



City Council Chamber
735 Eighth Street South
Naples, Florida 34102

City Council Regular Meeting – March 5, 2008 – 9:00 a.m.

Mayor Barnett called the meeting to order and presided.

ROLL CALLITEM 1

Present:

Bill Barnett, Mayor
Penny Taylor, Vice Mayor

Council Members:

Teresa Heitmann
Gary Price, II
John Sorey, III
Margaret Sulick
William Willkomm, III

Also Present:

William Moss, City Manager
Robert Pritt, City Attorney
Tara Norman, City Clerk
Vicki Smith, Technical Writing Specialist
Stephen Weeks, Technology Services Director
Joe Boscaglia, Parks & Parkways Superintendent
David Lykins, Community Services Director
Michael Bauer, Natural Resources Manager
Adam Benigni, Planner
Russell Adams, CRA Executive Director
Gregg Strakaluse, Engineering Manager
Robert Middleton, Utilities Director
Ann Marie Ricardi, Finance Director
Christine Carrera, Floodplain Coordinator
Ed Duch
Ewing Sutherland
Franco Iribarren
Lisa Garmon
Tami Kusnir
Marti Daltry
Eileen Arsenault
Beth Ressler
Gloria Kovacs
Willie Anthony
Lisa Swirda

Mark Koch
Larry Schultz
Alan Parker
Doug Finlay
Dale Walters
Jim Carroll
Tony Ridgway
Sue Smith
Dale King
Fraser Smithson
Franklin Starks, Jr.
Hans Guenberg
Bill Kroeschell
Dick Naccarato
Dave Schewe
Jennifer Hecker
Tom Burish
Margaret Seaver
Alberto Chavez
Lou Vlasho
Brett Moore

Media:

Jenna Buzzacco, Naples Daily News
Other interested citizens and visitors

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

Reverend Mark Koch, First Church of the Nazarene.

ANNOUNCEMENTITEM 3

Mayor Barnett noted that the proclamation regarding 80 years of service by the Collier County Chapter of the American Red Cross would be deferred until such time that a representative could be in attendance.

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

MOTION by Price to SET THE AGENDA removing from the Consent Agenda for separate discussion Item 6-b(2) (Downtown Art Festival), Item 6-c (grant for beach maintenance and Fishing Pier repair), and Item 6-e (budget amendment regarding microfilm machine replacement); and adding Item 16 (expanded trolley service extension of time). This motion was seconded by Willkomm and unanimously carried, all members present and voting (Price-yes, Heitmann-yes, Taylor-yes, Willkomm-yes, Sorey-yes, Sulick-yes, Barnett-yes).

CONSENT AGENDA

APPROVAL OF MINUTES.....ITEM 6-a

February 6, 2008 Regular Meeting; as submitted.

SPECIAL EVENTS ITEM 6-b

1) St. Patrick's Day Celebration – The Village on Venetian Bay – The Village on Venetian Bay Shopping District – 03/13/08.

2) (See below).

3) Annual Caregiver Picnic – Alzheimer's Support Network – Lowdermilk Park – 04/01/08.

4) Best of The Village – The Village on Venetian Bay – 04/04/08 and 04/05/08.

5) Relay for Life of Naples – American Cancer Society – Gulfview Middle School – 04/18/08 and 04/19/08.

6) Sidewalk Sale and entertainment – the Village on Venetian Bay – 04/18/08, 04/19/08 and 04/20/08.

7) Live Broadcast of Fox 4 Morning blend – WFTX-TV – Sugden Plaza – 03/14/08.

RESOLUTION 08-11966..... ITEM 6-d

A RESOLUTION OF THE CITY OF NAPLES DESIGNATING BB&T AS A DEPOSITORY INSTITUTION FOR THE CITY OF NAPLES, AND IDENTIFYING THE FINANCE DIRECTOR AS THE DESIGNATED INDIVIDUAL TO OPEN AND MANAGE THE ACCOUNTS; AND PROVIDING AN EFFECTIVE DATE. Title not read.

MOTION by Sorey to APPROVE CONSENT AGENDA except Items 6-b(2), 6-c and 6-e; seconded by Price and unanimously carried, all members present and voting (Price-yes, Heitmann-yes, Taylor-yes, Willkomm-yes, Sorey-yes, Sulick-yes, Barnett-yes).

END CONSENT AGENDA

PUBLIC COMMENT.....ITEM 5

(9:04 a.m.) (It is noted for the record that documentation referenced in this item is contained in the file for this meeting in the City Clerk's Office.) **Larry Schultz, 408 16th Avenue South**, expressed support for renegotiation of the lease with the Naples Airport Authority (NAA) regarding the City-owned airport property. Referencing information provided, he noted the need, in his opinion, for a citizen advisory committee which would provide direct public input concerning the operation of the airport and its impact to the community. **Alan Parker, 741 Third Street South**, referencing documentation provided, requested that the NAA be

approached with the prospect of renegotiation of the aforementioned lease which involves 640 acres (approximately 20% of the City) of City-owned land. **Doug Finlay, 3430 Gulf Shore Boulevard**, supported the proposed stormwater rate increase (see Item 7 below) although he said that he believes that multi-family residents will be over-billed. Condominium residents should not be billed at a higher rate as similar sized single-family dwellings due to the impervious surface calculation inequity, he said, and indicated that he supported the .675 ARU (Average Residential Unit) as proposed by the City's consultant in past presentations. **Dale Walters, Moorings Golf Club Superintendent**, noted that an acceptable level of sodium in reuse water would be 125 mg/l and for chlorides, 250mg/l. Testing at his golf course of the City's reuse water in May, 2007 revealed levels of 370 mg/l and 719 mg/l respectively and soil content was 5.6% base saturation (amount of sodium in the soil) and in October, 2007, results had been 303 mg/l for sodium, and 728 mg/l, for chloride; soil base saturation of sodium had increased to 11%. In February, 2008, water testing results were 256 mg/l for sodium, 466 mg/l for chlorides and a 13.6% base saturation of sodium for the soil (*10% to 15% is considered within normal range for this area of the country*), he said. He further explained that the sodium replaced other, desirable nutrients in the soil and the rapid increase in the saturation is of great concern, especially with the putting greens, adding that the lack of rain is also contributing to this problem. He noted past concerns voiced to Council as referenced in the white paper regarding these concerns (previously provided by Council Member Sorey and also contained in the file of the February 19 workshop meeting in the City Clerk's Office) and therefore requested reuse water be provided with desirable levels of these elements. **Jim Carroll, representing Moorings Golf Club Board of Directors**, noted the Club's impending April renewal of its contract with the City for reuse water and indicated that the Club is considering amending its contract to include a provision regarding acceptable water quality. He suggested that all of the golf courses utilizing the City's reuse water should be brought together with City staff and a mutual plan of action be proposed to Council. All contracts are nearing renewal dates and have the same concerns as aforementioned regarding the elevated sodium and chloride levels, he added. Council Member Sorey requested that the March 17 workshop agenda include discussion regarding the above referenced white paper and when and how staff intends to achieve acceptable levels of sodium and chlorides in the reuse water. In response to Vice Mayor Taylor, Mr. Carroll explained that a variance from the South Florida Water Management District (SFWMD) would be necessary to enable the golf courses to dilute the reuse water with well water, but that this option could be considered. The golf courses do wish open dialog with the City to rectify the situation, he said. Council Member Sulick stated that she believed these to be the same issues facing residential reuse water users, agreeing with the above referenced desirable levels.

Consensus to add to March 17 workshop agenda a discussion of reclaimed water issues.

SPECIAL EVENTITEM 6-b(2)
DOWNTOWN NAPLES ANNUAL ART FESTIVAL AND SIDEWALK SALE –
DOWNTOWN NAPLES ASSOCIATION – FIFTH AVENUE SHOPPING DISTRICT –
03/28/08, 03/29/08 AND 03/30/08. Council Member Sulick noted her concern with the two-day closure of Fifth Avenue South for such events. She also expressed the view that all such closings of Fifth should be examined, stating that they have become similar to flea markets with private entities profiting from the use of a public asset. She therefore questioned the City's participation in the realization of this profit, noting that the events also preclude customers from patronizing existing Fifth Avenue establishments and adversely affect the quality of life of

nearby residential neighborhoods. Council Member Heitmann noted the cost to the City for such events regarding security and cleanup. Community Services Director David Lykins pointed out that, other than traditional events such as parades, the Downtown Naples Association (DNA) is billed for cost over and above the initial \$500 provided by the City. Council Member Sulick also related her understanding that approximately 300 booths, whose proprietors are charged \$450 each, would represent over \$100,000 in revenue; therefore, the City should realize some profit for the use of its asset. This needs further review, she concluded. Mayor Barnett suggested a future workshop with the DNA and local merchants to provide additional input in this regard; Council agreed.

In response to Mayor Barnett, Director Lykins noted that the City had received an application for this repeat event on February 5, although the lateness of this particular submittal was unusual for such a large event. He deferred to DNA representative Lisa Swirda for further comment (see below).

Public Comment: (9:35 a.m.) **Tony Ridgway, representing Third Street South Merchants Association,** noted that this event coincided with the Third Bloom event which his association cosponsors with Naples Botanical Gardens. He further stated that he had become aware the previous day that the DNA item had been submitted for approval, even though the Third Street event had received approval in July. He voiced support of the above referenced discussion regarding street closures and the utilization of City assets for private gain, noting that Third Street fully funds its events with no aid from the City. He also explained that the Third Street proprietors request that they be allowed to bring forward issues in the same manner as Fifth Avenue South. **Lisa Swirda, representing the Downtown Naples Association,** stated that she would welcome the opportunity to coordinate events with Third Street and to air common concerns, thus avoiding conflicts. She however took personal responsibility for the tardiness of the Fifth Avenue South special events application, having incorrectly assumed that the company organizing the event had done so. She also noted this year's event will be the 20th anniversary of this art festival. Council Member Willkomm said that, as a member of the Fifth Avenue South Action Committee (FASAC) which had approved the event the day before, he wished the Council to be aware that FASAC had not been provided information on the scheduling conflict with Third Street. In response to Mr. Willkomm, Mr. Ridgway further explained that movement of traffic in relation to the Fifth Avenue event is a concern with the Third Bloom event since patrons will travel between the Botanical Gardens and Third Street South. Mr. Ridgway however agreed with Ms. Swirda regarding working together and stressed that his comments were not directed at her personally. Responding to Vice Mayor Taylor, Ms. Swirda explained that the Fifth Avenue event could not go forward without street closure, nor could it, due to advance advertising, be relocated to the proposed Renaissance Village site (US 41 and Goodlette Frank Road, formerly Grand Central Station Shopping Center). Mr. Ridgway confirmed for Vice Mayor Taylor that at that time his priority is to open communication between his association with the City, not to adversely affect the plans of others.

Mayor Barnett stressed the need for the above referenced workshop to be held in the near future and Council Member Sorey suggested that members of the Third Street Merchant Association attend at least one Council meeting per month, keeping Council informed during public comment of any needs and concerns that might arise; Mr. Ridgway noted that his group meets monthly with Assistant City Manager Chet Hunt.

Council Member Willkomm said that he would not be comfortable supporting this event due to the lack of information provided to FASAC. At that time Council Member Sulick proffered a motion to deny the Fifth Avenue South event permit and Vice Mayor Taylor seconded. Mayor Barnett said that he however could not support the motion as he believed it would be unfair to those involved with the art festival to be penalized due to an oversight by the promoter, that with a mere three weeks before the event, exhibitors and patrons have made travel plans. Mrs. Sulick said that she believed the focus to have been exclusively on Fifth Avenue and that this is another example of City elevating the needs of Fifth above those of other commercial areas. Council Member Sorey agreed with Mayor Barnett, stating that while it was not an ideal situation, it was to be the 20th anniversary of the art fair and it should be authorized to go forward. In response to direction by City Attorney Robert Pritt, Council Member Sulick stated her reasoning for the motion of denial as being due to a late application submittal and conflict with a previously scheduled event.

MOTION by Sulick to DENY ITEM 6-b(2) as submitted due to late submittal of application and conflict with previously scheduled event; seconded by Taylor and carried 4-3 (Willkomm-yes, Heitmann-yes, Price-no, Sorey-no, Sulick-yes, Taylor-yes, Barnett-no).

(See Public Comment on Page 17 for further consideration of this item.)

RESOLUTION 08-11967.....ITEM 6-c
A RESOLUTION AUTHORIZING THE CITY MANAGER TO SUBMIT FISCAL YEAR 2008-09 CATEGORY “A” GRANT APPLICATIONS TO THE COLLIER COUNTY TOURIST DEVELOPMENT COUNCIL FOR SUPPORT OF DOCTOR’S PASS DREDGING, ON-GOING BEACH MAINTENANCE, NAPLES PIER ANNUALIZED REPAIR AND MAINTENANCE AND KEEWAYDIN ISLAND BEACH MONITORING; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (9:56 a.m.). Vice Mayor Taylor questioned the inclusion of Keewaydin Island, requesting further clarification in this regard. Natural Resources Manager Michael Bauer responded by explaining that it had been precipitated by recent controversy and heightened awareness of activities on the southern end of Keewaydin and the City’s recent interest in annexation of the island as a conservation measure. He stated that during recent trips to the northern end, which is located within the City’s boundaries, he had observed debris such as tires and crab traps on the beach and that this request would allow removal of non-natural material from the City’s portion. He also noted the need for additional marine patrols of the beach due to increased usage by boaters and also monitoring of the habitat which provides nesting for shore birds and sea turtles. Additional ranger patrols had already begun, he said, but at no cost to the City, although the patrols are on the southern end of the island. If additional funds were obtained, patrols on the northern end could also be arranged, he said.

Council Member Price cited educational and ecological endeavors as referenced in the original agenda memorandum for this item (a copy of which is contained in the file for this meeting in the City Clerk’s Office), stating that this would preclude him from supporting this request. Dr. Bauer explained that his intent had however been to install informational signage regarding the existing eco-trails on the northern end if such an opportunity had arisen. Vice Mayor Taylor stressed that additional unsupervised visitors to the island is in fact what should not be encouraged so as to avoid the situation that presently exists on the southern end.

Public Comment: (10:01 a.m.) None.

MOTION by Sorey to ***APPROVE RESOLUTION 08-11967*** as submitted, however, monitoring of Keewaydin Island is not to include development of managerial efforts centering on educational and ecological endeavors. This motion was seconded by Price and unanimously carried, all members present and voting (Taylor-yes, Heitmann-yes, Willkomm-yes, Sorey-yes, Price-yes, Sulick-yes, Barnett-yes).

Council Member Sorey commended staff for its aggressive approach with the Tourism Development Council (TDC) in regard to obtaining grant funding for the City, pointing out that the above discussion should be considered direction to staff as to Council's intent for use of said funds. In response to Council Member Willkomm, City Manager William Moss confirmed that the City does indeed have a grant writer on staff. Dr. Bauer also explained in response to Council Member Heitmann, that 85% of the island is state-owned and that recently Rookery Bay National Estuarine Research Reserve had begun providing patrol of the southern end with the use of off-duty Florida Fish & Wildlife Commission (FWC) officers in an attempt to control unsavory behavior by visitors. He stated that he would procure a copy of the state management plan for the island, although Rookery Bay is presently redefining the guidelines.

RESOLUTION 08-11968.....ITEM 6-e
A RESOLUTION AMENDING THE 2007-08 BUDGET FOR THE ACCEPTANCE OF A \$10,000 GRANT FOR THE POLICE DEPARTMENT, AND FOR TRANSFERRING FUNDS TO REPLACE A MICROFICHE READER IN THE CITY CLERK'S OFFICE; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (10:05 a.m.). Council Member Sorey indicated that while he had been concerned that microfiche readers were outdated technology, City Clerk Tara Norman's memorandum (a copy of which is contained in the file for this meeting in the City Clerk's Office) had provided information in this regard; he therefore said he supported this request.

Public Comment: (10:05 a.m.) None.

MOTION by Sorey to ***APPROVE RESOLUTION 08-11968*** as submitted; seconded by Price and unanimously carried, all members present and voting (Price-yes, Heitmann-yes, Taylor-yes, Willkomm-yes, Sorey-yes, Sulick-yes, Barnett-yes).

Recess: 10:05 a.m. to 10:17 a.m. It is noted for the record that the same Council Members were present when the meeting reconvened except Council Member Heitmann and Vice Mayor Taylor who returned at 10:18 a.m.

ORDINANCE (First Reading).....ITEM 7
AN ORDINANCE RELATING TO STORMWATER MANAGEMENT; AMENDING SECTION 30-336 OF APPENDIX "A", FEES AND CHARGES SCHEDULE; AMENDING SECTIONS 30-339(a), ADJUSTMENT OF FEES, AND 30-340, CREDITS, AND ADDING SECTION 30-343, ANNUAL RATE ADJUSTMENT BY INDEX, TO ARTICLE VI, STORMWATER MANAGEMENT, OF CHAPTER 30, PUBLIC WORKS, OF THE CODE OF ORDINANCES, CITY OF NAPLES, FLORIDA FOR THE PURPOSE OF INCREASING THE STORMWATER UTILITY RATES; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title read by City Manager William Moss (10:17 a.m.) who explained that the existing rate of \$4.00 per average residential unit (ARU) per month had been in effect since 1994. Since that time, he said, regulatory requirements had become more stringent and the stormwater

infrastructure had aged while the City had experienced significant growth and redevelopment, necessitating an increase in rates. Furthermore, the proposed monthly rate of \$11.40 per ARU had been discussed by Council in three prior workshop meetings and that this rate had been based upon the upcoming three years of the Capital Improvement Program (CIP) and the next five years of the stormwater utility's operations and maintenance budget.

Engineering Manager Gregg Strakaluse pointed out that the flat rate had been calculated in response to Council's direction, and that the Code of Ordinances contains a provision in which property owners may petition the City should they believe their charge to be unfair. The amount charged is based upon the property's water billing but should a challenge arise, the actual amount of impervious surface would be utilized to calculate the amount to be charged, said calculation to be based on a determination by a state-licensed surveyor engaged by the property owner. Mr. Strakaluse also reviewed the policy whereby the owner of an approved stormwater management system would be eligible for a 30% billing credit which would be applicable to single-family properties as well as larger multi-family or commercial developments which currently have South Florida Water Management District (SFWMD) permits.

Council Member Sorey stressed that the handling of stormwater is both a quantity and quality issue. In response to Vice Mayor Taylor, Mr. Strakaluse confirmed that if a commercial property contains more than 1,934 square feet of impervious surface (equivalent to one ARU); it would be charged an additional amount, although this would not be the case with single- and multi-family residential properties. In further response to Council Member Sulick, Mr. Strakaluse explained that the calculation for a property such as the Coastland Mall would include all land coverage by buildings and parking areas.

Public Comment: (10:27 a.m.) **Sue Smith, 11th Avenue South**, urged closer supervision and oversight of the financial accounting of the stormwater utility in the future, expressing the view that assessing additional charges is not the solution to the issues regarding the handling of stormwater. **Dale King, 4001 Gulf Shore Boulevard**, waived comment at that time. **Fraser Smithson, President of the Royal Harbor Association**, referenced past comments to the effect that individual stormwater basins should be charged according to the benefits to be realized, noting that he believed that Port Royal, Aqualane Shores and his own development will not benefit from any planned stormwater improvements. He stated support for the flat rate increase. Council Member Sorey asserted that the areas noted by Mr. Smithson do not have flooding issues due to the fact that their stormwater empties directly into canals and flows out into Naples Bay, that the impact created in this instance involves water quality rather than quantity. Referencing the allocation of past and future funding for citywide CIP projects (Attachment 1), Council Member Price noted that Basin VII (Royal Harbor) had been allocated \$75,000 for 2008 and \$120,000 for 2009, or 12% of the total allocations. **Franklin Starks, Jr., 1717 Gulf Shore Boulevard North**, referencing his response to a recent *Naples Daily News* editorial, stated that he does not support the above flat rate for his condominium association but the .675 ARU for condominium units which had been proposed by the City's consultant; he said that smaller (under 1,300 square feet) single-family homes should be charged similarly. **Bill Kroeschell, 272 Mooring Line Drive**, urged denial of a flat rate. **Dick Naccarato, Naples Beach Hotel**, did not respond when called. **Ed Duch, Vice President of the Gulf Shore Condominium Association**, expressed support of the aforementioned .675 ARU for condominiums, not the proposed flat rate, and questioned the wisdom of not following recommendations from the stormwater consultant in

this regard. **Ewing Sutherland, President of Gulfside Condominium**, agreed with the prior speaker, also supporting the .675 ARU rate for condominiums as more equitable. **Hans Guenberg, 1717 Gulf Shore Boulevard North**, waived comment.

Due to concerns regarding fairness and equity, Council Member Sorey suggested that each structure in the City be reviewed to determine its actual impervious surface, modifying the rate for condominiums and smaller structures (under 1,300 square feet) to reflect the above referenced 0.675 ARU, and raising the rate to \$12.88 per ARU. He further said that he could not support the flat rate as presented.

Council Member Heitmann questioned the reasoning for the rate increase and asked for an enumeration of projects which had been completed since the original 1994 rate was implemented; she also inquired as to the projects included within the projected ten year program. In response, Engineering Manager Strakaluse explained that figures contained in the 2007-08 CIP presented during that week's workshop reflected 50,000 in 2009 for design and permitting of Gulf Shore Boulevard sidewalks and seawalls, and 400,000 in 2010 for the repair and construction of infrastructure surrounding numerous outfall pipes which are currently presenting safety issues. The pipes would be replaced and areas in the seawalls which have eroded would be repaired, then fill behind the seawalls would be replaced and the damaged sidewalks repaired/replaced, he added. City Manager William Moss further clarified for Council Member Heitmann that if discrepancies existed between the CIP and the electronic presentation during the aforementioned workshop, the CIP should be considered accurate.

Council Member Sulick reviewed the following: contained within the five-year CIP (2008 to 2012) are projects totaling over \$41-million, of which \$9-million will be spent within Basin III (Old Naples, Fifth Avenue South, Third Street South and Broad Avenue South) and \$12.25-million in Basin V (Eagle Oak Ridge, Naples High School, Coastland Mall and Lake Park). Referencing the original tiered rate, she stated that upon calculating yearly rates that would have been paid by citizens, tier one properties would have paid \$98.88 per year and tier five would have paid \$701.04. This, she said, would not have been fair or equitable in her opinion and therefore some type of compromise must be reached. Stormwater is a community-wide issue and must be rectified as such with all residents contributing while still maintaining equitability, she said; therefore a flat rate should be adopted.

In response to Council Member Price, Mr. Strakaluse explained that it is not the number of units in multi-family structures, but the amount of impervious surface which must be utilized in calculating the impact upon the stormwater system and water quality. He stated that the 1,934 square feet per ARU had been the average of impervious surface arrived at in 1994; therefore, dividing the total amount of impervious surface by 1,934 is still deemed the best multiplier available. Mr. Price reiterated his concern that levying condominium owners at the same rate as single-family properties would not be fair and equitable. Vice Mayor Taylor noted that larger homes in the City are charged higher taxes than condominium units but fire and police services are provided on an equal basis. Although the architecture of condominiums makes fire fighting more difficult, this should not be a reason for imposing higher rates for this service. She therefore agreed with Council Member Sulick in that stormwater management is a community-wide issue and must be addressed as such, supporting the flat rate. Council Member Sorey then

proffered a motion for approval with the following amendments: Section 30-336 (1), single-family residential (1,300 square feet or more), \$12.88 per month; (2), multifamily residential and single-family (less than 1,300 square feet), \$8.69 per month; and (3) commercial, \$12.88 per ARU per month. He also noted that the aforementioned figures would maintain compliance with bond covenants but added that staff would, at a later time, review each structure to determine its stormwater rate based upon its actual impervious surface impacting the system. This motion was not seconded. Council Member Willkomm moved approval of the ordinance as presented and Vice Mayor Taylor seconded.

In response to Council Member Willkomm, Council Member Sulick quoted the following annual rate figures, as originally submitted by the consultant, for single-family homes: tier one, which included 982 homes, would pay \$98.88; tier two, 1,258 homes, \$136.80; and tier three, 2,398 homes, would pay \$304.56. This reflects the majority of single-family homes within the City, she stated. Tier four contained 968 residences which would pay \$491.40 and tier five, 133, would pay \$701.04 annually. With the use of the flat rate, she continued, everyone would pay \$136.80 annually. Council Member Willkomm pointed out that he therefore believed the flat rate to be much more fair and equitable. Council Member Price however maintained his position that the flat rate would be inequitable to condominium dwellers, and Council Member Sorey agreed, adding that each structure should be reviewed with regard to its impervious surface, as are commercial properties. Council Member Willkomm stated that while he understood this concern, if in the fire service analogy, it became necessary for the City to purchase a ladder truck to service high-rise condominiums, those residents benefiting from that particular piece of equipment would however not be the only ones to pay for it.

Discussion followed during which various Council Members addressed options available. Council Member Willkomm stated that he believed that the ordinance must be approved due to bond covenant issues, that the ordinance could indeed be amended at a later date to reflect Council Member Sorey's suggestion regarding individual review of properties for their impervious surface; Vice Mayor Taylor agreed. Council Member Price questioned whether this calculation should be considered at that time if Council in fact believed it to be equitable. Council Member Willkomm however clarified that he would need additional information and public input prior to consideration of such an amendment; various Council Members indicated that they agreed with Mr. Willkomm's position. City Attorney Robert Pritt noted the need to amend Section 30-343 to correct reference to the Consumer Price Index (CPI) as reflected in the motion below. Also, in response to City Attorney Pritt, Council agreed that the effective date would remain as immediately upon adoption at second reading.

In further discussion, Finance Director Ann Marie Ricardi explained that the City is required to guarantee bond coverage of approximately 1.1% of the total bonded debt, thereby showing the capability of paying 110% of that amount. She added that bonding would not occur until the next calendar year, other than that for the City-owned parking garage to be located at Eighth Street and Sixth Avenue South; she however clarified that it had been her understanding that the stormwater utility was in need of the additional revenue to continue operation and capital programs. Ms. Ricardi pointed out that the issue of increasing stormwater rates had actually been brought forward at least two years before due to the need for additional revenue, that the budget had been calculated with the anticipation that this ordinance would be implemented by

January of 2008. In response to Vice Mayor Taylor, Engineering Manager Strakaluse explained that the budgeting for the stormwater utility contained provisions for emergencies and City Manager Moss added that operation and maintenance were ongoing issues. Mr. Strakaluse clarified that additional undertakings were phases of differing projects with lead times of 6 to 18 months and that basins remain to be studied, incurring up to two years of supplementary time.

MOTION by Willkomm to APPROVE THIS ORDINANCE on First Reading amending as follows: Section 4, Sec. 30-343: "...United States Consumer Product Price Index...". This motion was seconded by Taylor and carried 5-2, all members present and voting (Taylor-yes, Heitmann-yes, Willkomm-yes, Sorey-no, Price-no, Sulick-yes, Barnett-yes).

Consensus for City Manager to provide timeframe and costs for calculating all stormwater rates as in the manner used for commercial.

Recess: 11:33 a.m. to 11:42 a.m. It is noted for the record that the same Council Members were present when the meeting reconvened except Council Member Price who returned at 11:43 a.m.

RESOLUTION 08-11969.....ITEM 8
A RESOLUTION RANKING THE TOP THREE FIRMS IN ORDER OF PREFERENCE TO PROVIDE ENGINEERING, DESIGN AND CONSTRUCTION INSPECTION SERVICES FOR STORMWATER DRAINAGE IMPROVEMENTS WITHIN BASIN V; AUTHORIZING THE CITY MANAGER TO ENTER INTO NEGOTIATIONS WITH THE TOP-RANKED FIRM; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (11:42 a.m.).

Public Comment: (11:42 a.m.) None.

MOTION by Taylor to APPROVE RESOLUTION 08-11969 as submitted; seconded by Sorey and unanimously carried, all members present and voting (Price-yes, Heitmann-yes, Taylor-yes, Willkomm-yes, Sorey-yes, Sulick-yes, Barnett-yes).

RESOLUTION 08-11970.....ITEM 9
A RESOLUTION DETERMINING LIVE ENTERTAINMENT PETITION 08-LE03 AND RESIDENTIAL IMPACT STATEMENT PETITION 08-RIS03 FOR LIVE ENTERTAINMENT AT BELLA MARIA CAFÉ LOCATED AT 489 FIFTH AVENUE SOUTH, MORE FULLY DESCRIBED HEREIN; SUBJECT TO THE CONDITIONS LISTED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (11:43 a.m.). This being a quasi-judicial proceeding, Notary Public Vicki Smith administered an oath to those intending to offer testimony; all responded in the affirmative. City Council Members then made the following ex parte disclosures: Willkomm, Barnett, Taylor, and Heitmann/familiar with the site but no contact; Sulick and Sorey/visited the site but no contact; and Price/visited the site and spoke with the manager and owner of the establishment. Planner Adam Benigni presented the above petition, noting the request for live entertainment as being a solo guitarist, keyboardist or disc jockey (DJ), indoors, between the hours of 8:00 p.m. and 12 a.m. nightly, and a solo guitarist or keyboardist, outside, with one speaker between the hours of 6:00 p.m. and 10:00 p.m. nightly. Staff however recommended that the petition be approved for indoor entertainment only from 8:00 p.m. to 11:30 p.m., nightly; Naples Police & Fire Department (NPF) concurred with this recommendation, he pointed out. Council Member Sorey expressed concern that other establishments had received approval for

outdoor live entertainment (Tommy Bahamas and Yabba Island Grill) and questioned staff's aforementioned recommendations. Mr. Benigni noted that staff had followed the NPDF recommendation.

Petitioner Franco Iribarren explained that he and his parents merely wished the opportunity to compete with other eateries in the City, that a club atmosphere had not been the intent. Council Member Price, referencing his prior conversation with the petitioner, asked whether the request for a DJ could be waived; Mr. Iribarren agreed to this deletion, as well as the above staff recommendation. Vice Mayor Taylor noted a list of existing live entertainment permits had not been provided with this item, and City Manager William Moss provided this document (a copy of which is contained in the file for this meeting in the City Clerk's Office). Council Member Willkomm proffered a motion for approval. Mr. Benigni further explained that Officer Buddy Bonollo's memorandum on this item had indicated that the hours recommended were due to numerous complaints regarding outdoor, and even indoor entertainment if doors remain open, disturbing adjacent residential areas. It was however noted that the petitioner could return at a later date for additional requests if no complaints had been received. Vice Mayor Taylor questioned the allowance of entertainment seven days a week and its equitability with reference to other Fifth Avenue South establishments.

Public Comment: (11:54 a.m.) **Lisa Garmon, Naples**, stated that her residence is located behind the subject establishment and, as such, she is strongly opposed to outside amplified music, although a single guitarist, with no amplification, would be agreeable. She then read into the record correspondence from another resident in her condominium who voiced opposition to the outside entertainment element of the petition (Attachment 2).

In response to Council Member Heitmann, Planner Benigni explained that Attachment "B" of the petition contains the provisions in the Code of Ordinances regarding the approval of a Residential Impact Statement (RIS). City Attorney Pritt further clarified for Mrs. Heitmann that Section 56-153(4) regarding standard hours of operation specifies that if an establishment wishes live entertainment or other requests, then the RIS is necessary. Mr. Pritt then identified an additional document entered into the record as correspondence from Anita Yehuda, representing Kensington Gardens, a condominium located adjacent to Bella Maria Café (Attachment 3).

Noting the above referenced list of live entertainment permits, Council Member Price pointed out that there appeared to be numerous businesses with live entertainment seven days a week; Vice Mayor Taylor agreed.

MOTION by Willkomm to APPROVE RESOLUTION 08-11970 amended as follows: Section 3(1): "Live entertainment shall consist of a solo performer from 8:00 p.m. to 11:30 p.m. and outdoor live entertainment consisting of a guitarist or keyboardist with one speaker from 6:00 p.m. to 10:00 p.m. seven days a week indoors only." This motion was seconded by Taylor and carried 6-1, all members present and voting (Price-yes, Heitmann-yes, Taylor-yes, Willkomm-yes, Sorey-no, Sulick-yes, Barnett-yes).

Council Member Sorey explained his opposition had been prompted by his belief that the above motion had not been equitable to the petitioner when compared to the number of nearby establishments allowed outside entertainment. Vice Mayor Taylor instructed the petitioner that he could indeed return at a later date to request the outside element, if no complaints regarding

the approved entertainment had been received; the petitioner acknowledged this understanding and Council Member Price suggested that if he should return, not to request that the outside entertainment be amplified

RESOLUTION 08-11971.....ITEM 10

A RESOLUTION DETERMINING A COASTAL CONSTRUCTION SETBACK LINE VARIANCE TO CONSTRUCT A SINGLE-FAMILY RESIDENCE, SWIMMING POOL, SPA, TRELLIS, DRIVEWAY, LANDSCAPING, AND EXTERIOR LIGHTING SEAWARD OF THE COASTAL CONSTRUCTION SETBACK LINE AT 50 6th AVENUE NORTH; PROVIDING FINDINGS; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Robert Pritt (12:01 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: all Council Members indicated that they had visited, or were familiar with, the site but had had no contact except Council Member Sorey, who said that he had also spoken with the petitioner. Natural Resources Manager Michael Bauer noted that staff recommended approval as presented. Engineer Brett Moore, agent for the petitioner, stated that the site would be redeveloped with a new home constructed farther landward than the prior structure, thereby aligning the new structure with neighboring properties. The swimming pool would however be installed seaward of the new home but would not extend as far seaward as the present structure; he also noted prior review of the site plan by the Florida Department of Environmental Protection (FDEP) which had indicated approval with no modifications. In requesting approval, Mr. Moore also pointed out that 60 feet of existing native vegetation along the beach would not be disturbed. In response to Council Member Price, Mr. Moore confirmed that the pool would be built at grade with a slight elevation to accommodate the in-ground structure; he also noted agreement with the staff report and its recommendations.

Responding to a prior concern by Council Member Sulick, Floodplain Coordinator Christa Carrera explained the relationship between the Federal Emergency Management Agency (FEMA) elevation requirements and the Coastal Construction Setback Line (CCSL) requirements. She said that the FEMA requirements address structural elevations while the CCSL, which is mandated by the Florida Building Code (FBC) and much more stringent, regulate elevations seaward of the CCSL. She also pointed out that the FDEP imposes additional requirements in this regard which must also be met.

Public Comment: (12:07 p.m.) None.

MOTION by Taylor to APPROVE RESOLUTION 08-11971 as submitted; seconded by Sorey and unanimously carried, all members present and voting (Price-yes, Heitmann-yes, Taylor-yes, Willkomm-yes, Sorey-yes, Sulick-yes, Barnett-yes).

ORDINANCE 08-11972.....ITEM 11

AN ORDINANCE RELATING TO LAWN AND LANDSCAPE MAINTENANCE AND THE OUTDOOR APPLICATION OF FERTILIZERS TO LAWNS AND LANDSCAPED AREAS WITHIN THE CITY; CREATING A NEW ARTICLE VII OF CHAPTER 52 OF THE CITY OF NAPLES CODE OF ORDINANCES PROVIDING FOR: PURPOSE AND INTENT, DEFINITIONS, APPLICABILITY; TIMING OF APPLICATION, CONTENT AND APPLICATION RATE, IMPERVIOUS SURFACES; BUFFER ZONES, AND MODE OF APPLICATION; EXEMPTIONS; MANDATORY CERTIFICATION OF LAWN AND

LANDSCAPE PROFESSIONALS, REQUIREMENTS; REQUIRING CITY-ISSUED CREDENTIALS FOR DISPLAY AND INSPECTION; REQUESTING POSTING OF NOTICES AND PROVIDING BROCHURES BY RETAIL SELLERS OF FERTILIZER; ENFORCEMENT AND PENALTIES; REPEALING RESOLUTION 06-11245; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (12:08 p.m.). Natural Resources Manager Michael Bauer noted the inclusion of previously recommended amendments and recommended approval.

Public Comment: (12:09 p.m.) **Jennifer Hecker, Conservancy of Southwest Florida**, commended the City for the ordinance which she predicted would be effective in the improvement of the condition of the region's water resources and urged its approval. She offered the Conservancy's support in the education and outreach to the community with regard to the importance of carefully following these regulations. **Tom Burish, Florida Landscape Maintenance Association**, urged review of educational material prior to utilization with the City's certification program for lawn maintenance professionals, thereby ensuring that the proper best management practices (BMP's) are adhered to. He further suggested that language be added to accommodate this request. Dr. Bauer concurred in that certification programs offered by comparable sources would be acceptable and such language would aid in the enforcement of this provision; Council agreed. **Marti Daltrey, Sierra Club of Fort Myers**, noted a similar ordinance currently being drafted in Lee County and expressed support for the item. **Tami Kusnir, representing Florikan, Inc.**, also commended the ordinance and explained that, as a fertilizer provider, her firm recognizes the need for environmentally sustainable agriculture and stewardship of water resources. **Dave Schewe, 311 27th Street NW**, stated that as a landscaping professional, he fully supports the ordinance but questioned the effective date with regard to the certification of the professionals. He stated that the present class schedule is full and the pest control industry which also applies fertilizer, had not been informed of the need for their certification with reference to this particular function. City Attorney Pritt noted the 180 day effective date, but Mr. Schewe reiterated his concern with the noticing of pest control companies. Dr. Bauer noted that the Project Greenscape Coordinator for Rookery Bay National Estuarine Research Reserve had indicated that the six month effective date would indeed allow time for the certification of all who desire it. City Attorney Pritt cautioned that the ordinance would not be enforceable should the effective date not allow enough time for the certification process but added that the effective date could be amended should it become necessary. Mr. Pritt then offered the amendment regarding the above referenced approval of other certification program curricula by the City and is reflected in the motion below.

MOTION by Sorey to ADOPT ORDINANCE 08-11972 amended as follows: Section 52-186(c): "...successful completion of a best management practices course, the curriculum of which will be approved by, provided by, or under the supervision of,..." This motion was seconded by Willkomm and unanimously carried, all members present and voting (Price-yes, Heitmann-yes, Taylor-yes, Willkomm-yes, Sorey-yes, Sulick-yes, Barnett-yes).

Council Member Sorey noted the need for staff to notify pest control companies of the adoption of this ordinance should they also perform fertilizer application within the City.

**ORDINANCE (First Reading).....ITEM 12
AN ORDINANCE AMENDING SUBSECTION (b) OF SECTION 22-37, NOISE, OF THE
CODE OF ORDINANCES OF THE CITY OF NAPLES, FLORIDA, IN ORDER TO
REDUCE THE LANDSCAPE MAINTENANCE CONTRACTOR OPERATING HOURS
AS IT RELATES TO THE USE OF MECHANICAL EQUIPMENT; PROVIDING A
SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.**

Title read by City Attorney Robert Pritt (12:23 p.m.). Council Member Willkomm noted the fact that the starting time for operations cited in the ordinance is one hour later than that for the construction industry. Council Member Heitmann however observed that construction sites are in fact temporary in nature while landscape maintenance is an ongoing fact of life in the City. Council Member Sorey agreed with Mrs. Heitmann's assessment and added that the current noise ordinance would in fact be the instrument for enforcing the provisions currently under discussion; residents, he said, will be able to request sound level monitoring if equipment appears to be louder than the 65 decibel limit. Council Member Price said that he doubted that any equipment utilized for lawn maintenance operates at or under the aforementioned 65 decibel level, noting that he could not support the ordinance. Council Member Sorey pointed out that new equipment operating below that range is in fact available.

Public Comment: (12:27 p.m.) **Arleen Arsenault, 1188 Gordon Drive**, supported the ordinance. **Dave Schewe, 311 27th Street NW**, as a landscape professional, disagreed with the shortened hours of operation, also noting his understanding that while originally complaints had been registered against the backpack blowers, the provisions had grown to encompass all landscape maintenance equipment. He cautioned that the ordinance shortens the work day thereby shortening the work week by 10 hours while other companies using the same mechanical equipment, including leaf blowers, are allowed to operate longer. He pointed out that the level of noise emitted by the blowers ranges from 65 to more than 75 decibels, depending on the manufacturer, and that live entertainment permits are granted at the same 65 decibels into the night. With the current economy and the level of pay for landscaping work, to lessen the work week by 10 hours or more will greatly affect the employees and their livelihood, he contended. He therefore urged denial of the ordinance. **Margaret Seaver, 130 Central Avenue**, voiced support of the ordinance as proposed. **Tom Burish, Florida Landscape Maintenance Association**, stated that the beauty of the City is due in great part to the efforts of landscaping companies and urged Council, if it does intend to approve the ordinance, to ensure its applicability to all, whether it be construction or even the City's garbage trucks. Council Member Price stated that prior to adopting additional laws, the ones already contained in the Code of Ordinances should be enforced; the 65 decibel noise level exists and it should be applicable to all, he said.

Council Member Sorey, referencing a Palm Beach ordinance in this regard (a copy of which is contained in the file for this meeting in the City Clerk's Office), said that the concept under discussion is not new, that other municipalities had already adopted similar legislation. He therefore moved approval and Mayor Barnett seconded. Council Member Sulick agreed with Council Member Price in that she would rather adopt sound level regulations regarding mechanical equipment instead of lessening the hours of work for a particular group; she suggested that the equipment be tested for sound emission at the time certification is granted and Council Member Willkomm agreed. Vice Mayor Taylor said that while leaf blowers could be annoying, nearby pressure cleaning activities had also affected her quality of life at her place of work. Landscaping companies often work 60 hours per week, she said, and it would therefore be unfair to penalize just

this industry; therefore, she said, she would not support the ordinance. Mayor Barnett withdrew his second. Council Member Sulick questioned the inclusion of all equipment when initially, as stated above, the ordinance had begun as a leaf blower concern. Council Member Sorey again pointed out that the Palm Beach ordinance allows “quiet work” during the earliest time of the day and Vice Mayor Taylor said that in her opinion, the City of Palm Beach could not be compared to the City of Naples due to the differing size and type of homes.

Council Member Price observed that the time spent on this issue had brought about awareness of the problem, expressing the hope that landscaping companies would endeavor to be sensitive to the quality of life issues brought forward during discussions. He said that he would encourage staff to enforce the noise ordinance and if problems could not be solved, then the ordinance could be revisited in the future.

Public Comment (cont.): (12:42 p.m.) **Alberto Chavez, Project Greenscape Coordinator, Rookery Bay National Estuarine Research Reserve**, said that he is responsible for its best management practices (BMP’s) course and pointed out that proper use of leaf blowers and noise reduction is, in fact, included within the course. Approval of the fertilizer ordinance (see Item 11 above) will have a positive effect on this matter, he added. City Attorney Pritt clarified that no further action would be necessary at that time as this was a First Reading of the ordinance.

No action taken regarding this ordinance (see discussion above).

ORDINANCE 08-11973.....ITEM 13
AN ORDINANCE AMENDING THE INVESTMENT POLICY OF THE CITY OF NAPLES TO REFLECT RESTRICTIVE PORTFOLIO ALLOCATIONS; REPEALING ORDINANCE 05-10940; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (12:44 p.m.)

Public Comment: (12:44 p.m.) None.

***MOTION** by Taylor to **ADOPT ORDINANCE 08-11973** as submitted; seconded by Price and unanimously carried, all members present and voting (Price-yes, Heitmann-yes, Taylor-yes, Willkomm-yes, Sorey-yes, Sulick-yes, Barnett-yes).*

RESOLUTION 08-11974.....ITEM 14
A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF NAPLES AND MBIA ASSET MANAGEMENT LLC, TO PROVIDE INVESTMENT ADVISORY SERVICES ON BEHALF OF THE CITY; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (12:44 p.m.). Council Member Willkomm said that while MBIA, Asset Management appears to be an appropriate company for this position, he had reviewed recent troubling reports involving its parent company, MBIA, Inc., questioning its continued viability. Therefore, he said, he would recommend that this item be approved, but with payment to be on a quarterly basis. Finance Director Ann Marie Ricardi indicated that the contract actually stipulated monthly payments.

Council Member Price stated that he agreed with the concern voiced by Mr. Willkomm but that following his research and prior conversation with Ms. Ricardi, he would support this item. If problems arise, he continued, changes could be made to address them, and Ms. Ricardi noted that Council would indeed have to approve any change of investment advisor should that situation

arise. She also pointed out that MBIA Asset Management would not hold nor have control of the City's assets, merely advise with regard to their movement.

Public Comment: (12:49 p.m.) None.

MOTION by Taylor to ***APPROVE RESOLUTION 08-11973*** as submitted; seconded by Barnett and unanimously carried, all members present and voting (Price-yes, Heitmann-yes, Taylor-yes, Willkomm-yes, Sorey-yes, Sulick-yes, Barnett-yes).

RESOLUTION 08-11974.....ITEM 15
A RESOLUTION APPOINTING ONE MEMBER TO THE COMMUNITY REDEVELOPMENT AGENCY ADVISORY BOARD (CRAAB) FOR A TWO-YEAR TERM COMMENCING FEBRUARY 6, 2008, AND EXPIRING FEBRUARY 5, 2010; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (12:49 p.m.). Council Member Price nominated Wynn Phillips for this appointment as reflected in the motion below.

Public Comment: (12:49 p.m.) None.

MOTION by Price ***APPROVING RESOLUTION 08-11974 APPOINTING WYNN PHILLIPS TO THE COMMUNITY REDEVELOPMENT AGENCY ADVISORY BOARD (CRAAB).*** This motion was unanimously carried, all members present and voting (Price-yes, Heitmann-yes, Taylor-yes, Willkomm-yes, Sorey-yes, Sulick-yes, Barnett-yes).

(Added Item – see Item 4 above)ITEM 16
CONSIDER EXTENSION OF AGREEMENT ON TEMPORARY TROLLEY SERVICE FOR ONE ADDITIONAL WEEK BEYOND PRIOR APPROVAL. CRA Executive Director Russell Adams, explained that due to the apparent success of the extended trolley service, the above one-week extension was being sought. This would also allow additional survey data to be gathered from patrons of the service, he explained.

Council Member Heitmann questioned the funding source for the extended service and City Manager William Moss indicated that any costs incurred which were not met by CRA funding would be taken from the City's operating account or some other fund. In response to Mrs. Heitmann, Council Member Price explained that for the past four years he had been speaking with merchants of the Third Street South shopping district and that interest in the provision of the trolley system to their area had been voiced, that it had in fact been his intent from the inception of the service that Third Street be included. CRA Executive Director Adams said that he had not personally spoken with these merchants and that, as Mrs. Heitmann had indicated, he should have done so. Mayor Barnett added that he had spoken with Tony Ridgway, a proprietor in the extended area, who approved of the service. Mr. Price further clarified that he had not believed the service, as provided to Fifth Avenue South exclusively, served the intended purpose of alleviating parking and traffic congestion, and allowing patrons to simply park their vehicle and enjoy the amenities of all the areas now being serviced; Council Member Willkomm agreed.

Public Comment: (12:57 p.m.) **Sue Smith, 11th Avenue South**, disagreed with the service as an attempt to further create additional tourist interest in the Old Naples area, which she said as a long time resident of that area, is already an intrusion on her quality of life.

Council Member Sulick requested information regarding the parking locations being used by patrons of the trolley, where they board, and where they disembark the trolleys, questioning

whether private parking lots are in fact being used for this purpose. Council Member Heitmann cautioned that the trolley drivers are conducting dialog with passengers in much the same manner as a tour operation, saying that this practice should not be allowed. She stated that while she agrees with the intent of the service as explained by Mr. Price above, she again questioned its source of funding especially in light of the budgetary challenges facing the City.

MOTION by Price to APPROVE A ONE WEEK EXTENSION AGREEMENT FOR TEMPORARY TROLLEY SERVICE; *seconded by Willkomm and carried 5-2, all members present and voting (Heitmann-no, Taylor-yes, Price-yes, Sorey-yes, Sulick-no, Willkomm-yes, Barnett-yes)*

PUBLIC COMMENT.....

(1:05 p.m.) (It is noted for the record that comments heard during this item applied to the denial of Item 6-b(2) above.) **Beth Ressler, 793 Fifth Avenue South**, as a proprietor on Fifth Avenue South and participant in the art festival, requested that Council reconsider its denial of a special event permit. She explained that this particular art festival is the single largest revenue generator of the year and that her livelihood depends on this event going forward. She also noted a conversation earlier that day with Tony Ridgway, a Third Street South merchant, who had indicated no opposition to her requesting the aforementioned reconsideration. **Gloria Kovacs, 677 Banyan Boulevard**, also a Fifth Avenue South business owner, noted voluminous telephone contacts expressing disbelief in the above referenced denial, that the event had been ongoing for the past 20 years with visitors planning vacations to allow their attendance. Revenue will be loss by local businesses which is sorely needed, she stressed, noting that the City would realize a lost also. As a member of the Fifth Avenue South Action Committee (FASAC), which had approved the item the prior day, Ms. Kovacs also requested that the decision be reconsidered. Council Member Willkomm, as a fellow FASAC member, explained to Ms. Kovacs that the issue of the conflicting events had not been brought forward and therefore prompting his negative vote on the Fifth Avenue permit. As an aside, Ms. Kovacs noted her involvement for the past five years with regard to the above trolley service (see Item 16 above), explaining that initially the interest had been to provide employees in the area transportation instead of driving for lunch and errands in the area. She stated that hotels along Gulf Shore Boulevard were to be included in the proposed loop at that time for guests to travel to the shopping districts without use of their vehicles. **Lou Vlasho, 700 Fifth Avenue South**, expressed support for a reconsideration of the art festival, also noting numerous telephone contacts in this regard. With reference to the conflicting events, he suggested that coordination of referrals from one shopping district to the other could possibly be a positive outcome if the decision were reversed.

MOTION by Willkomm to RECONSIDER ITEM 6-b(2); *seconded by Price and unanimously carried, all members present and voting (Price-yes, Heitmann-yes, Taylor-yes, Willkomm-yes, Sorey-yes, Sulick-yes, Barnett-yes).*

MOTION by Sorey to APPROVE ITEM 6-b(2); *seconded by Price and carried 6-1, all members present and voting (Price-yes, Sorey-yes, Sulick-no, Willkomm-yes, Taylor-yes, Heitmann-yes, Barnett-yes).*

Council Member Sorey pointed out that the special events calendar contained in the meeting packet had in fact contained the Third Bloom and art festival event

CORRESPONDENCE AND COMMUNICATIONS.....

(1:15 p.m.) Council Member Sorey encouraged residents to register noise complaints with Code Enforcement regarding lawn equipment operation and to visit the designer home, located at 723 Mooring Line Drive, which features stormwater detention swales and placement of the

mechanical equipment within the footprint of the structure. The construction of the home was sponsored by the Naples Art Association and Naples Players, he said. Council Member Heitmann expressed concern for the lack of information regarding the coordination of infrastructure issues such as stormwater, reclaimed water system, pavement conditions, and the impact of traffic in residential neighborhoods. Vice Mayor Taylor, noting what she termed an inadequacy of information for Council consideration of various issues, referenced the aforementioned stormwater matter and also took issue with the increased use of email communications by the City Manager as opposed to hard copies. She therefore expressed her need for clarification of how the City Manager intends to communicate with Council Members. She also requested a future presentation describing governmental structures for municipalities and clarification regarding the functions of the City Attorney. Council Member Price asked that a briefing regarding transient occupancy be prepared and Council Member Willkomm, citing his recent concerns regarding the architectural contract for the parking structure to be located at Eighth Street and Sixth Avenue South, expressed concern that staff had not provided information previously contained in the aforementioned contract; he however apologized to the firm of Andrea Clark Brown & David Poorman for his prior comments. Mr. Willkomm continued citing his criticism of what he termed a lack of information provided in the stormwater presentation (see Item 7 above), especially due to the fact that this item had been such a source of controversy and had generated extreme public interest. Council Member Sulick commended staff for the orientation sessions which had been provided for newly appointed Council Members.

ADJOURN
1:47 p.m.

Bill Barnett, Mayor

Tara A. Norman, City Clerk

Minutes prepared by:

Vicki L. Smith, Technical Writing Specialist

Minutes Approved: 04/02/08

ALLOCATION OF PAST AND FUTURE FUNDING FOR CITYWIDE CIP CATEGORY									
Stormwater Capital Improvement Project									
Totals	2007			2008			2009		
	\$	CIP	IMPROVEMENT	\$	CIP		\$	CIP	NEIGHBORHOODS / ASSOCIATIONS
	\$111,684.14	07V03	Citywide Drainage Maintenance						
	\$4,260.52	07V12	Citywide Swale Drainage						
Basin 1	\$115,924.66			\$150,000.00	08V02		\$150,000.00	09V02	Crayton Road Assoc., Park Shore Assoc., Gulfshore Assoc., Venetian Village
	\$3,177.53	07V03	Citywide Drainage Maintenance						
Basin 2	\$3,177.53			\$110,000.00	08V02		\$200,000.00	09V02	Coquina Sands, Gulfshore Property Owners
	\$38,050.14	07V02	Citywide Drainage Improvements						
	\$42,697.80	07V03	Citywide Drainage Maintenance						
	\$2,603.18	07V12	Citywide Swale Drainage						
Basin 3	\$83,351.12			\$50,000.00	08V02		\$50,000.00	09V02	Old Naples, 5th Ave S, 3rd St. S, Broad Ave S
	\$13,152.80	07V02	Citywide Drainage Improvements						
	\$14,304.92	07V03	Citywide Drainage Maintenance						
	\$20,775.80	07V12	Citywide Swale Drainage						
Basin 4	\$48,233.52			\$150,000.00	08V02		\$120,000.00	09V02	Port Royal, Aqualane Shores
	\$3,390.92	07V02	Citywide Drainage Improvements						
	\$17,631.33	07V03	Citywide Drainage Maintenance						
Basin 5	\$21,022.25			\$75,000.00	08V02		\$25,000.00		Eagle Oak Ridge, Naples High School, Coastland Mall, Lake Park
	\$95,880.40	07V02	Citywide Drainage Improvements						
	\$60,150.12								
Basin 6	\$156,030.52			\$60,000.00			\$105,000.00	09V02	Central Avenue Area
	\$65,067.17	07V12	Citywide Swale Drainage						
	\$62,826.09	07V02							
Basin 7	\$62,826.09			\$75,000.00	08V02		\$120,000.00	09V02	Royal Harbor
	\$41,415.27	07V02	Citywide Drainage Improvements						
Basin 8	\$41,415.27								City Operations Center, Anthony Park
Basin 9	\$15,486.32	07V12	Citywide Swale Drainage	\$50,000.00	08V02		\$50,000.00	09V02	Moorings Park, Royal Poinciana, Hole In The Wall, Wilderness
Basin 10	\$0.00			\$30,000.00	08V02		\$30,000.00	09V02	Naples Airport, Avion Park
Basin 11	\$0.00			\$0.00			\$0.00		Conservation Lands
Basin 12	\$0.00			\$0.00			\$0.00		Key Wayden, Conservation Lands
Total	\$547,467.28			\$750,000.00			\$850,000.00		
07VXX	2007 Citywide Drainage, Swale & Maintenance Improvements								
08V02:	2008 Citywide Drainage Improvements (CIP)								
09V02:	2009 Citywide Drainage Improvements (CIP)								

Linda Ladd

AS A MULTIPLE YEARLY
TENANT AT KENSINGTON
GARDENS WE ARE
EXTREMELY UNHAPPY
TO HEAR THAT BELLA
MARRIA HAS PETITIONED
FOR AMPLIFIED OUTDOOR
MUSIC

THIS WOULD DETRACT
FROM THE LIFESTYLE
CURRENTLY AVAILABLE
AND PERHAPS WE
MIGHT FEEL IT
NECESSARY TO GO
ELSEWHERE

Out & Linda Ladd

**KENSINGTON GARDENS
CONDOMINIUM ASSOC., INC.
C/o Summit Management Group
239-434-6222**

VIA E-MAIL

March 4, 2008

Naples City Council:

RE: Live Entertainment Petition
Bella Maria Café
Agenda Item #9 - March 5, 2008 Meeting

Dear Mayor and Councilmembers:

I write to you on behalf of Kensington Gardens Homeowners Association. Bella Maria Café seeks a live entertainment permit for their restaurant. As you may know, our condominium sits directly behind the building in which the Bella Maria Café is located.

Since its opening, Bella Maria has been a quiet restaurant which closes at 9:00 p.m. even on weekends. Their application for a live entertainment permit now seeks to change the use of this once-quiet restaurant to what appears to be a nightclub and/or discotheque “seven days a week”. We oppose the application.

First, we strongly oppose the introduction of a disc-jockey or “DJ.” A DJ necessarily involves dancing and the use of heavy percussion and will cause a great deal of noise disturbance. The introduction of dance music – whether indoor or out – simply cannot be contained indoors since, by definition, dance music is not only loud but involves a pounding noise which can be heard and even “felt” for a great distance. In addition, dance music necessarily introduces a kind of “party” atmosphere which brings with it a host of other problems – e.g., drinking, loudness, etc. The area already has a bar, which we all know has caused numerous disturbances in this area in the past. Adding a “disco” to this area will not only increase the disturbances, it will, slowly but surely, result in a further cheapening of this area. Hopefully, this is not what was meant when the word “revitalization” was used relative to the West Side of Fifth Avenue. Kensington strongly opposes any DJ or dancing to be permitted, especially given that this location directly abuts a residential neighborhood.

Second, aside from the DJ and dance music, we oppose any live music after 9:30 p.m. – whether indoor or outdoor. Today’s keyboards generally produce a wide range of sounds, including bass and percussion. This causes deep rhythmic sounds which reverberate and cannot be contained indoors. Live music directly abutting a residential neighborhood must be limited to a reasonable hour – whether indoor or out.

Third, for the petitioner to even request that live music be permitted “seven days a week” is rather presumptuous. Even in the center of Fifth Avenue, such music only exists generally on weekends. Any live music should be limited to weekends.

We urge City Council to look at the “big picture.” Yes, we want businesses and restaurants to thrive on Fifth Avenue. But we must pick and choose what and where. Fifth Avenue already has several establishments which allow music and dancing on weekend nights. Must every inch of Fifth Avenue turn into a “mardi gras” at night? The supposed “revitalization” of the West Side will never occur if potential buyers believe they will be buying expensive condominiums close to the beach, only to be faced with the prospect of never being able to get a good night’s sleep or, worse yet, living in an unsafe or unseemly neighborhood.

We hope that our comments will be taken into consideration when the application

Very truly yours,

Anita Yehuda
On Behalf of Kensington
Gardens Condominium Assoc.