

City Council Chamber
735 Eighth Street South
Naples, Florida 34102

City Council Regular Meeting – August 15, 2007 – 9:01 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
William Willkomm, III

Also Present:

Robert Lee, City Manager
Robert Pritt, City Attorney
Tara Norman, City Clerk
Vicki Smith, Technical Writing Specialist
Stephen Weeks, Technology Services Director
Robin Singer, Community Development Director
Ron Wallace, Construction Mgmt Director
David Lykins, Community Services Director
Adam Benigni, Planner II
Michael Klein, Waterfront operations Manager
Dan Mercer, Public Works Director
Sandeep Dasari, Plans Review Engineer
Michael Bauer, Natural Resources Manager
George Archibald, Traffic Engineer
Jessica Rosenberg, Deputy City Clerk
Richard Yovanovich
Chris Thornton
Arthur Neumann
Donna Krall
Lake Sims
Kim Gutierrez
Christian Andrea
Jon Kukk
Will Dempsey

Doug Finlay
Dorothy Hirsch
Everett Thayer
Charles Thomas
Frank Denninger
Todd Turrell
Judith Chirgwin
Ron Palmer
Beth Bedtelyon
Angie Curkovic
John Remington
Falconer Jones, III
Teresa Heitmann
Sue Smith
Henry Kennedy
Greg Brisson
Jonathan Titus
Chris Busk
Russell Dennis
Josh Nageon De Lestang

Media:

Beth Buzzaccio, Naples Daily News

Other interested citizens and visitors

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

City Clerk Tara Norman.

ANNOUNCEMENTSITEM 3

None.

SET AGENDA.....ITEM 4

MOTION by Price to SET THE AGENDA removing the following from the Consent Agenda for separate discussion: Item 7-5(b) (Outdoor Family Movie Night); Item 7-e (Gordon River Dredging); Item 7-j (Riley Park); Item 7-k (Pulling Park); Item 7-m (Solana Road project); Item 7-n (stormwater project management and inspection); Item 7-p (traffic signal maintenance); Item 7-q (North Road improvements); and Item 7-s (Diamond Jubilee funds); continuing Item 13 (waterways ordinance); and adding Item 20 (appointment to Fifth Avenue South Action Committee/FASAC) and Item 21 (discussion of Metropolitan Planning Organization/MPO regarding US 41/Scenic Highway designation). This motion was seconded by Willkomm 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

(9:04 a.m.) **Judith Chirgwin, Naples**, announced a town meeting to be held on Thursday, August 23, at 6:00 p.m. at the Collier County Library on Central Avenue, expressing the desire that all who live in the City take this opportunity to participate. **Frank Denninger, Everglades Coordinating Council**, indicated that his group represented various outdoor and conservation organizations, all of which have a concern with reference to impending Council action on a matter to be considered later in the meeting (Item 21, Scenic Highway designation of US 41). He reviewed a description provided by the Metropolitan Planning Organization (MPO) (a copy of which is contained in the file for this meeting in the City Clerk's Office), taking the position that the proposal in fact would entail certain infringement of property rights and attempts to curtail fishing from various bridges along this thoroughfare. **Everett Thayer, 1490 Avion Place**, provided a photograph of activity with reference to North Road improvements (contained in the file for this meeting in the City Clerk's Office) and pointed out damage to North Road caused by a trucking company whose operation had been authorized at the Naples Airport; he further asserted that the company should contribute to road repairs and said that the road had been in need for repair for at least two years. He further commented on extensive revenues handled by the Naples Airport Authority and therefore said that the agency has the ability to provide the City with greater amounts for North Road. In addition, he urged that the residents of Avion Park be granted input in development of the west quadrant of the airport. **Doug Finlay, 3430 Gulf Shore Boulevard**, expressed concern that even though the Moorings Bay Special Taxing District had reduced its millage over the years it would be unduly penalized by State-mandated local tax reduction. He said he did not believe that the State fully understood the consequences of its action since the aforementioned taxing district will in fact be penalized for having maintained a low tax rate. Mr. Finlay then presented a check in the amount of \$16 which he said represented the amount of ad valorem tax reduction he would have realized through the state-mandated reduction, urging the Council not to cut important programs such as those for children, greenspace acquisition and bicycle lane construction. He also urged, should the Council propose a referendum on greenspace acquisition, that complete and accurate information be provided to underscore its importance. In conclusion, he encouraged Council to enact the

proposed stormwater ordinance to be considered later on the agenda and praised City Manager Robert Lee for his efforts, stating that he had enjoyed a positive working relationship with him on various issues. City Manager Lee clarified that Council had restored funding for the summer recreation program and that, pursuant to the State mandate, the City tax rate will actually be lower than that which appeared on the preliminary notices recently circulated by the Collier County Tax Collector.

APPROVAL OF MINUTES (see Consent Agenda below – Page 6).....ITEM 7-a

Council Member Taylor requested that the June 6 regular meeting minutes be amended (Page 25, Item 24) to reflect the fact that she had read a transcript supplied by Collier County to obtain the information that fire station expansion in conjunction with the Collier Park of Commerce annexation would be funded by various new annexations; this information had not been derived from a conversation with City Manager Lee. Council concurred with this amendment.

SPECIAL EVENTITEM 7-b(5)

(9:23 a.m.) Outdoor Family Movie Night –City of Naples – Cambier Park – 09/22/07. Council Member Taylor indicated that she was satisfied with staff's response to inquiries regarding this matter and congratulated the Community Services Department for locating a source of funding to allow outdoor movies for the public to continue,. She also noted that private funding had been obtained, citing a \$5,000 donation from Melvin Peterson and business co-sponsorship from Regina's Ice Cream Shop. Council Member Willkomm commended Vice Mayor Nocera for initiating this program, pointing out that through efficiencies, the cost is only \$1.25 per person. Council Member Price also noted that programs such as this help to regain a lost sense of community; he also commended staff and Vice Mayor Nocera.

Public Comment: (9:24 a.m.) None.

MOTION by Taylor to APPROVE ITEM 7-b(5) as submitted; seconded by Willkomm and unanimously carried, all members present and voting (MacIlvaine-yes, Nocera-yes, Price-yes, Sorey-yes, Taylor-yes, Willkomm-yes, Barnett-yes).

With regard to Item 7-d, Council Member Taylor congratulated the staff for securing grants to improve Anthony Park, pointing out the progress being achieved at that facility and stating that the staff has shown great professionalism in this regard. (It is noted for the record that this item was approved as part of the Consent Agenda later in the meeting.)

RESOLUTION 07-11714.....ITEM 7-e

A RESOLUTION AUTHORIZING THE REVISION OF A PERMIT APPLICATION WITH THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION TO DREDGE THE GORDON RIVER; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Robert Pritt (9:24 a.m.). City Manager Robert Lee explained that following consideration by the City Council prior to the summer recess, one of the reviewing agencies had expressed safety concerns relating to a right-angle turn in the proposed dredging area which had precipitated revision to incorporate two 45 degree angles rather than one 90 degree angle. Since then, opposition from the US Coast Guard to the reconfiguration had also developed in the permitting process causing further review and modification.

Natural Resources Manager Michael Bauer said that the concerns expressed by the Coast Guard had involved navigation, noting that the applicant, Basil Street Partners (Antaramian Development Group), had further suggested modifications to address these issues. Dr. Bauer suggested that Charles Thomas, representing the applicant, present Council with a summary. (In

addition to attachment indicated below, it is noted for the record that various other types of supporting materials are contained in the file for this meeting in the City Clerk's Office.)

Charles Thomas confirmed that a prior concern involved potential navigational hazards with a 90-degree turn in the channel. (A diagram used by Mr. Thomas to illustrate his points is appended hereto as Attachment 1-a. This should be compared to Attachment 1-b which illustrates previously proposed configurations.) The Coast Guard suggested a configuration with less angularity, precipitating the recommendation shown in Attachment 1-a. Nevertheless, this configuration has not yet received final Coast Guard approval, Mr. Thomas added.

Mr. Thomas further reported that an underwater survey had been accomplished in the area to determine potential environmental issues from channel reconfiguration as now proposed and that none were discerned; he also pointed out that it had been consistently known that the area is a mud flat and therefore significant environmental concerns were unlikely. He further said that the other applicant for dredging in the area, Naples Sailing and Yacht Club, had informed him that immediately following Council's action its State permit application would be revised to show a similar configuration but moved farther downstream to serve the Club's dock construction proposal, the City being the actual permit applicant on the Basil Street/Antaramian dredging project. In response to Council Member Taylor, Mr. Thomas confirmed on the drawing the location of the Club's proposed docks which intersects the proposed channel delineated on Attachment 1-a, stating that other issues may well arise with the Club's separate dredging permit application. If the dock permit for the Club were not approved, Mr. Thomas said, the channel proposed by his client on Attachment 1-a would be dredged; if the Club's separate dredging permit is approved, the Club's dredging for its docks will then be appended to his client's approved dredging configuration. In further dialog with Miss Taylor, Mr. Thomas expressed his expectation that both permits would be considered by the Governor and Cabinet at the same time and may in fact be acted upon simultaneously. He said that this is apart from any subsequent challenges, pointing out that no challenge is expected to the Basil Street/Antaramian permit although this may not be the case with the Naples Sailing and Yacht Club.

Council Member MacIlvaine then received clarification from Mr. Thomas that dredging in another area east of the proposed channel had been accomplished under a previous permit in the name of Basil Street Partners (see upper-right quadrant of both attachments adjacent to the area identified as Naples Bay Marina and referred to by Mr. Thomas as the basin area). Natural Resources Manager Bauer indicated that this particular dredging project would come before Council in September as part of the City's permitting process.

Council Member Sorey received confirmation from Mr. Thomas that the most recently shown configuration was formulated in support of Basil Street/Antaramian's interests; otherwise, Mr. Thomas said, if it were seen as an accommodation, it could be asserted that his client's proposal was indeed not separate from the Naples Sailing and Yacht Club. With reference to funding, Mr. Thomas indicated that from the outset the three parties involved in the dredging had agreed to share the cost based on relative benefit, one being Middlesex Holdings/Higgs, and the others being Basil Street/Antaramian and the Yacht Club. However, because the Club is seeking only a depth of six feet, and the other parties wish to dredge to seven feet, the additional depth will be funded by them.

Mr. Sorey then further sought assurance from Natural Resources Manager Bauer that Council approval of the concept presented would not represent a disadvantage to Naples Sailing and Yacht Club. Citing possible future legal implications, Dr. Bauer said that this could however not be assured. Mr. Sorey stressed that any action by Council neither enhance nor detract from the Club's probability of receiving permit approval, further stating that his vote for approval would hinge on its neutrality to the Club's interest. Dr. Bauer said that neutrality could nevertheless not be known absent testimony both from a Club representative and from the Florida Department of Environmental Protection (DEP). Council Member Price, however, observed that the original configuration (see Attachment 1-b) actually would have intersected the Club's connecting pier to its proposed new docks and that the current configuration still intersects the Club's proposal, but now through the dockage area. In further discussion, Natural Resources Manager Bauer, however, explained that prior to the configuration which would have extended dredging completely below the proposed Naples Sailing and Yacht Club docks, another routing had been proposed and was in fact identical to the one that is now deemed as the recommended project (see Attachment 1-a). The former would not have intersected the Club's docks and had been proposed only in conjunction with combining the permit applications. Dr. Bauer also pointed out that this combination of dredging permits to include the Yacht Club had later been determined to have not been approved by City Council.

Council Member Sorey reiterated his concern that the City remain neutral in this matter, which might not be possible if Council concurs with a dredging configuration that intersects the proposed Yacht Club docks. Council Member Willkomm suggested that the Council table the matter until it could confirm that the Club was amenable to the Basil Street/Antaramian proposal; if so, he said he would favor it. Council Member Taylor inquired of City Attorney Robert Pritt whether the Club has standing in the City's application (Basil Street/Antaramian). Mr. Pritt pointed out that the new configuration (Attachment 1-a) accomplishes the goal of moving the project farther from the Club's current docks to address concerns of a possible conflict with the Club's riparian rights; however, it would not settle a conflict with the location of the Club's proposed docks. He said that a conflict therefore remains between the two applications, although the Club is not a party to the decision before Council. However, he pointed out, there could be consequences in the future with issues raised by the Club at the level of the Governor and Cabinet which would infringe upon the currently proposed configuration. Council Member Taylor stressed the need to examine any possible legal constraints as well as any possible legal exposure to the City. Mr. Pritt said that because there will be a conflict between the proposed dredging in the two applications, this factor will enter into the decision making of the Governor and Cabinet.

Vice Mayor Nocera inquired as to whether the proposed dredged area could be moved 100 feet to the south so as not to intersect with the Club's proposed dock addition thereby eliminating any conflict. Natural Resources Manager Bauer however pointed out that this would not eliminate conflict with area homeowners. Speaking for Basil Street/Antaramian, Mr. Thomas pointed out that a conflict has been consistently present but that it would be eliminated if the Yacht Club were not granted a permit to dredge. However, since the City is the applicant, any changes must be brought to Council. Other factors to consider, he said, are whether the Club would revise its permit to respond to the same navigational concerns, as were then being addressed until the City's application is revised, and the ability to coordinate the two applications is a reality.

Timing is also becoming a factor, he added, in relation to his client's need to both proceed with and fund the work. He also pointed out that a delay had already occurred because of the additional review called for by Council in February, and should the currently proposed configuration not be approved, a further review by the Council in September would most likely result in the matter not proceeding to the Governor and Cabinet until November.

Council Member MacIlvaine said he was opposed to a dredging proposal that intersected the area wherein the proposed Sailing and Yacht Club docks would be located, confirming with Dr. Bauer that before the City removed itself from the Club's portion of the application, the proposed channel would have avoided that area entirely. He characterized as a drastic mistake the approval of a dredging configuration that would conflict with the Club's riparian rights without receiving input from that particular entity.

Council Member Taylor clarified with Natural Resources Manager Bauer that the dredging configuration that positioned the channel away from the proposed Yacht Club docks had however not been approved by City Council but that the proposal for which the City initially became the permittee corresponds with the proposal under consideration that day. Because this proposal contains a crossing that would in fact allow the Club to construct its docks, she said, it should be approved and therefore made a motion to this effect. Council Member Willkomm seconded; however, additional discussion ensued.

City Attorney Pritt asked whether, apart from any potential environmental concerns, it was physically possible to reconfigure the portion of the Club's proposed docks to remove them from the path of the dredging under consideration. Council Member MacIlvaine said that he did not believe this was possible due to the proximity of the federal channel to the west.

In response to Council Member Sorey, Dr. Bauer then related the history of this issue in that the Council had approved application of a permit to dredge along the east fork of the Gordon River, cutting east to west in front of the existing Naples Sailing and Yacht Club docks. Within approximately the same time frame, the Club applied to DEP to dredge with the intent to extend its docks, which DEP found to be in conflict with the City's application, directing Turrell & Associates, the City's agent, to rectify the conflict. Turrell had suggested that the permit applications be combined so that the dredging would extend around the proposed extension of the Sailing and Yacht Club and join the federal channel. While he said he does not recall specifics of a contact from Turrell, the agent asserts that he had administratively approved combining the City's permit application with that of the Club. However, this addition to the City's application was not approved by Council; subsequently the Council addressed the matter because of conflicts asserted by residential interests. Council then deemed that the City should revert to the permit which had not included the Club's portion of the dredging, he said. This separation of the parties to the permit application resulted in a return to the original configuration that extended the dredging directly in front of the Club's existing docks.

Citing economic issues as additional considerations involved in the Basil Street/Antaramian proposal, Council Member Sorey said that he preferred a continuance until later in the day to seek the input from the Yacht Club as to whether the action contemplated is acceptable. Although he said he believed it to be the case, the City, he explained, should be assured that it is

neutral in any impact that could result upon the Club's application. Regardless of the legal position, he urged Council to also be cognizant that a number of City residents are members of the Club. With the Club's concurrence, he said he would then support the Basil Street/Antaramian proposal so that the matter could move forward. Engineer Todd Turrell indicated that while he represented the City's permit application, his firm also represents the Naples Sailing and Yacht Club. He said that he had learned from the US Coast Guard that either alignment, the one proposed by Basil Street/Antaramian or that proposed by the Yacht Club, would be satisfactory. Council Member Sorey asked whether an approval of the configuration before the Council would then be neutral to the approval process for the Sailing and Yacht Club. Mr. Turrell said that this was likely if the Council were to indicate its willingness for a slight shift to the south to accommodate the Yacht Club's proposed docks. Council Member Taylor said that she would amend her motion not only to approve the petition as presented by the Basil Street/Antaramian interests, but also to include the provision that the Council would support a modification occurring in conjunction with the State's review of the two permits in order to preclude any conflict with the petition of the Naples Sailing and Yacht Club. Council Member Willkomm said that he would then second this motion.

In further discussion, City Attorney Pritt expressed the opinion that the City's opinion with reference to this matter would carry significant weight with the State, especially if the goal were to provide flexibility in alignment so as not to result in conflict. Resolution 07-11714 was then amended as appears in the motion below.

During formulation of the amendments listed above, City Manager Lee cautioned that the State approval process could be quite protracted, particularly when one of the interested parties expresses opposition. Natural Resources Manager Bauer also noted that the City could decide to withdraw entirely as applicant allowing other parties to come to a conclusion at the State level; however, the matter would still come to Council because of the need for a City dredging permit approval. Agent Thomas further reported a conversation with Tim Hall of the Turrell firm who had conveyed the understanding that the Yacht Club was intending to amend its application with a similarly shaped configuration of the channel; the application is to be filed within the week. He said he believed that the resolution of conflicts would continue to be the case.

Public Comment: (10 29 a.m.) **Ron Palmer, no address given**, challenged any blanket approval without the Naples Sailing and Yacht Club seeking further approval to change its proposed dredging configuration. He received assurances to the contrary from Council Members Sorey and Price, namely, that the City would be conveying a neutral position to the State since the City is not the applicant for the Club's permit; however, any modification by the Club must be approved by the Council. In addition, Council Member Taylor also pointed out that the City could not adversely affect the permitting process by acting contrary to its prior approval of construction of docks by Naples Sailing and Yacht Club. Mr. Palmer also received clarification that, regardless of the final dredging configuration approved by the State, each of the parties will be subject to the City's local permitting process entailing a public hearing.

Vice Mayor Nocera maintained that there may be a possibility of locating the proposed Yacht Club slips from the eastern side to the western side of the expansion project. Mr. Palmer said that he did not believe this could occur due to the existence of a setback from the federal channel on the west side; he also confirmed that, as a resident of that area, he was opposed to any dock

expansion at the Naples Sailing and Yacht Club. Mr. Palmer said he had verified with Engineer Turrell that avoidance of the setback from the federal channel had been the reason that the Club's new docks were designed in their current configuration.

MOTION by Taylor to **APPROVE RESOLUTION 07-11714** amended as follows: *third Whereas clause: "...changing the 90 degree turn to a configuration set forth in Exhibit A, attached hereto and made a part hereof, to ~~two 45 degree turns~~ would alleviate the potential..."; Section 1: "...shall be modified to a configuration set forth in Exhibit A, attached hereto and made a part hereof reflect ~~two 45 degree turns~~ instead of the existing 90 degree turn..."; Section 3.: "That the City Council would consider a modification of the configuration set forth above by dredging farther to the south to alleviate a potential conflict with the Naples Sailing and Yacht Club application, subject to the requirement that the Naples Sailing and Yacht Club application must be approved by the City Council."*; and renumbering current Section 3 to 4. This motion was seconded by Willkomm and unanimously carried, all members present and voting (Sorey-yes, Taylor-yes, Price-yes, Willkomm-yes, Nocera-yes, MacIlvaine-yes, Barnett-yes).

City Attorney Pritt then reviewed the amendment to Resolution 07-11714 as clarified by Council and as noted in the motion above. Vice Mayor Nocera confirmed with Charles Thomas that this action would allow his client, Basil Street/Antaramian, to move forward with the DEP permitting process as well as enabling the Naples Sailing and Yacht Club to proceed with the modifications which had been indicated to him.

Recess: 10:43 a.m. to 10:50 a.m. It is noted for the record that the same Council Members were present when the meeting reconvened.

RESOLUTION 07-11715..... ITEM 7-j
A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF NAPLES AND VILA AND SON LANDSCAPING CORP., TO PROVIDE LANDSCAPING AND IRRIGATION FOR RILEY PARK IN AQUALANE SHORES; AMENDING THE 2006-07 BUDGET AS ADOPTED BY ORDINANCE 06-11363; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt following consideration of the item (10:53 a.m.). Council Member Taylor indicated that she had been provided with the information requested at that week's workshop, but also noted her understanding that research was to be done into possible cost reduction. She also said that it was regrettable that due to delays the expenditure required by the City had risen to \$93,000. Construction Management Director Ron Wallace explained that staff had indeed proposed additional examination of the project both due to increases in scope and costs. However, Council had authorized staff to identify available funding that may be designated within other projects so reductions in the scope had not occurred. In further response to Miss Taylor, Mr. Wallace stated that funds were to be derived in the amount of \$42,000 from a reconstruction account where cost savings had been realized, and from a sod replacement program that contained an available balance of \$51,000.

Public Comment: (10:53 a.m.) None.

MOTION by Taylor to **APPROVE RESOLUTION 07-11715** 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 07-11716..... ITEM 7-k
A RESOLUTION APPROVING A SECOND AMENDMENT TO AN AGREEMENT BETWEEN THE CITY OF NAPLES AND HUMISTON AND MOORE ENGINEERS FOR ADDITIONAL SERVICES RELATING TO PERMITTING AND LITIGATION FOR THE PROPOSED BOAT RAMPS AT THE PULLING PARK SITE; AUTHORIZING THE CITY MANAGER TO EXECUTE THE SECOND AMENDMENT; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (10:54 a.m.)

Public Comment: (10:54 a.m.) None.

MOTION by Taylor to ***APPROVE RESOLUTION 07-11716*** 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 07-11717..... ITEM 7-m
A RESOLUTION APPROVING A SEVENTH AMENDMENT TO THE AGREEMENT WITH BONNESS, INC., FOR WORK ASSOCIATED WITH UNFORESEEN UTILITY CONDITIONS FOR THE SOLANA ROAD PROJECT; AUTHORIZING THE CITY MANAGER TO EXECUTE THE SEVENTH AMENDMENT TO AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (10:54 a.m.). Mayor Barnett noted extensive staff information provided in the supplement to the meeting packet (contained in the file for this meeting in the City Clerk's Office). Council Member Willkomm asked whether a contingency line item had been included in the original budget for the project. Public Works Director Dan Mercer responded to the effect that, while atypical for a project of this sort, no contingency had been included. City Manager Robert Lee further said that this had been at his direction, further explaining his desire for the Council to review change orders due to the controversial nature of the project. Council Member Willkomm also pointed out that because of the necessity of dealing with existing infrastructure, a fluctuation of ten percent in the cost would be appropriate for a renovation like this.

Public Comment: (10:56 a.m.) None.

MOTION by Sorey to ***APPROVE RESOLUTION 07-11717*** as submitted; seconded by Willkomm and carried 6-1, all members present and voting (MacIlvaine-yes, Nocera-yes, Price-yes, Sorey-yes, Taylor-no, Willkomm-yes, Barnett-yes).

RESOLUTION 07-11718..... ITEM 7-n
A RESOLUTION APPROVING A EIGHTH AMENDMENT TO THE CONTINUING CONTRACT WITH JOHNSON ENGINEERING, INC., TO PROVIDE PROJECT MANAGEMENT AND CONSTRUCTION INSPECTION SERVICES ASSOCIATED WITH CITY STORMWATER CAPITAL IMPROVEMENT PROJECTS; AUTHORIZING THE CITY MANAGER TO EXECUTE THE EIGHTH AMENDMENT; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (10:56 a.m.). Council Member Taylor indicated that her questions had been answered and moved approval.

Public Comment: (10:57 a.m.) None.

MOTION by Taylor to ***APPROVE RESOLUTION 07-11718*** as submitted; seconded by Nocera and carried 6-1, all members present and voting (MacIlvaine-yes, Nocera-yes, Price-no, Sorey-yes, Taylor-yes, Willkomm-yes, Barnett-yes).

RESOLUTION 07-11719..... ITEM 7-p
A RESOLUTION APPROVING AN AMENDMENT TO THE NOVEMBER 7, 1989 INTERLOCAL AGREEMENT NUMBER 89-5956 WITH COLLIER COUNTY REGARDING TRAFFIC SIGNAL MAINTENANCE AND OPERATION ON GOODLETTE-FRANK ROAD BETWEEN U.S. 41 AND GOLDEN GATE PARKWAY; AUTHORIZING THE MAYOR TO EXECUTE THE AMENDMENT TO INTERLOCAL AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (10:57 a.m.) Council Member Taylor indicated that her questions had been answered and moved approval.

Public Comment: (10:58 a.m.) None.

MOTION by Taylor to APPROVE RESOLUTION 07-11719 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).

RESOLUTION 07-11720..... ITEM 7-q
A RESOLUTION ACCEPTING A FUNDING CONTRIBUTION FROM THE NAPLES AIRPORT AUTHORITY FOR IMPROVEMENTS TO PHASE I, ROAD AND DRAINAGE IMPROVEMENTS, AND PHASE II, LANDSCAPING IMPROVEMENTS, FOR NORTH ROAD; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (10:58 a.m.) Council Member Taylor said that without verification of the number of truckloads of aggregate which had been hauled from the airport over North Road, she was unconvinced that the entire cost of resurfacing should not be borne by the Naples Airport Authority (NAA). However, she said she would concur with approval of this item since NAA had in fact funded landscaping which most likely would have accounted for the difference. Miss Taylor also expressed relief that the trucking company, Quality Enterprises, is no longer operating from the airport property and that this type of activity has been curtailed.

Public Comment: (10:59 a.m.) None.

MOTION by Taylor to APPROVE RESOLUTION 07-11720 as submitted; seconded by Nocera and carried 6-1, all members present and voting (MacIlvaine-yes, Nocera-yes, Price-no, Sorey-yes, Taylor-yes, Willkomm-yes, Barnett-yes).

RESOLUTION 07-11721..... ITEM 7-s
A RESOLUTION AUTHORIZING THE EXPENDITURE OF RESERVED FUNDS REMAINING FROM THE NAPLES DIAMOND JUBILEE; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (11:00 a.m.) Council Member Price indicated that the questions he had regarding this item had been answered to his satisfaction by staff and therefore moved approval.

Public Comment: (11:00 a.m.) None.

MOTION by Price to APPROVE RESOLUTION 07-11721 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).

CONSENT AGENDA

APPROVAL OF MINUTES.....ITEM 7-a

May 14, 2007, Workshop; May 16, 2007, Regular Meeting; June 4, 2007, Workshop; June 6, 2007, Regular Meeting (as amended, see Page 3 above); June 11, 2007, Workshop; and June 13, 2007, Regular Meeting, as submitted.

SPECIAL EVENTS ITEM 7-b

- 1) Wedding Reception – Barbara B. Chur – 4444 Gordon Drive – 11/10/07.
- 2) Third on Canvas – Third Street South Association – Third Street South Shopping district – 02/19/08 and 02/20/08.
- 3) Third In Bloom – Third Street South Association – Third Street shipping district – 03/27/08, 03/28/08, 03/29/08, and 03/30/08.
- 4) Party in the Park – WAY-FM 88.7 – Cambier Park – 09/15/07.
- 5) **(See separate discussion and approval above).**
- 6) Farmers Market – Third Street South Association – Third Street Shipping District – parking lot behind Tommy Bahamas - 10/20/07, 10/27/07, 11/03/07, 11/10/07, 11/17/07, 11/24/07, 12/01/07, 12/08/07, 12/15/07, 12/22/07, 12/29/07, 01/05/08, 01/12/08, 01/19/08, 01/26/08, 02/02/08, 02/09/08, 02/16/08, 02/23/08, 03/01/08, 03/08/08, 03/15/08, 03/22/08, 03/29/08, 04/05/08 and 04/12/08.
- 7) Thursday on Third – Third Street South Association – Third Street Shopping District – 11/01/07, 11/08/07, 11/15/07, 11/29/07, 12/06/07, 12/13/07, 12/20/07, 12/27/07, 01/03/08, 01/10/08, 01/17/08, 01/24/08, 01/31/08, 02/07/08, 02/14/08, 02/21/08, 02/28/08, 03/06/08, 03/13/08, 03/20/08, 04/03/08, 04/10/08, 04/17/08, 04/24/08 and 05/15/08.
- 8) Youth Sailing Regatta – Naples Community Sailing Center – Lowdermilk Park – 11/10/07 and 11/11/07.
- 9) Festival of Lights – Third Street South Association – Third Street Shopping District – 11/19/07.
- 10) Celebration of Lights – Third Street South Association – Third Street Shopping District – 11/20/07, 11/21/07, 11/23/07, 11/24/07.
- 11) Renaissance Art Festival – Naples Art Association – 10th Street South – 11/24/07 and 11/25/07.
- 12) New Year’s Eve Celebration – Third Street South Association – Third Street Shopping District – 12/31/07.
- 13) Naples National Art Festival – Naples Art Association – Cambier Park – 02/23/08 and 02/24/08.
- 14) MS Walk – National Multiple Sclerosis Society – Lowdermilk Park – 02/23/08.
- 15) Annual Walk-a-Thon – NAMI of Collier County – Cambier Park – 03/29/08.

RESOLUTION 07-11722.....ITEM 7-c

A RESOLUTION AMENDING THE 2006-07 BUDGET ADOPTED BY ORDINANCE 06-11363 FOR RESTORATION OF THE MEDIANS ON HARBOUR DRIVE AND PARK SHORE DRIVE; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 07-11723..... ITEM 7-d

A RESOLUTION APPROVING A FLORIDA RECREATION DEVELOPMENT ASSISTANCE PROGRAM GRANT PROJECT AGREEMENT (SFY 2007-2008) BETWEEN THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION AND THE CITY OF NAPLES; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 07-11724..... ITEM 7-f
A RESOLUTION APPROVING A FIRST AMENDMENT TO THE 2007 TOURISM AGREEMENT WITH COLLIER COUNTY REGARDING BEACH MAINTENANCE, DOCTORS PASS MONITORING AND NORTH JETTY DOCTORS PASS REHABILITATION FOR THE PURPOSE OF INCREASING FUNDING FOR COSTS OF ENGINEERING SERVICES ASSOCIATED WITH THE REHABILITATION OF THE DOCTORS PASS NORTH JETTY; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 07-11725..... ITEM 7-g
A RESOLUTION WAIVING COMPETITIVE BIDDING; APPROVING A THREE-YEAR AGREEMENT WITH MICROSOFT AND ITS RESELLER, SOFTWARE HOUSE INTERNATIONAL, TO INSTALL MICROSOFT PRODUCTS ON CITY COMPUTERS; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 07-11726..... ITEM 7-h
A RESOLUTION AMENDING THE 2006-07 BUDGET TO APPROPRIATE \$3,820 FOR PROMOTING THE UNDERGROUNDING UTILITY PROJECT STUDY BY PRESENTING THE FINDINGS OF THE STUDY TO THE PUBLIC SERVICE COMMISSION FOR FINAL DETERMINATION OF AN APPROPRIATE CREDIT; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 07-11727..... ITEM 7-i
A RESOLUTION APPROVING A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF NAPLES AND CAMP, DRESSER & MCKEE, INC., TO PROVIDE PROFESSIONAL CONSULTING ENGINEERING SERVICES ASSOCIATED WITH HVAC IMPROVEMENTS TO THE DEVELOPMENT SERVICES BUILDING, THE POLICE & EMERGENCY SERVICES BUILDING, AND THE PUBLIC WORKS OPERATIONS BUILDING; AUTHORIZING THE CITY MANAGER TO EXECUTE THE PROFESSIONAL SERVICES AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 07-11728..... ITEM 7-l
A RESOLUTION APPROVING A CONTINUING CONTRACT WITH KRIS JAIN & ASSOCIATES, INC. TO PROVIDE STRUCTURAL ENGINEERING SERVICES ON AN AS-NEEDED BASIS; AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTINUING CONTRACT; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 07-11729..... ITEM 7-o
A RESOLUTION APPROVING AN AGREEMENT FOR PURCHASE AND SALE OF GOODS BETWEEN THE CITY OF NAPLES AND STEELE TRUCK CENTER, INC. FOR THE PURCHASE OF 2 REAR LOAD REFUSE VEHICLES; AMENDING THE 2006-2007 BUDGET AS ADOPTED BY ORDINANCE 06-11363; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 07-11730.....ITEM 7-r
A RESOLUTION APPROVING AN ELEVENTH AMENDMENT TO THE CONTINUING CONTRACT FOR PROFESSIONAL SERVICES BETWEEN THE CITY OF NAPLES AND TETRA TECH, INC. - HARTMAN AND ASSOCIATES, INC., TO PROVIDE A CONSULTING ENGINEERS REPORT FOR THE SERIES 2007 REVENUE BONDS; AUTHORIZING THE CITY MANAGER TO EXECUTE THE ELEVENTH AMENDMENT TO THE CONTINUING CONTRACT FOR PROFESSIONAL SERVICES; AND PROVIDING AN EFFECTIVE DATE. Title not read.

MOTION by Sorey to APPROVE CONSENT AGENDA except Items 7-b(5), 7-e, 7-j, 7-k, 7-m, 7-n, 7-p, 7-q, and 7-s. 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).

END CONSENT AGENDA

RESOLUTION 07-11731.....ITEM 8
A RESOLUTION DETERMINING CONDITIONAL USE PETITION 07-CU6 TO ALLOW FOR CONSTRUCTION OF A TENNIS COURT IN THE R1-10, RESIDENCE DISTRICT, FOR PROPERTY LOCATED AT 45 4TH AVENUE SOUTH, MORE FULLY DESCRIBED HEREIN; PROVIDING FOR THE CITY CLERK TO RECORD SAID CONDITIONAL USE; AND PROVIDING AN EXPIRATION DATE AND AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (11:01 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/no contact but viewed Planning Advisory Board (PAB) meeting when this petition was heard; Price and Nocera/visited the site but no contact; Barnett and MacIlvaine/no contact; Taylor/familiar with the site but no contact; and Sorey/visited the site and viewed the aforementioned PAB meeting.

Community Development Director Robin Singer briefly reviewed the petition, pointing out that a conditional use approval is required for certain types of recreational facilities in residential districts. The PAB had unanimously recommended approval, as does staff, she added.

Landscape Architect Arthur Newman appeared on behalf of the property owners. After confirming with Mr. Newman that the landscaping on Fourth Avenue South is in fact within the City right-of-way, Council Member Sorey asked whether the plan could be modified so that this did not occur. Mr. Newman offered to remove some of the plantings designated for the right-of-way, but asked that the bougainvillea and some ground cover be allowed to remain. Mr. Sorey also confirmed that the project would result in no change in the number of parking spaces on the street; while two spaces will be lost at the entrance to the property, two others will be introduced nearby.

Mr. Sorey then asked for a description of the view from Fourth Avenue South in relation to the height of the tennis court. Mr. Newman indicated that the final tennis court grading would actually be lower than the current site elevation and also lower than the lot to the east; in addition he said he believed that plant materials would rapidly grow in height so as to obscure the fence from view.

Community Development Director Singer then reviewed the conditions recommended for approval: 1) that there be no lighting on the tennis court; and 2) that the owner is allowed to construct a new driveway but that the existing driveway between the new drive and the beachend include curb work, and the pavement marking establishing two new parallel parking spaces be at the owner's cost. She expressed the belief that the petitioner is also aware that a fence and wall waiver petition is required to enclose the tennis court. In response to City Attorney Pritt, Ms. Singer clarified that the above conditions, which were also approved by the PAB, should be inserted into the resolution provided and indicated that the petitioner had concurred.

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

MOTION by Nocera to APPROVE RESOLUTION 07-11731 amending Section 2(2) as follows: “The entryway...right-of-way ordinance. The owner is allowed to construct a new driveway as planned with the condition that revisions to the existing driveway between the new drive and the beachend include curb work and pavement markings that establish two new parallel parking spaces at the owner's expense.” This motion was seconded by Willkomm and unanimously carried, all members present and voting (MacIlvaine-yes, Nocera-yes, Price-yes, Sorey-yes, Taylor-yes, Willkomm-yes, Barnett-yes).

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

**RESOLUTION 07-11732.....ITEM 9-a
A RESOLUTION DETERMINING CONDITIONAL USE PETITION 07-CU7 TO ALLOW IMPROVEMENTS CONSISTING OF RELOCATING THE TENNIS PRO-SHOP AND CONSTRUCTION OF A NEW TENNIS COURT FOR THE PORT ROYAL CLUB LOCATED IN THE PS, PUBLIC SERVICE, ZONING DISTRICT AT 2755 GORDON DRIVE, MORE FULLY DESCRIBED HEREIN; PROVIDING FOR THE CITY CLERK TO RECORD SAID CONDITIONAL USE; AND PROVIDING AN EXPIRATION DATE AND AN EFFECTIVE DATE.**

**RESOLUTION 07-11733..... ITEM 9-b
A RESOLUTION DETERMINING A RESIDENTIAL IMPACT STATEMENT FOR PETITION 07-RIS8 FOR THE PORT ROYAL CLUB LOCATED AT 2755 GORDON DRIVE, MORE FULLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.** Titles read by City Attorney Robert Pritt (11:10 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/no contact; Price and Nocera/visited the site but no contact; Barnett and Taylor/familiar with the site but no contact; and Sorey/visited the site and conversed with the Herb family who resides across the street.

Community Development Director Robin Singer reported that staff recommended approval of these petitions, as did the Planning Advisory Board (PAB) by unanimous vote. Conditions for approval are those standard for conditional uses and are based on plans presented.

Attorney Will Dempsey appeared on behalf of the Port Royal Club and explained that the site is approximately 5.5 acres and has been used for recreational purposes by the Club since the 1970's. Nine tennis courts are currently on the property, he said, as well as a fitness center and a small tennis pro shop. The fitness center is not involved in this petition, he added, although the tennis pro shop will be relocated. (It is noted for the record that applicable diagrams,

photographs, and other materials related to this petition are contained in the file for this meeting in the City Clerk's Office.) He also cited similarities between the new building proposed and the current tennis pro shop in architectural design and color. In addition, Mr. Dempsey noted the mature landscaping present on the site, including a hedge of over ten feet in height around the perimeter of the site serving as a buffer to residences to the east. He also pointed out that the site is separated from beachfront residences on the west by Gordon Drive. No outdoor lighting is included pursuant to prior Council approvals for this particular use, which required that it be daytime only.

Public Comment: (11:16 a.m.) None.

City Attorney Robert Pritt confirmed with Community Development Director Robin Singer that the resolution is correct as submitted.

MOTION by Taylor to APPROVE RESOLUTION 07-11732 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).

MOTION by Price to APPROVE RESOLUTION 07-11733 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).

RESOLUTION 07-11734.....ITEM 10
A RESOLUTION DETERMINING VARIANCE PETITION 07-V4 FROM SECTION 58-146 OF THE LAND DEVELOPMENT CODE OF THE CITY OF NAPLES, WHICH ESTABLISHES MINIMUM YARD SETBACKS IN ORDER TO ALLOW AN EXISTING ENCROACHMENT OF 3'0" INTO THE REQUIRED SIDE YARD FOR PROPERTY LOCATED AT 2370 KINGFISH ROAD, MORE FULLY DESCRIBED HEREIN; SUBJECT TO THE CONDITION SET FORTH HEREIN; PROVIDING FOR THE CITY CLERK TO RECORD SAID CONDITIONAL USE; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (11:16 a.m.) who noted a scrivener's error in the title, stating that the word "variance" should be substituted for "conditional use" (see motion below). 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/no contact; Price, Barnett, Sorey and Nocera/visited site and conversed with petitioner's agent; and Taylor and MacIlvaine/spoke with the petitioner's agent. Community Development Director Robin Singer indicated that a 2000 addition to a single-family home had not been constructed in accordance with setback requirements. However, while both the Planning Advisory Board (PAB) and staff had recommended approval of the variance, various alternate conditions were being proposed; these conditions appear in a staff memorandum submitted to the Council subsequently to the proposed resolution in the meeting packet. The buyers of the property, she said, had sought assurance that they could make modifications to the home as long as the degree of nonconformity is not increased; in staff's view, the variance should apply only to the non-compliant corner of the home so as to prevent a further rebuilding of the home at the lesser setback.

Attorney Chris Thornton represented the petitioner and related the history of the current ownership of the home in question, pointing out that a renovation, while approved by authorities, had constituted an encroachment into the ten-foot setback; a Certificate of Occupancy (CO) for

the project was granted in 2002. However, in conjunction with a contract of sale, the encroachment was discovered necessitating the variance. He characterized the encroachment as a small, triangular portion of the two-story structure, some 22.5 square feet in size (depicted on Exhibit A to resolution), indicating that there had been no intent to maximize the building envelope but that an error had occurred in drafting plans for the expansion. Mr. Thornton also noted that staff members had spoken with neighbors who had expressed no objection.

He reiterated that the buyer was seeking not to be precluded from making future modifications to the structure as long as compliance with the Land Development Code is assured, citing the aforementioned memorandum and restating the condition that the variance applies only to the area indicated on Exhibit A; however, the language in the second condition was being expanded to read as follows: The property owner may construct additions to the existing home as long as the additions comply with the setback requirements in effect at the time and additions are permitted.

Council Member Willkomm asked for further insight into staff's reasoning for recommending approval in this instance, noting that denial of variances is often recommended. Director Singer said that among the factors in this regard are the fact that a CO had been issued, and the necessity that approved, in-use construction must be demolished. Nevertheless, she said, it is a difficult decision in which many factors must be balanced. City Attorney Robert Pritt confirmed staff's concurrence with the conditions outlined by the petitioner's representative.

Public Comment: (11:28 a.m.) None.

MOTION by Willkomm to APPROVE RESOLUTION 07-11734 amended as follows: in the title: "...RECORD SAID CONDITIONAL USE VARIANCE..."; and substituting the following for Section 2: "1) That the variance only applies to the encroachment as shown in Exhibit "A". 2) That the property owner may construct additions to the existing home as long as the additions comply with the setback requirements in effect at the time the additions are permitted." This motion was 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).

EXECUTIVE SESSION.....ITEM 6

(11:28 A.M.) Mayor Barnett advised that Council would enter into an executive session pertaining to John A. Pulling, Jr., as Personal Representative of the Estate of John A. Pulling, Sr. v. City of Naples, Circuit Court Case No. 07-268-CA.

Executive Session: 11:30 a.m. to 11:49 a.m. It is noted for the record that the same Council Members were present when the meeting reconvened.

(11:49 a.m.) No action taken.

Recess: 11:49 a.m. to 1:30 p.m. It is noted for the record that the same Council Members were present when the meeting reconvened except Vice Mayor Nocera and Council Member Willkomm who arrived at 1:39 p.m.

**RESOLUTION 07-11735 (Denied – see motion below).....ITEM 11
A RESOLUTION DETERMINING VARIANCE PETITION 07-V5 FROM LAND
DEVELOPMENT CODE SECTION 50-104(4) WHICH ESTABLISHES MINIMUM
PARKING STANDARDS AND SECTION 58-600 WHICH ESTABLISHES MAXIMUM
LOT COVERAGE THRESHOLDS IN ORDER TO CONSTRUCT A 600 SQUARE FOOT
ADDITION TO THE REAR OF A COMMERCIAL BUILDING LOCATED AT 966 6TH
AVENUE SOUTH, MORE FULLY DESCRIBED HEREIN; AND PROVIDING AN
EFFECTIVE DATE.** Title read by City Attorney Robert Pritt (1:30 p.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: Price and Barnett/visited the site but no contact; Taylor familiar with the site but no contact; MacIlvaine/familiar with the site and listened to but did not participate in a conversation between Council Member Sorey and the petitioner; Willkomm and Nocera/no contact; and Sorey/visited the site and briefly conversed with the petitioner that day.

Community Development Director Robin Singer clarified that while staff had initially recommended approval, the Planning Advisory Board (PAB) had recommended denial by a vote of 4-3. She said that because a waiver of the parking requirement is being requested, staff had deemed it to be more appropriately addressed as a variance rather than expansion of a nonconformity, it being a 600 square foot addition to a building situated on a narrow lot.

Petitioner Beth Bedtelyon indicated that she had resided in the community for approximately 35 years and acquired the building in question in 1982. Despite it being slightly over 1,000 square feet, she said, the structure has nevertheless been consistently rented with long-term tenants largely due to its location. The current tenant, an architect, has occupied the premises for over ten years but will be unable to remain unless the building is allowed to expand to accommodate needed storage; there would be no increase in occupancy, although the interior would undergo substantial renovation. The addition would be constructed at the rear of the building, she said, and expressed the view that it would be of no concern to properties on either side.

In response to Mayor Barnett, Director Singer explained that the petitioner nevertheless continues to have use of the property, regardless of whether the addition is allowed which, she said, is the portion of the variance criteria with which staff had struggled. In addition, 40% lot coverage is the current limit although the building presently exceeds that percentage, making it currently a nonconformity. A 13.6% increase would then occur with the addition, and two additional off-site parking spaces would be required. Council Member Taylor said that she concurred that the petition should be denied, given its failure to meet variance criteria; therefore, she moved for denial based on staff's recommendation. Council Member Price seconded.

Petitioner Bedtelyon said she had been under the impression that the City had been attempting to find ways for non-conforming structures to remain so as to assist owners in their retention, and her request is an opportunity in this regard. She reiterated that the addition would constitute no increased number of occupants but merely to retain the current tenant who had remained throughout a time when drainage issues caused by the adjacent building to the east had been addressed. Ms. Bedtelyon urged Council not to deny her petition due to what she described as a

hardship in regard to the building's limited potential for rental to a future tenant, and also that the addition would cause no detrimental effects to others.

Council Member Sorey confirmed with staff that a parking shortage would also be a factor if a second story were added to the structure. If the building were located across the street, Director Singer added, it would however be within the special overlay district which would provide additional opportunities to either purchase spaces in the proposed parking garage or other types of remedies. City Attorney Pritt also pointed out that adding a second floor could make it necessary for the building to comply with requirements imposed by FEMA (Federal Emergency Management Agency) with reference to flood control.

Pertaining to parking, the petitioner indicated that only one vehicle is normally parked at the building, stating that employees were apparently parking in other locations so that the spaces at the rear of the building are rarely used. There are however three seldom used spaces in the City right-of-way immediately in front of the building, for a total of six available spaces. Ms. Bedtelyon offered to reduce the addition to 300 square feet and limit it to a single floor.

Vice Mayor Nocera confirmed with staff that a hardship factor had in fact been considered in terms of the width of the lot. At that time City Attorney Pritt advised Council that due to the above motion for denial, according to state law, the reasoning for the denial must be stated within the motion. He therefore directed Council to refer to page three of the staff report (contained in the file for this meeting in the City Clerk's Office) under the analysis section in which neither Criterion A nor C were met.

A brief discussion of the parking requirements followed during which Council Member Price expressed concern that when the vacant lot to the west of the subject property is developed, the use of the on-street parking by the petitioner may become an issue. Council Member Sorey noted that if this variance were to be granted, the structure would become increasingly non-conforming with regard to lot coverage, that although this issue is not included within the approval criteria, he believed that it should be a consideration.

Public Comment: (1:52 p.m.) None.

MOTION by Taylor to DENY RESOLUTION 07-11735 based upon staff recommendation as presented (Criteria in neither Item A or C were met). This motion was seconded by Price and carried 5-2, all members present and voting (Willkomm-no, Nocera-no, MacIlvaine-yes, Taylor-yes, Price-yes, Sorey-yes, Barnett-yes).

**ORDINANCE (First Reading).....ITEM 12
AN ORDINANCE REGARDING STORMWATER; AMENDING SECTION 16-51, DEFINITIONS, FOR THE PURPOSE OF ADDING DEFINITIONS FOR SPECIFIC DRAINAGE TERMS; ADDING SECTION 16-115, STORMWATER CONSTRUCTION STANDARDS FOR THE PURPOSE OF ESTABLISHING STORMWATER CONSTRUCTION STANDARDS; AMENDING SECTION 56-40, LOT COVERAGE, MAXIMUM PERMITTED, OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER PROVISION; AND PROVIDING AN EFFECTIVE DATE.** Title read by City Attorney Robert Pritt (1:52 p.m.), and in response to Council Member Price he confirmed that due to changes

requested during that Monday's workshop, this hearing would be a continued First Reading. City Attorney Pritt, referencing the draft ordinance (Attachment 2), then noted the following: Page 3, second line and also in fourth paragraph, and/or should reflect "or" and adding "or both" in each location; Page 4, last paragraph, two inch should reflect two "inches", retention/detention should reflect retention "or" detention; Page 5, third line, retention/detention should reflect retention "or" detention and fourth line should reflect "impervious" as opposed to impermeable; Traffic Engineer George Archibald agreed with the above.

Council Member Sorey asked Engineer Archibald whether, on Page 3, second paragraph, swimming pools were in fact to be considered when calculating impervious surface, that he had understood that this verbiage was to be omitted. Mr. Archibald however pointed out that staff had intended this as a qualification so that if a swimming pool had been designed to receive stormwater runoff from the pool deck, that is, functioning as a detaining apparatus, credit could be awarded therefor. Furthermore, Mr. Archibald explained, if the elevation of the pool was such that it did not detain the aforementioned runoff, no credit would however be forthcoming.

Recess: 2:02 p.m. to 2:09 p.m. It is noted for the record that the same Council Members were present when the meeting reconvened and consideration of Item 12 continued.

Engineer Archibald then expounded upon his prior comments regarding swimming pools noting that while they are considered impervious, if designed to function as an element of detaining stormwater, a credit would be based upon the amount of extra storage capability afforded by the system. Council Member Sorey then referenced page 5 of the draft ordinance, questioning the 18 inches of maximum grade elevation above the crown of the street, stating that outside the building footprint, the two inches of mandated retention/detention would nevertheless necessitate a 12-inch pipe to provide adequate storage. Mr. Sorey also mentioned that he supports the aforementioned two-inch retention/detention standard and further explained that at his home during the rainy season, the water table is approximately one foot below ground level. Therefore, he said, if a 12-inch pipe were utilized for detention on a site similar to his home, even though it should be at least one foot below ground level, due to the water table level, the system would nevertheless be unable to drain. This would render the aforementioned 18 inches inadequate should the underground pipes be installed. Council Member Sorey also noted that to adequately store two inches of stormwater for a 6,000 square foot lot in such an underground system, approximately 100 feet of 12-inch pipe would be required. Mr. Archibald agreed, pointing out that this system is being utilized in the northern areas of the City with holding areas in the side and rear yards functioning as detention basins. When the yard becomes saturated and the water level is sufficient to enter the underground pipe system, the stormwater then overflows into the street, he said, characterizing this system as the most effective method of treating water quality. He also said that a system containing swales and the underground perforated pipes would be utilized for slowing conveyance, but not detention. Council Member Sorey said that he believed the aforementioned 18 inch measurement contained in the draft ordinance should be amended to reflect 36 inches of elevation.

In response to Council Member Sorey, Traffic Engineer Archibald confirmed that the City's right-of-way handbook contains instructions for swale construction; Mr. Sorey therefore suggested referencing the handbook in the applicable subsection of the ordinance under consideration.

A brief discussion then commenced regarding stormwater discharge into alleyways and the requirement for rain gutters on all side yards with a width of ten feet or less. Council Member Sorey also questioned the continued inclusion of the 15% of lot coverage language (page 6, Section 56-40(a)), stating that it was his understanding this was to be omitted due to the increase to two inches for the amount of stormwater to be stored on the site.

Council Member Price cited lack of information regarding the ramifications of increasing the required amount of storage to two inches and that recently engineers and contractors had voiced concerns in this regard; he also questioned whether unintended consequences would result. Mayor Barnett added his concern regarding the cost to meet the proposed requirements. Engineer Archibald, referenced the summary of coverage alternatives for a 10,000 square foot lot (Attachment 3) and stated that based upon a detention cost of \$1.30 per gallon (for a StormTech underground pipe system), the cost incurred would be \$4,580 to detain one inch of stormwater for the buildable lot area plus 15% of the lot area (or a total of 57% of the lot area). Council Member Price however indicated cost estimates he had received from a local architect had reflected a total of \$22,000 (equates to \$2.70 per square foot to detain one inch) for the same 10,000 lot with 50% lot coverage.

Responding to Council Member Taylor, Engineer Archibald explained that dry retention is preferred, that is holding the water with none allowed to run off the site which increases water quality, although few locations prove to be practical for this in low lying areas. This is why emphasis has been on detention in the City, he added, especially the troubled southern end of the City with the lowest elevations. One inch of retention in water quality is equivalent to three inches of detention, he said, and staff's intent had been to let the property owner choose the type of system for stormwater storage (detention versus retention or both), if it meets requirements; the detention requirement would be applied to the impervious surface, not the entire lot thereby conceivably creating less impervious surface. Although the intent is primarily to protect the adjacent property owner, increasing the amount of detention or retention also improves the quality of the runoff and provides an element of flood protection, Mr. Archibald noted, therefore the flexibility of the proposed amendments is imperative.

Public Comment: (2:41 p.m.) **Landscape Architect Chris Busk, 816 Myrtle Terrace**, stated that the majority of stormwater runoff issues could be addressed with the use of rain gutters and directing their flow into areas landscaped for detention or retention. He said that while he agreed with controlling runoff, it should not be attached to construction allowed on a residential site. **Building Contractor Russell Dennis, 2121 Tarpon Road**, disagreed that stormwater runoff is a citywide issue which is nevertheless being addressed as such. As a property owner currently building in the Port Royal area, he said that the above referenced 15% additional impervious coverage will not allow him to construct the driveway and sidewalk planned. **Engineer Joss Nageon De Lestang, PE, 2375 Tamiami Trail North, Suite 207**, stated that he had been a participant in the staff review process and urged that the requirements under discussion be recognized as volume in nature. Furthermore, he said, with water tables of one to two feet throughout most of the City, detention only is a possibility which would address water quality only, not quantity. Even though achieving the Council's goal with reference to stormwater will be costly, he said, water will continue to flood many streets. He therefore recommended one inch detention, that if two inches is the standard approved, it would necessitate the installation of commercial systems, which are costly and consume considerable space. He also cited the need

for higher elevated lots with retaining walls. In response to Council Members Sorey and Price, Mr. De Lestang explained that in light of existing water tables, cost benefit must be a consideration, even if it were possible to design compliant systems, reiterating that in a major storm event, flooding into the streets will occur regardless of the standard approved. Therefore, he said, if quantity control is the intent, funds would be better spent on the stormwater system as a whole. **Dorothy Hirsch, 626 Regatta Road**, urged Council to move forward with the proposed ordinance, noting that the intent is to protect property owners from runoff generated by neighboring sites. With regard to surface coverage issues, Ms. Hirsch pointed out that many pervious materials are in fact available for use as driveway, walkway, and pool deck surfaces. **Architectural firm representative Lake Sims, 2241 Tamiami Trail East, Suite 4**, stated that he believed lot coverage should be at the discretion of the property owner, characterizing it as a complex issue requiring precise specifications. With regard to cost, he said he believed the figure referenced above by City Traffic Engineer Archibald (\$1.30/gallon) was however for materials only. **Donna Krall, 1020 Eighth Avenue South**, Executive Manager for Port Royal Property Owners Association, stated support for stormwater control but nevertheless expressed concern with the possible effect of the proposed ordinance upon property owners as it applies to the 15% impervious surface coverage provision and the fact that many of the Port Royal membership are currently out of the area. In response to Mayor Barnett, Community Development Director Robin Singer noted that the 15% impervious surface coverage was included in the draft presented to Council for First Reading in June; in response to Council Member Price, she also indicated that the Planning Advisory Board (PAB) had supported one inch of detention over the entire lot but that the 15% impervious surface requirement had not been under consideration at the time the PAB considered the ordinance in May. **Kim Gutierrez, 1270 Galleon Drive**, expressed concern with the proposed ordinance in light of the fact that design of her home had been underway for 18 months, although her architects had just that Tuesday informed her that her home would not be in compliance with the new ordinance. In response to Council Member Sorey, Jon Kukk, architect on the Gutierrez project, explained that for that particular lot size (70,000 square feet), maximum buildable area is 21%, although currently the design would be in compliance with an additional 30% of impervious surface coverage the homeowner desires; under the new ordinance it would be limited to 15% in this instance. **Landscape Architect Christian Andrea, 528 Myrtle Road**, referencing a diagram he had provided (Attachment 4), described a situation in which a berm around a lot would act as a dyke, in addition to a 6 to 12 inches in depth swale to store additional surface water as well as a 12 inch corrugated pipe around the perimeter of the site interred in a 24 inch gravel wrap to form what is termed a French drain. This system, he said, is designed to meet the one inch detention requirement for the entire lot size. He noted that landscaping of the property would also be affected since no plantings could be installed in the swale areas since they remain saturated for a time following a storm; this is also true in areas where French drains are installed. Mr. Andrea further suggested that if the two-inch requirement is desired, a retaining wall should be considered for side yards, as well as additional fill, and the use of double storm chambers since the higher elevations required of new construction will eventually result in all structures occupying the same elevation. Therefore, the areas between the homes would be effectively used for water storage due to being above the water table. In light of the above, he suggested the following: striking any reference to the 18 inch elevation restriction aforementioned since this further encumbers the ability to store water underground; further study of the 15% impervious surface coverage requirement due to possible unintended consequences; and retaining the one

inch detention for the entire lot. **Building Contractor Representative Greg Brisson, 49 Mentor Drive**, stated that he believed stormwater management should be addressed on its own merit, and not inclusive of building size or impervious surface coverage. He said that standards nevertheless must be clarified, concurring with the prior speaker and adding that he believed that any additional restrictions on impervious surface coverage would in fact constitute an amendment to zoning requirements. **Architect Jonathan Titus, 2770 South Horseshoe Drove, Suite 5**, said that he believed many of the issues addressed in the draft ordinance originate with the construction of mega-homes (structures built to maximum allowable lot coverage) in the Old Naples area and expressed his concern regarding the impact of the proposed regulations on construction within the R3-12 Multifamily District. He explained that currently most multi-family residences are approached as commercial structures and that this requires 2.5 inches detention for impervious surface or one inch for the lot size, whichever is most restrictive; these standards, he added, are met with the current allowable impervious surface coverage of 25% if a garage is detached and 30% if parking is beneath the structure. Therefore, he said, he could not support the stated 15% impervious surface coverage limitation. **Architect Jon Kukuk, 3535 Gordon Drive**, City Design Review Board (DRB) member, stated that while a drainage ordinance is needed, he cautioned that lot coverage restrictions are not needed to accomplish this goal. He also noted that the outcome of his research reflected a cost of approximately \$2.50 per foot if the regulations are implemented, and that ongoing projects of his firm would range from \$9,000 to \$23,000 for drainage systems. He therefore suggested striking the lot coverage limitation and adding a standard of details for smaller lots, thereby maintaining lower costs for those particular homeowners. He also predicted that if lot coverage were limited, many more multi-storied structures would result. He said that he had however not had an opportunity to review the stormwater consultant's study. In response to Council Member Sorey, Mr. Kukuk said that he would not support the 18 inch elevation limitation for fill, that he would instead ask that Council render a decision as to how it would desire a lot to perform, not impose the specifics of how this should be accomplished.

Recess: 3:41 p.m. to 3:55 p.m. It is noted for the record that the same Council Members were present when the meeting reconvened and consideration of Item 12 continued.

Public Comment (cont.) Contractor John Remington, 3525 Gordon Drive, stated that he believed a community based support group could be formed to assist the City in review of issues, solutions and recommendations. While stormwater runoff is an issue, he said that he believed the City's stormwater infrastructure demands in this regard had not been properly addressed and that the City could be reacting to outside forces; for example, the proposed two inch storage during a five inch storm event would still result in flooding since the ground would be saturated. In response to Vice Mayor Nocera, he also said that with a smaller lot such as in the Lake Park area, the retention area would have to be located under the structure, which he characterized as a negative design concept. Furthermore, he noted his belief that the one inch commercial requirement is due to water quality, not quantity, and that following an extended period of time without rainfall, environmentally adverse residues build up making retention a quality rather than a quantity matter.

Council Member Taylor explained that she had spoken with TetraTech stormwater consultant Bill Musser who had indicated that the 15% impervious surface limitation would in fact be effective and represent the best technique for water quality improvement. He had also said that 95% of storm events would be addressed by the two-inch storage requirements, she added, and

pointed out that Consultant Musser would be able to formulate standards in a timely manner. She then suggested that he attend the Second Reading of this ordinance; Council agreed.

Council Member Price stated that following the above pubic comments, he would support the requirement for two inches stored for impervious surface coverage but deleting any reference to the 18-inch fill elevation restriction and the 15% limitation, thereby allowing the professionals to design systems to achieve the two inches of detention/retention. Council Member Sorey noted that he would support Council Member Price, including the addition of language requiring swales to conform to the City's rights-of-way handbook standards. Council Member Sorey then proffered the motion below and City Attorney Pritt noted that, if amended at that time, the ordinance should be declared a First Reading and cautioned Council that should additional amendments take place during the September 5 meeting, the ordinance review at that time would again be considered a First Reading.

MOTION by Sorey to APPROVE THIS ORDINANCE on First Reading amending the following: in Section 16-115(1) retaining the requirement for 2 inches of detention or retention over impervious surface coverage; eliminate proposed amendment in Section 56-40 requiring 15% lot coverage for impervious surfaces (and corresponding table); eliminate Section 16-115(2)(b) regarding 18" measurement from the crown of the road, renumbering following subsections as needed; revise Section 16-115(2)(c) "... City right-of-way in accordance with the City's right-of-way standards handbook" as it applies to swales; making typographical changes on Page 3 replacing "and/or" with "or" and adding "or both" as it applies to rainfall and rainfall-runoff and walking and vehicle traversing the surface; on Page 5 revise "retention/detention" to "retention or detention" and change "impermeable" to "impervious" in Note 2. This motion was seconded by Price and carried 5-2, all members present and voting (Sorey-yes, Price-yes, MacIlvaine-no, Willkomm-no, Taylor-yes, Nocera-yes, Barnett-yes).

Consensus for TetraTech Consultant Bill Musser to attend the Second Reading of this ordinance on September 5, 2007.

**ORDINANCE (Continued to 09/05/07 – see Item 4 above)ITEM 13
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.**

RESOLUTION 07-11736.....ITEM 14
A RESOLUTION RANKING THE TOP TWO FIRMS IN ORDER OF PREFERENCE TO PROVIDE PROFESSIONAL ENGINEERING SERVICES FOR IMPROVEMENTS TO THE COVE STORMWATER PUMP STATION PROJECT; 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 (4:21 p.m.).

Public Comment: (4:21 p.m.) None.

MOTION by Taylor to APPROVE RESOLUTION 07-11736 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 07-11737.....ITEM 15
A RESOLUTION APPROVING AN AGREEMENT FOR CONSULTING SERVICES CONCERNING RECRUITING FOR A CITY MANAGER; AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. (It is noted for the record that all materials referenced are contained in the file for this meeting in the City Clerk's Office.) Title read by City Attorney Robert Pritt (4:22 p.m.) who then noted in the draft agreement (Page 6, 13.9) where the consulting services are advisory to the Council only and that Council reserves its authority to consider and select any candidate, regardless of statements contained within proposals of firms to be considered during this item. Discussion followed during which City Manager Robert Lee indicated that firms would offer recommendations to Council regarding applicants, but that Council would render any decisions regarding selection of candidates.

In response to Mayor Barnett, Council Members indicated the firm that each had ranked as his or her first choice along with numerical scores assigned: Sorey / Colin Baenziger & Associates with 91; MacIlvaine / Mercer Group with 95; Taylor / Mercer Group with 100; Nocera / Mercer Group with 80; Price / Slavin Management Consulting with 90; Willkomm / Mercer Group and Colin Baenziger both with 95; and Barnett / Mercer Group with 100. Discussion followed with the selection of the Mercer Group and the notation that Council wished to review all applications to select its final candidates for interview and indicated an interest in possible personality testing of finalists.

Public Comment: (4:32 p.m.) **Sue Smith, 11th Avenue South**, expressed strong disappointment in the selection of the Mercer Group, noting that this had been the firm used on the prior City Manager search.

Mayor Barnett suggested following the same protocol as when City Manager Lee was retained; namely, a reception with the five final candidates to allow the public and Council an opportunity for interaction prior to conducting concluding interviews and selection; Council Member Sorey asked that an outline of the most recent city manager hiring activities by the firm also be provided.

MOTION by MacIlvaine to APPROVE RESOLUTION 07-11737 indicating in Section 1 Mercer Group. This motion was seconded by Sorey and unanimously carried, all members present and voting (MacIlvaine-yes, Nocera-yes, Price-yes, Sorey-yes, Taylor-yes, Willkomm-yes, Barnett-yes).

ORDINANCE 07-11738.....ITEM 16
AN ORDINANCE PERTAINING TO THE FIREFIGHTERS’ PENSION AND
RETIREMENT SYSTEM; AMENDING SECTION 29-193, MAINTENANCE OF FUND;
AMENDING SECTION 29-231, CONTRIBUTIONS; NEW MEMBERS; AMENDING
SECTION 29-233, OPTIONAL FORMS OF RETIREMENT INCOME; PROVIDING A
SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.

Title read by City Attorney Robert Pritt (4:46 p.m.)

Public Comment: (4:47 p.m.) None.

MOTION by MacIlvaine to ADOPT ORDINANCE 07-11738 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 07-11740.....ITEM 17
AN ORDINANCE PERTAINING TO THE GENERAL EMPLOYEES’ RETIREMENT
SYSTEM; AMENDING SECTION 29-117, REFUND OF ACCUMULATED
CONTRIBUTIONS; AMENDING SECTION 29-118, MEMBERS’ CONTRIBUTIONS;
PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN
EFFECTIVE DATE. Title read by City Attorney Robert Pritt (4:47 p.m.).

Public Comment: (4:47 p.m.) None.

MOTION by Price to ADOPT ORDINANCE 07-11740 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 – see motion below).....ITEM 18
AN ORDINANCE AMENDING DIVISION 3 OF ARTICLE V, BOARDS,
COMMISSIONS AND COMMITTEES, OF CHAPTER 2 OF THE CODE OF
ORDINANCES OF THE CITY OF NAPLES IN ORDER TO REVISE CERTAIN
PROVISIONS GOVERNING THE ACTIVITIES OF THE CITIZENS’ POLICE
REVIEW BOARD; PROVIDING A SEVERABILITY CLAUSE, A REPEALER
PROVISION AND AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (4:47 p.m.). Referencing his request for additional information regarding this item, Council Member Willkomm questioned the removal of the paragraph contained in Section 2-452(5)(d) regarding the requirement for a written report of the Board’s findings following the review process. Council Member Sorey also pointed out a subsequent paragraph (same section) in which a dissenting opinion may however be written and questioned the applicability if an original opinion is never proffered. In response to Council, City Attorney Pritt indicated that the aforementioned amendments were a reflection of the Citizens’ Police Review Board’s (CPRB) recommendations and City Clerk Tara Norman indicated that Chair Marc Gertner was not present to respond to questioning. Mrs. Norman stated that while her office had offered its clerical services following CPRB meetings in preparation of the findings report, the document should be drafted by a member of the Board; she however said that she believed that the CPRB would follow Council’s direction regarding the written report.

City Attorney Pritt advised Council that if it wished the report to be submitted, the ordinance could be amended to reflect this change and returned to a First Reading; Council Member MacIlvaine proffered a motion reflecting this and Council Member Sorey seconded.

Public Comment: (4:52 p.m.) **Henry Kennedy, Naples**, said that he believed that the original recommendation for the above referenced amendments were indicated during a 2004 subcommittee meeting, that the membership of the CPRB had changed since that time and this should be a consideration. Mr. Kennedy questioned the notification process for the subcommittee and City Clerk Tara Norman stated that the meeting had indeed been noticed in accordance with Chapter 286, Florida Statutes. At that time, Mr. Kennedy voiced his agreement with the requirement for a written report and suggested that the Council conduct a workshop discussion of the ordinance allowing additional public input.

City Clerk Norman referenced the timeline of the above subcommittee process which had been provided to Council (Attachment 5), and noted that the CPRB's support of the amendments had actually been reaffirmed during its meeting of April 21, 2006; City Attorney Pritt noted the attendance of CPRB Chair Gertner who in June 2007 had asked that Council consider the ordinance amendment. Mrs. Norman also reminded Council that the CPRB meets on a quarterly basis and would not meet again until November; Council Member Sorey suggested the Second Reading of the ordinance therefore occur in November following the October CPRB meeting.

MOTION by MacIlvaine to APPROVE THIS ORDINANCE on First Reading amended as follows: Section 20452(5)(d), (Page 3), strikethrough removed from paragraph regarding submittal of a written report; and Second Reading to be scheduled after next Citizens Police Review Board quarterly meeting. This motion was seconded by Sorey and unanimously carried, all members present and voting (MacIlvaine-yes, Nocera-yes, Price-yes, Sorey-yes, Taylor-yes, Willkomm-yes, Barnett-yes).

It is noted for the record that Council Member Willkomm left the meeting at 5:01 p.m. and returned at 5:03 p.m.

ORDINANCE 07-11739.....ITEM 19
AN ORDINANCE AMENDING SECTIONS 13.1(a) and 13.4 OF THE CHARTER OF THE CITY OF NAPLES, FLORIDA, IN ORDER TO SET THE DATE FOR THE GENERAL ELECTION AND TO SET THE CANDIDATE QUALIFICATION PERIOD FOR THE GENERAL ELECTION TO CONFORM TO RECENT CHANGES IN FLORIDA STATUTES; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (5:01 p.m.).

Public Comment: (5:01 p.m.) None.

MOTION by MacIlvaine to ADOPT ORDINANCE 07-11739 as submitted; seconded by Taylor and carried 6-0 (MacIlvaine-yes, Nocera-yes, Price-yes, Sorey-yes, Taylor-yes, Willkomm-absent, Barnett-yes).

RESOLUTION 07-11741 (Added item – see Item 4 above).....ITEM 20
A RESOLUTION APPOINTING ONE MEMBER TO THE FIFTH AVENUE SOUTH ACTION COMMITTEE FOR THE BALANCE OF A TERM CONCLUDING MAY 31, 2008; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (5:01 p.m.). Deputy City Clerk Jessica Rosenberg noted that Karen Caco had been recommended by the Downtown Naples Association (formerly the Fifth Avenue South Association) and in response to Council Member Taylor, explained that candidates put forth by the association had not been interviewed in the past. Council Member Price proffered the following motion.

Public Comment: (5:01 p.m.) None.

MOTION by Price to APPROVE RESOLUTION 07-11741 appointing Karen Caco to the Fifth Avenue South Action Committee (FASAC) for the balance of a term concluding May 31, 2008. This motion carried 6-0 (MacIlvaine-yes, Nocera-yes, Price-yes, Sorey-yes, Taylor-yes, Willkomm-absent, Barnett-yes).

(Added Item – see Item 4 above) **ITEM 21**
DISCUSSION OF METROPOLITAN PLANNING ORGANIZATION (MPO)
COMMUNICATION REGARDING US 41 SCENIC HIGHWAY DESIGNATION.
Council Member Price (also Chair of the Metropolitan Planning Organization / MPO) explained that the MPO had requested a written position statement regarding the reinstatement of the scenic highway designation for US 41 (Tamiami Trail). In a brief history of the issue, he noted that the MPO had requested in May of 2005 that the scenic designation be removed but had since decided to revisit the issue by obtaining position statements from Everglades City and Marco Island, as well as the City of Naples. In response to Council Member Taylor, he stated that Everglades City had indicated that it was not in favor of the designation and Miss Taylor added that she believed this opinion was due to the possible negative impacts of the accompanying restrictions. Vice Mayor Nocera (also a member of the MPO) said that he believed Council should support Everglades City's position, but Council Member Price disagreed citing the potential of additional federal and state funding availability. Council Member Taylor however questioned the wisdom of additional picnic areas and scenic outlooks along the portion of US 41 in the Everglades which is already environmentally challenged. Council Member Price pointed out that US 41 also lies within the City of Naples, but Vice Mayor Nocera again supported the position of Everglades City and proffered the motion below.

Public Comment: (5:07 p.m.) None.

MOTION by Nocera to NOT SUPPORT US 41 SCENIC HIGHWAY DESIGNATION; seconded by Willkomm and carried 5-2, all members present and voting (MacIlvaine-yes, Taylor-yes, Price-no, Sorey-no, Nocera-yes, Willkomm-yes, Barnett-yes)

PUBLIC COMMENT.....
(5:09 p.m.) **Teresa Heitmann, no address given**, expressed concern regarding repeated excavation of City streets. She also requested a detailed accounting of funds spent to date to install the reclaimed water system. City Manager Robert Lee stated that the Council's September 4 workshop meeting would include such an update. **Falconer Jones, III, 1255 Cobia Court**, referencing his August 14 letter regarding the proposed stormwater ordinance (see Item 12 above and Attachment 6), voicing his opposition, especially due to possible impact upon lower cost homes. He also said that he believed the level of service currently provided by the City was deficient. Council Member Sorey thanked Mr. Jones for his review of stormwater issues, agreeing that a global analysis is the approach that must be used in the future in this regard. Council Member Price said that he however supported Council's revisions of the above referenced stormwater ordinance, to which Mr. Jones agreed and asked that the same decision making criteria be used with all considerations before the Council.

CORRESPONDENCE AND COMMUNICATIONS.....
(5:17 p.m.) In response to Council Member Sorey, City Manager Robert Lee explained that the temporary use permit from the Florida Department of Environmental Protection (FDEP) remains in effect for the emergency use of the City's Crayton Cove mooring field, but only by vessels anchored at the City Dock in the occurrence of a storm event. Council Member Sorey suggested

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that City Manager Lee be retained as a consultant until a new City Manager is present. Council Member Taylor expressed dismay regarding an anonymous packet received by Council which contained information concerning current and past Police Chiefs, stating that she would not read any materials submitted in this manner. Council Member Willkomm requested an update regarding the proposed annexation of Keewaydin Island and explained that he would await the report by Naples Airport Authority (NAA) investigator J. Dudley Goodlette regarding its (NAA) Executive Director Ted Soliday prior to further comment or action. City Attorney Robert Pritt noted the need to review Council's recently proposed meeting schedule changes at the September 5 regular meeting.

ADJOURN
5:21 p.m.

Bill Barnett, Mayor

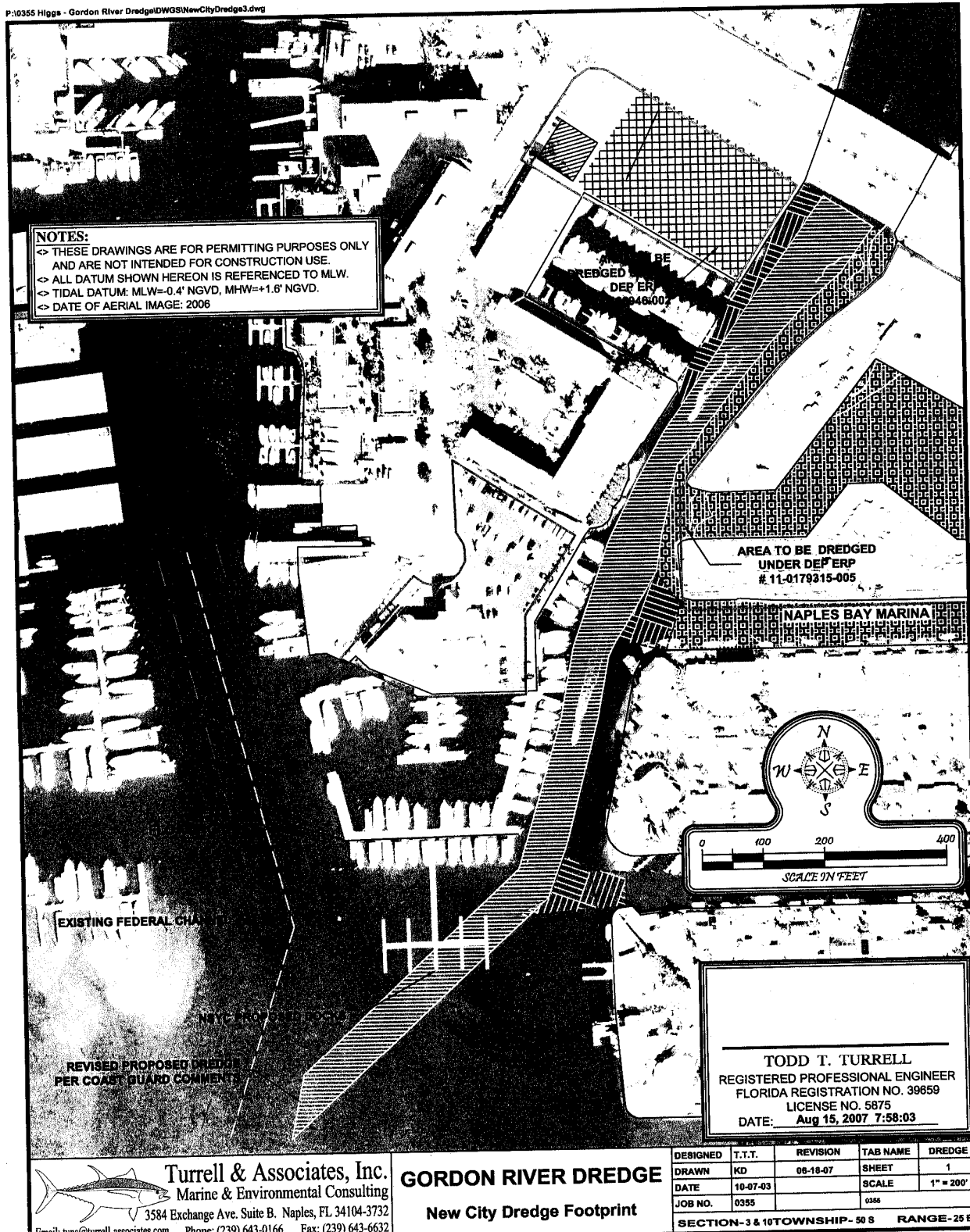
Minutes prepared by:

Tara A. Norman, City Clerk

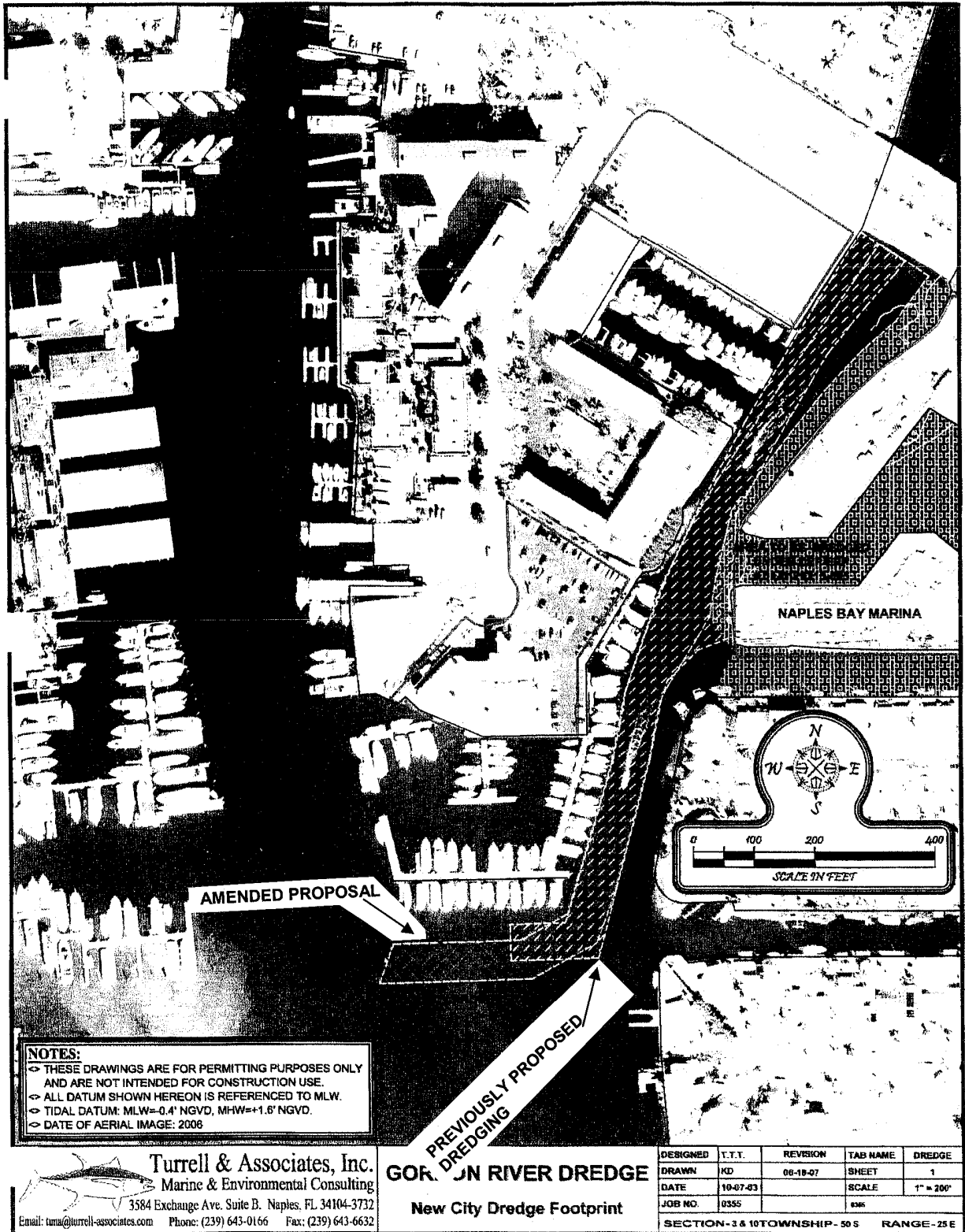
Vicki L. Smith, Technical Writing Specialist

Minutes Approved: _____

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Revised
Agenda Item 12
Meeting of 8/15/2007

ORDINANCE 07-

AN ORDINANCE REGARDING STORMWATER; AMENDING SECTION 16-51, DEFINITIONS, FOR THE PURPOSE OF ADDING DEFINITIONS FOR SPECIFIC DRAINAGE TERMS; ADDING SECTION 16-115, STORMWATER CONSTRUCTION STANDARDS FOR THE PURPOSE OF ESTABLISHING STORMWATER CONSTRUCTION STANDARDS; AMENDING SECTION 56-40, LOT COVERAGE, MAXIMUM PERMITTED, OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER PROVISION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 16-114 and Section 16-291 of the Code of Ordinances of the City of Naples requires new construction to provide a surface water management plan, provide for proper grading, provide for stormwater discharge to a water management system, provide for the control of water discharge to protect abutting property; and

WHEREAS, the City of Naples Comprehensive Plan identifies the 5-year, 1-hour storm event as the recommended level of service goal for conveyance systems in the City of Naples; and

WHEREAS, Section 56-40 establishes the permitted lot coverage in different zoning districts; and

WHEREAS, there is a need to supplement the above referenced requirements for controlling stormwater from new developments and re-developments by the establishment of specific standards for stormwater conveyance and retention; and

WHEREAS, specific stormwater standards for conveyance and retention have been drafted as being in the best interest of the public for protection of public facilities and private property; and

WHEREAS, on May 9, 2007, the Planning Advisory Board reviewed the proposed amendment and recommended by

vote of 7 to 0, that City Council adopt the proposed amendments;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NAPLES, FLORIDA:

Section 1. That Section 16-51 of the Code of Ordinances of the City of Naples, Florida, is hereby amended to read as follows (with underlining indicating additions and ~~strikeout~~ indicating deletions):

Sec. 16-51. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory structures (type I) are nonhabitable structures that normally have a roof and a measurable floor area, or ground surface area, e.g. gazebos, sheds, detached garages, chickees, boathouses, swimming pools, etc.

Accessory structures (type II) are nonhabitable structures that usually do not have a roof and a measurable floor area, e.g. fences, signs, driveways, sidewalks, exterior screen walls, etc.

Commercial means all other occupiable areas that are not classified as residential, including multifamily residential.

Gross square footage is the total square footage of the structure measured to the outside of the exterior walls, or column lines where there are no walls. This is the same as the building footprint. Where the structure contains multiple floors (stories), the gross square footage is calculated to include the area of all floors (stories).

Impact fees are charges assessed and collected on newly developed property by local governments. The intent of the fee is to recover the cost incurred by providing public amenities required for the new development.

Impermeability is the relative inability of a material to

allow the flow of water to pass through the material, typically associated with solid surfaces that prohibit rainfall and/or rainfall-runoff from entering and passing through the material.

Impervious means impenetrable or impermeable by water.

Impervious area means the percentage of the lot land area covered by impervious surfaces such as buildings or structures, swimming pools, decks, lanais, patios, driveways, and also includes any surface covered by concrete, bricks, blocks, flagstones, paving, sealant, or any other impermeable material. Standard engineering coefficients of permeability shall be used for partially pervious materials.

Occupiable areas are, for the purpose of this article, defined as any enclosed space that can be occupied by humans. This would include every square foot of floor area under the same roof of residential and commercial buildings computed to the outside of the exterior walls, or column line for areas without exterior walls, of the structure. In a residential structure this would include attached garages, carports, storage rooms, etc.

Paved areas are any exterior areas covered with human-made or natural materials to provide a walking and/or vehicle traversing surface as opposed to real grass or other vegetation. Materials could include but shall not necessarily be limited to concrete, asphalt, brick, stone, and astro-turf type surfaces.

Penalty fees are additional fees imposed upon the project for failure to comply with some requirements of this article.

Permit fees means monies collected for the processing of permits and operation of the building and zoning division.

Plan review fees are fees collected at the time an application for a permit is submitted to the building and zoning division to cover the cost of reviewing the plans and specifications for code compliance. This fee will be charged for all construction projects involving habitable structures and accessory structures where plans have to be submitted.

Residential means 1- or 2-family units of occupiable areas.

Surcharge fees are additional fees imposed by some level of government to be used for some specific purpose.

Temporary use permits are permits issued for special activities or events that do not meet local zoning requirements. These permits are issued for a specific time period determined by the building official based on the applicant's request.

Section 2. That Section 16-115 of the Code of Ordinances of the City of Naples, Florida, is hereby added to read as follows (with underlining indicating additions):

Sec. 16-115 Stormwater construction standards.

- (1) Any new development or redevelopment of platted properties within the City of Naples shall be reviewed to assure compliance with the following minimum stormwater design criteria:

<u>LAND USE</u>	<u>CONVEYANCE/QUANTITY</u>	<u>STORAGE/QUALITY</u>
<u>Single Family</u>	<u>5Year-1Hour Storm (1)</u>	<u>2" Storage (2)</u>
<u>Multi-Family</u>	<u>5Year-1Hour Storm (1)</u>	<u>2" Storage (2)</u>
<u>Non-Residential/ Mixed Use</u>	<u>5Year-1Hour Storm (1)</u>	<u>2" Storage (2)</u>

NOTES:

- (1) Unless otherwise specified by previous South Florida Water Management District (SFWMD) permits or District criteria, a storm event of a one-hour duration and 5 year return frequency shall be used in computing the minimum off-site discharge rates from properties to the City's stormwater system.
- (2) Unless otherwise specified by previous South Florida Water Management District (SFWMD) permits or District criteria, on-site stormwater storage shall be two inch of retention/detention over the entire impermeable area of a property. Single

family lots up to 7,500 square feet in size shall be required to provide on-site storage of one inch of retention/detention over the entire impermeable area of the property. Where special materials are utilized and swimming pools and patio areas are designed for storage or infiltration or percolation of water, the building official may credit such areas in the computation of total on-site storage.

(2) All implementation of stormwater improvements shall conform to the above standards and shall include compliance with the following special criteria:

- a. Plans and specifications signed and sealed by an appropriate design professional shall be submitted for review and approval prior to the issuance of City permits. Upon completion of the construction of stormwater improvements and prior to receiving a certification of occupancy or completion, a certification with record documents shall be submitted by the design professional stating that the work has been satisfactorily completed in accordance with the plans and specifications.
- b. The maximum grade elevation above the crown of the street for all property outside of the building footprint shall be 18 inches at no greater than a 4:1 slope ratio. The building official may allow an increase in this criterion based on adjacent higher land elevation or based on established site conditions in accordance with an approved South Florida Water Management District permit.
- c. Establishment of grassed swales to the maximum degree possible within the City street right-of-way.
- d. Prohibition of stormwater discharge into a platted alley unless a drainage conveyance system exists within the alley with sufficient surplus capacity to handle the quantity of runoff proposed for discharge to the alley.
- e. Best Management Practices (BMPs) and Best Available Technology (BATs) shall be incorporated into the

design and implementation of stormwater conveyance and storage systems. BMPs and BATs shall include the use of roof gutters on all side yards with a width of less than 10 feet, include the use of sod and landscaped material installed at grades less than 10 %, the use of sodded swales for both on-site storage and conveyance, the use of underdrains for both storage and conveyance, the use of yard drains for routing of runoff, the use of pool and deck areas for collection of runoff, and the application of procedures set forth in the City's Right-Of-Way Construction Standards Ordinance and Handbook.

- f. Streets and sidewalks shall be designed to minimize potential for increasing runoff from private property to the City's stormwater system.
- g. For stormwater detention storage, the owner must provide the building official with a plan for the maintenance of the detention facility. Said plan shall set forth the maintenance requirements of the facility and the party responsible for performing the maintenance.

Section 3. That Section 56-40, Lot coverage, maximum permitted, of the Code of Ordinances of the City of Naples, Florida is hereby amended to read as follows (with underlining indicating additions and ~~strikeout~~ indicating deletions):

Sec. 56-40. Lot coverage, maximum permitted.

- (a) **Generally.**

Within single-family zoning districts, the total area of all impervious surfaces cannot exceed 15% of the lot area in addition to the maximum building area for any single-family lot as given in the following table for various lot size increments. Within districts R3-6, R3-12, R3T-12, R3-15, R3T-18, R3-18 and HC, and PD for multifamily residences and transient lodging facilities or nursing, group or rest homes, the combined area of a lot or parcel of land occupied by all principal and accessory buildings and roofed structures, except for covered motor vehicle parking

structures, shall not exceed the percentage given in the following table for various heights of buildings, such height of building being the height of the highest principal building on the lot:

TABLE INSET:

Single-Family: Lot Size Increment or portion (increment in square feet)	Maximum Building Area (percentage of lot area)*
First 5,000	48
Next 5,000	35
Next 10,000	24
Next 30,000	20
Next 50,000	15
Thereafter	2
Mutli-family, HC, PD: Height of Building	Percent of Lot Area
30.0 feet or less	25
30.1 feet to 40.0 feet	24
40.1 feet to 50.0 feet	23
50.1 feet to 60.0 feet	22
60.1 feet to 70.0 feet	21
70.1 feet to 80.0 feet	20
80.1 feet to 87.0 feet	19

*-total impervious surface cannot exceed 15% above the allowable maximum building area for any single-family lot

Section 4. That if any word, phrase, clause, subsection or section of this ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining portions of this ordinance.

Section 5. That all sections or parts of sections of the Code of Ordinances, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

Section 6. This ordinance shall take effect 90 days after

adoption at the second reading.

APPROVED AT FIRST READING THIS 13th DAY OF JUNE, 2007.

PASSED AND ADOPTED AT SECOND READING AND PUBLIC HEARING IN OPEN
AND REGULAR SESSION OF THE CITY COUNCIL OF THE CITY OF NAPLES,
FLORIDA THIS 15TH DAY OF AUGUST, 2007.

Bill Barnett
Mayor

Attest:

Approved as to form and
legality:

Tara A. Norman, City Clerk

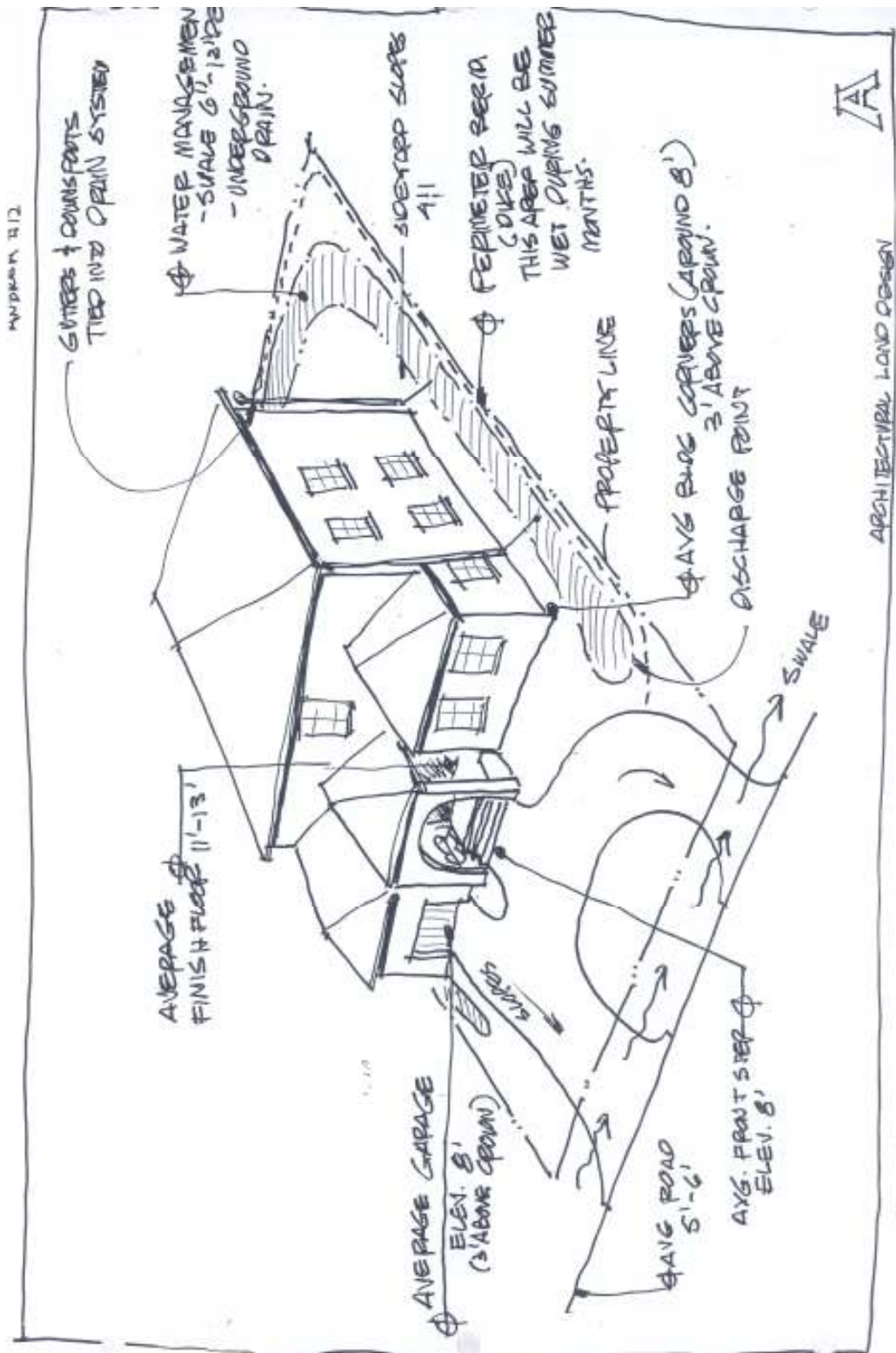
Robert D. Pritt
City Attorney

Revised 8/14/07

SUMMARY OF COVERAGE ALTERNATIVES FOR 10,000 SF LOT

BACKGROUND: The impervious area of a building lot can be controlled by use of detention requirements (Example: a requirement of 1-inch rainfall detention for impervious area of a lot; the greater the impervious area the greater the detention system) and by the application of coverage criteria applicable to the amount of impervious allowed. The options for coverage criteria are extensive and can involve controls based on factors of building footprint, factors of buildable area and/or factors of lot area. The following is an 'example' of coverage variations applicable to a single family lot of 10,000 square feet; the example also provides 1-inch detention quantities for the amount of coverage and cost data for such detention:

COVERAGE CRITERIA	COVERAGE AREA-SF	COVERAGE PERCENTAGE	1" DETENTION IN GALLONS	DETENTION COST @\$1.30/Gal
<u>BASELINE INFORMATION</u>				
Lot Area:	10,000	100%	6233	\$8100
(Detention quantity is based on 1-inch over the entire site)				
Buildable Area:	4150	42%	2587	\$3370
(Buildable area is based on setbacks)				
Footprint Area:	3600	36%	2244	\$2920
(Footprint area is based on existing coverage controls in the City Code)				
<u>COMPUTATION OF IMPERVIOUS CONTROLS</u>				
Footprint +10%				
Buildable Area:	4015	40%	2503	\$3260
Footprint +15%				
Buildable Area:	4223	42%	2632	\$3430
Footprint +20%				
Buildable Area:	4430	44%	2761	\$3590
Buildable +10%				
Buildable Area:	4565	46%	2846	\$3700
Buildable +15%				
Buildable Area:	4773	48%	2975	\$3870
Buildable +20%				
Buildable Area:	4980	50%	3104	\$4040
Footprint +10%				
Lot Area:	4600	46%	2867	\$3730
Footprint +15%				
Lot Area:	5100	51%	3179	\$4140
Footprint +20%				
Lot Area:	5600	56%	3491	\$4540
Buildable +10%				
Lot Area:	5150	52%	3210	\$4180
Buildable +15%				
Lot Area:	5650	57%	3522	\$4580
Buildable +20%				
Lot Area:	6160	62%	3834	\$4990



2001: The Citizens' Police Review Board (CPRB) was established through Ordinance 01-9334 and the Policies and Procedures were adopted with Resolution 01-9335.

2004: A CPRB subcommittee was established based upon the policy review provision (Section V) of the Policies and Procedures.

January 21, 2005: These changes were subsequently discussed and finalized by the Board.

February, 2005: The proposed amendments were submitted to City Attorney Pritt and copies were provided to the City Manager, Police Chief, and Citizens' Police Review Board.

December 5, 2005: During a City Council Workshop with Board chairs, CPRB Chairman Anthony was asked to confirm that the Board in fact continued to support the proposed changes.

April 21, 2006: The Board reiterated its continued interest in making the proposed changes.

October 20, 2006: Chairman Gertner reported that the Board Administrator would follow up with the City Attorney regarding the status of the proposed changes.

STORM WATER ORDINANCE

Mayor and City Council,

There is a great deal of concern in the community regarding the pending storm water ordinance and attached new lot coverage ordinance. I believe these two issues must be handled separately. Storm water is a real issue that I believe can be solved if the city is really serious about improving and maintaining the City Storm Water Utility. The new lot coverage restriction is a zoning issue designed to limit the size of homes, driveways, pools, and other improvements on private property. Both of these issues may be important but we should have an honest discussion on the merit and need for each. Using the real problem of storm water and drainage to obfuscate a thinly veiled mega house ordinance is dishonest at the least and I believe illegal and immoral.

The lot coverage issue has not been noticed or advertised clearly and is in violation of the law. The 2" retainage issue has not been reviewed by a qualified independent civil engineer to determine if it will be of any benefit to the community. Much work has been done and many interested parties have been involved but there is no clear definitive evidence that this will improve the city storm water system.

I have three suggestions that are practical, logical, and fair. Please reviews these ideas and feel free to call me if you would like to discuss this further.

1. **I suggest we use 1" of storm water detainage over the impermeable area for water quality and staging of runoff before it enters the City Storm Water Utility.** Most Citizens, Architects, Engineers, and Builders I speak to support this engineering standard. The cost for design and installation for this type of system is between \$12,500 and \$15,000. This can be achieved with surface swales and gravel trenches with perforated 8" pipe. These systems can be easily inspected and maintained visually from the surface. The danger in exceeding this standard is that it would require more complex underground systems. These systems cost around \$25,000 to \$45,000 and would require difficult inspections and maintenance. Additional storage above 1" has very little benefit from a water quality and percolation standpoint. **This will provide an incentive to reduce impermeable lot coverage without taking personal property rights!**

Next time it rains go to a vacant lot and watch, after about 1/2" of rain, the ground becomes saturated and water begins to pool and flow off of the lot. This is the natural sheet flow drainage of Southwest Florida

2. The city should make improvements to the existing swales in the right-of-way. Over the years the swales have filled in naturally and have been filled in by homeowners. It would not take a great deal of effort remove a small amount of soil to maximize the amount our swales can hold. **For example an 8' wide by 16" deep swale can hold 7.25 cubic feet (54.2 gallons) of water per linear foot of swale that is 5,420 gallons along a 100' lot.** (1/2" of rain over a 100'x150' lot is 4,675 gallons).

The city should have a program that addresses the most flooded areas first along with requiring homeowners to install a swale per city specifications at the time a new home is built or any major remodeling or right of way work is done.

3. I recommend a storm water impact fee new construction and major renovation over \$500,000. We don't ask our citizens to have their own sewer system in fact individual septic tanks are less desirable than a City Sewer System. Individual storm water utilities are just as bad. **A few things must be done as a community through government and a storm water utility is one of them! It is in the code of ordinances that the City is responsible for the construction and maintenance of this utility.**

Why would we want homeowners in areas with no flooding to spend \$25,000 on an individual system that will be a nightmare to monitor and maintain and that will have minimal community benefit? A storm water impact fee could be used to complete city-wide storm water projects that can be prioritized to get the most public benefit for each dollar spent.

The City of Naples must take the lead on the storm water issue. Pushing the City responsibility of building and maintaining the storm water system on to a few individual homeowners is not fair or legal in my opinion. **How can you as the City Council in good conscience force homeowners to expend ten of thousands of dollars on an experimental plan that will take decades to have any real impact on flooding when the City has done very little to improve the public system we all pay for?** We must maximize the performance of our system and make improvements TODAY. We don't have to spend 70 Million dollars to get a much better system. I believe if we spend 15 million dollars very wisely we can solve 50% of the problems. Here are a few ideas.

1. **Expedite the storm water projects that have been approved, funded, and permitted.** Mr. Archibald has told me we have a couple of projects funded and ready to go. Get these projects to contract and include a huge bonus for getting the work done in half the time expected.
2. Utilize the extra capacity we have in the system and review the entire system and find places where a small amount of public dollars will make HUGE improvements. For Example; There is an under utilized pump station by Crayton Cove that has excess capacity. It is fed by undersized pipes. **Install Bigger Pipes and use the excess capacity we already paid for.**
3. We have a system of small lakes and ponds that are part of the storm water system and are great for water quality. These lakes have silted in over the last 50 years. **These lakes need to be excavated to maximize capacity and improved with modern in flow and outfall structures.** This is a very simple and easy improvement that would do more to protect our community than hundreds of these single family detention experiments. Additional lakes need to be built and property must be purchased to do so. The City should take advantage of the soft market and buy property now!
4. **Build the Broad Avenue Water Quality Park!** This is a benefit both aesthetically and functionally. I am sure there are federal and state grants for this type of project. This would store and treat huge amounts of water and is located in one of the most flood prone areas of the city.

Please make **REAL** improvements to our Storm Water Utility. **DO NOT** approve an experimental individual storm water utility that the citizens are being force to fund against their will.

These are just a few ideas for a guy who does stuff.

Falconer Jones III
1255 Cobia Court
Naples, Florida.
649-5056