (See Item 4)ITEM 17
REQUEST BY CITY ATTORNEY ROBERT PRITT FOR THE FOLLOWING
EXECUTIVE SESSION (ATTORNEY/CLIENT) TO BE ADDED TO AGENDA FOR
MARCH 21, 2007, REGULAR MEETING AT 11:30 A.M. – JOHN A. PULLING, JR. as
personal representative for the Estate of John A. Pulling Sr. V. CITY OF NAPLES,
CIRCUIT COURT CASE NO. 07-268-CA, 20TH JUDICIAL CIRCUIT.**

CORRESPONDENCE AND COMMUNICATIONS.....

Council Member Willkomm questioned the change in the appropriations request by the Collier County lobbyist for Naples Bay and Council Member Price explained that the Federal request had been for \$5 million but that no new projects were being accepted in 2008, that the only means for attaining additional funding in 2009 was to request the \$100,000 for an Army reconnaissance study to be done prior to any further requests. Mr. Willkomm also questioned the status of connecting the missing links in sidewalks and City Manager Robert Lee explained that a schedule regarding this is being drafted into the pathways plan to be brought before Council in April. Council Member Price requested an update on the recent tour of Fifth Avenue South regarding a list of needed upgrades and Vice Mayor Nocera requested the inclusion of home-to-school routes in the aforementioned pathways plan. Mayor Barnett requested clarification by City Attorney Robert Pritt of the recent email from Graham Ginsberg (a copy of which is contained in the file for this meeting in the City Clerk’s Office) regarding a violation regarding bicycles on the beach, the status of the park construction project on the Pulling property, and the legality of copying other Council Members on emails directing that there be no reply. Council Member Taylor questioned City liability regarding the Naples Sailing and Yacht Club dredging and the need for the Club to engage an engineer for seismic monitoring. Council

City Council Regular Meeting – March 7, 2007 – 9:00 a.m.

Member MacIlvaine extended an invitation to Collier County representatives to view access to Keewaydin Island via City-provided vessels and requested the status of the enforcement of utilizing trucks as additional signage at business locations. City Manager Lee noted that a report regarding compliance with refuse container regulations would be forthcoming.

PUBLIC COMMENT.....

None.

ADJOURN

12:56 p.m.

Bill Barnett, Mayor

Tara A. Norman, City Clerk

Minutes prepared by:

Vicki L. Smith, Technical Writing Specialist

Minutes Approved: April 4, 2007



TO: Dr. Robert E. Lee, City Manager
FROM: Ronald A. Wallace, P.E., Construction Management Director
DATE: February 28, 2007
SUBJECT: 8th Street and 6th Avenue South Parking Garage

As requested, the following is provided as an estimated timeline for design and construction of the proposed parking garage located at 8th Street and 6th Avenue South. It is understood that this project is considered a high priority and is to be expedited as much as possible; however, it is important to note that the referenced tasks are necessary in order to adhere to the City's Purchasing Policies as well as the requirements of the CCNA.

<u>Date:</u>	<u>Task:</u>
3/7/07	Council authorization to proceed
3/16/07	Request for Qualifications (RFQ) distributed to vendors
4/16/07	Proposals received and distributed to Selection Committee
5/1/07	Selection Committee meeting
5/16/07	Ranking of proposals to Council for approval and authorization to negotiate fee
5/17 -6/8/07	Development of final project scope and fee
6/20/07	Design contract to Council for approval
6/21 - 12/21/07	Geotechnical analysis, structural design, architectural design, Advisory Board review and approval (FASAC, PAB, City Council). Selection of a Construction Manager at Risk
1/08	Approval of Construction Contract and Guaranteed Maximum Price
12/07-3/08	Procurement, fabrication and mobilization
3/08 - 11/08	Construction

The above schedule is based upon the utilization of a Construction Manager at Risk. In this process a contractor would be selected, based upon qualifications as outlined in the CCNA process, to oversee construction of the facility at a Guaranteed Maximum Price. It is intended that this selection would take place during the design stage to allow for the selected contractor to work with the design professional and take part in any potential value engineering and scheduling savings. It would also allow for the contractor to begin "shopping" for materials and selecting sub-contractors prior to completion of the final plans and specifications. If a standard bid process were to be used, an additional 3-4 months would have to be added to the schedule between design and construction to allow for advertising, bidding and award.

If you have any questions or need any additional information, please let me know.