



City Council Chamber
735 Eighth Street South
Naples, Florida 34102

City Council Workshop Meeting – March 31, 2008 – 8:28 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
Robert Middleton, Acting Public Works Director
Russell Adams, CRA Executive Director
Ronald Wallace, Construction Mgmt. Director
Michael Bauer, Natural Resources Manager
Katie Laakonen, Environmental Specialist
David Lykins, Community Services Director
Joe Boscaglia, Parks & Parkways Superintendent
Michael Klein, Dock Master
Paul Bollenback, Building Inspector
Robin Singer, Planning Director
Gregg Strakaluse, Engineering Manager
George Archibald, Traffic Engineer

Don Wirth
Fraser Smithson
Harry Coleman
Andy Woodcock
Bill Kroeschell
Sharon Kenny
Lane Hawley Cole
Annette Pipitone
Jennifer Rogers

Media:

Jenna Buzzacco, Naples Daily News

Other interested citizens and visitors.

SET AGENDA.....ITEM 2

MOTION by Price to SET THE AGENDA adding Item 12 (grant amendment to install test aquifer storage and recovery/ASR well); 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).

PUBLIC COMMENT.....ITEM 3

None.

.....**ITEM 4**
SANDPIPER IMPROVEMENT MASTER PLAN – PROPOSED ROAD AND RIGHT-OF-WAY IMPROVEMENTS, ENTRY TO ROYAL HARBOR.

Construction Management Director Ron Wallace gave an electronic presentation of this project (a printed copy of which is contained in the file for this meeting in the City Clerk's Office) explaining that three phases of improvements will coordinate with three distinct sections of the street (Attachment 1). The proposals for improvements in the current year are within the city limits, up to and including Blue Point Avenue, Collier County's half of this section of the roadway having been deeded to the City which now must provide maintenance. The first phase, he said, had included improvements in conjunction with the Naples Bay Resort at the corner of US 41 and Sandpiper while an interlocal agreement with Collier County must be executed for the Dolphin Drive area since this section of Sandpiper Street is entirely within the County's jurisdiction.

Director Wallace estimated the total cost of all three phases to entail \$220,000 of that year's total Capital Improvement Program (CIP) budget of \$250,000. Bidding for construction services would commence in the summer; Mr. Wallace also confirmed that swales could be considered, but it was doubtful that budgetary constraints would allow any drainage improvements as part of the project.

Council Member Sorey inquired as to the possibility of improving the seawall at Snail Bay along Sandpiper, but Mr. Wallace expressed doubt that consensus among the approximately eight property owners could be reached within the time allotted. Mr. Sorey then asked whether there would be sufficient right-of-way to accommodate a bicycle path. Director Wallace responded that contemplating bicycle paths in such a narrow right-of-way would require taking into account impacts to the front yard of abutting properties.

Director Wallace explained that additional expenditure estimates for the intersection improvements at Blue Point Avenue and Sandpiper are between \$200,000 and \$300,000. Council Member Willkomm questioned whether the project should be delayed due to budgetary concerns. While noting the safety reasons for reconfiguration of the Blue Point and Sandpiper intersection, Vice Mayor Taylor questioned the validity of installing public parking spaces on private property if the same property owners are unwilling to contribute to the above referenced seawall repairs. Mr. Wallace however reiterated that the City would not be providing repairs to the seawall.

Public Comment: (8:50 a.m.) **Fraser Smithson, 2390 Tarpon Road**, Royal Harbor Property Owners Association, noted the importance of the recommendations under consideration and commended staff members for their work. **Don Wirth, 2425 Tarpon Road**, said that the property owners of Royal Harbor and Oyster Bay strongly endorse the project as outlined by staff. He pointed out that the aforementioned improvements had been contemplated for over seven years and due to financial restraints, had however been postponed. Mr. Wirth therefore encouraged the Council and staff to move forward as proposed. **Harry Coleman, 1322 Chesapeake Avenue**, President of Oyster Bay Homeowners Association, reiterated Mr. Wirth's sentiments and concurred that the project should be approved.

Vice Mayor Taylor asked whether the deteriorating seawall could be mandated for repair. City Manager William Moss replied that if provisions of the Code of Ordinances are not sufficient to

impose this requirement, he would introduce an amendment to that effect and further instruct staff regarding this issue. Mayor Barnett clarified that the project is however not contingent upon the condition of the seawall. City Manager Moss suggested that staff inform the applicable property owners of the upcoming improvements so as to determine their interest in making seawall repairs. Council Member Willkomm reiterated his concern with regard to budgetary constraints, stressing only projects that affect public safety should therefore be pursued. Vice Mayor Taylor however pointed out that this project had nevertheless been in the planning stages for some time and suggested that monies slated for more recently identified projects be assigned thereto; she gave her support to the improvements as presented by staff.

Council Member Heitmann inquired as to the City's ability to carry over budget allocations to the next fiscal year. Mr. Moss confirmed that this procedure is standard, especially when projects encompass multiple years.

Consensus for staff to move forward with Sandpiper Street improvements as proposed.

.....**ITEM 5
PROPOSED IRRIGATION (RECLAIMED, REUSE, OR ALTERNATE WATER
SUPPLY) RATE INCREASE FROM \$0.80 TO \$1.50 PER 1,000 GALLONS IN
PREPARATION FOR PUBLIC HEARING SCHEDULED FOR APRIL 2, 2008,
REGULAR MEETING.** City Manager William Moss noted that staff suggested that Council defer a specific rate increase until a later date. Bob Middleton, Acting Public Works Director, utilized an electronic presentation to review current issues with regard to the irrigation (reclaimed/reuse) water system (Attachment 2). Mr. Middleton also noted that residential users in 2003 had been assigned a rate of \$.80 per thousand gallons and bulk users \$.32 per thousand gallons. (It is noted for the record that a printed copy of Mr. Middleton's presentation is contained in the file for this meeting in the City Clerk's Office.) In response to Council Member Sulick, Mr. Middleton clarified that when the reuse/reclaimed water system is fully implemented; all residential users connected thereto will be charged the \$1.50 per thousand gallons should that rate be approved by Council.

Mr. Middleton further cited the following estimated impacts should a rate increase for residential irrigation water users not be implemented:

- As current usage agreements with golf courses expire, these users will be converted to a rate of \$0.32 per thousand gallons which will generate additional revenue to support the irrigation system;
- If residential customers who have the ability to utilize the reclaimed/reuse water for irrigation however decline to connect to the system and continue to use potable water, higher per thousand gallon rate tiers would be applicable: Tier 2: \$1.77; Tier 3: \$2.53; and Tier 4: \$3.03;
- The above referenced usage would generate sufficient revenue to cover the irrigation system costs;
- If however all customers pay the current residential rate of \$.80 per thousand gallons, there will be an anticipated reduction in revenue of \$494,000 per year.

Utilities Consultant Andy Woodcock of TetraTech, Inc., confirmed the projected shortfall should Council not increase the 2003 rate to the recommended \$1.50 per thousand gallons for residential users; however, Director Middleton said that it is staff's recommendations not to increase the

residential rate until the chloride level has been lowered to at least 400 mg/l (milligrams per liter), which is the maximum mandated by Council. However, following ascertainment of the actual irrigation water demand and receipt of the water feasibility study presentation, an updated irrigation rate study should be provided based upon these factors.

Council Member Sorey urged that the public be made aware that the rates for reclaimed/reuse water would increase but that the amount of increase is unknown at that time. City Manager Moss added that following the water feasibility study presentation in June, staff would update its recommendations when Council returns from summer recess.

A brief discussion of alternate water sources and ASR (aquifer storage and recovery) wells followed, and in response to Council Member Price, Mr. Middleton clarified that \$3-million is currently budgeted for an ASR well (see Item 12 below) and \$3.5-million for the Golden Gate Canal alternative water source project, although to withdraw 2 million gallons per day would bring the cost to approximately \$10-million for the latter project. City Manager Moss added that the actual cost for these projects is however, as yet unknown and therefore the staff's recommendation to delay any rate increase. Consultant Woodcock noted additionally that the rate study had begun over a year before and therefore capital costs were undergoing further accounting for any discrepancies with current estimated costs. Council Member Price however maintained that data reflected in any presentation should enable Council to determine strategies and action to be taken. Council Member Sulick requested that when staff makes a further presentation in the fall, a complete breakdown of all costs be provided for Council and the public.

In response to Council Member Heitmann, Mr. Woodcock pointed out that expiration of golf course reuse/reclaimed water usage contracts had not been an issue in conjunction with the 2001 rate study and that the reuse/reclaimed water system had still been in a conceptual stage. Also, inflation with regard to material and expenses would also greatly affect this comparison, he added.

In response to Mayor Barnett noting the use of irrigation water system as opposed to reclaimed/reuse water system, City Manager Moss explained that this had been addressed in the amending of the ordinance and its definitions; Council Member Sorey added that the source should be defined as an alternative water supply and the output would be irrigation water.

.....**ITEM 6**
MOORINGS BAY SPECIAL TAXING DISTRICT (MBSTD) – ZONING, DOCK PERMITTING AND REVIEW AUTHORITY. City Manager William Moss provided a brief background of this item noting staff's determination with reference to construction of a dock at 270 Spring Line Drive. He also cited a March 24 memorandum from Assistant City Manager Chet Hunt (Attachment 3) which had been prepared in response to William Kroeschell, a member of the Moorings Bay Citizens Advisory Committee, dealing with the Committee's authority. City Attorney Robert Pritt also reviewed his memoranda dated February 24 and 25 (Attachments 4 and 5 respectively) regarding a staff decision with reference to the permit for the aforementioned dock, noting his opinion that staff had not erred in approving it. With regard to inquiries by Mr. Kroeschell, Mr. Pritt said that the Committee may utilize taxing district funds for the testing of water quality and maintenance of the water quality in Moorings Bay but that the

millage rate of the district may not be increased for this or other purposes without at least a two-thirds favorable vote of Council (see Attachment 4).

Public Comment: (9:45 a.m.) **Bill Kroeschell, 272 Mooring Line Drive**, explained that while he concurred with City Attorney Pritt's opinion regarding jurisdiction of the Committee, he did not agree with the interpretation of the Code of Ordinances with regard to issuance of the dock permit. Mr. Kroeschell expressed concern with the pollutants contained in the chemical treatment of pilings which he said he believed were too numerous in the dock in question and others. Referencing an email from Linda Penniman (Attachment 6) stating that she believed Section 56.93(3)(a) allowed too subjective an interpretation, Mr. Kroeschell stated that he however did not believe that any changes to the Code were necessary. In response to Council Member Willkomm, Mr. Kroeschell confirmed that concrete pilings could be used for docks and explained that liners for the treated wooden pilings had been designed to prevent leaching of chemicals (*Copper Chromated Arsenate*) into the water. Mayor Barnett suggested that Natural Resources Manager Michael Bauer research the use of the liners and provide a report to Council for future consideration.

Council Member Sulick noted her concurrence with City Attorney Pritt's opinion regarding the dock placement; otherwise, the Code should be amended to reflect the limitation desired by the Committee. However, she pointed out, as the navigable channel changes over time, so would the allowable length of a proposed dock if the current wording, which indicates that a dock is prohibited from extending into the Moorings Bay system access channel, were used for approval of a permit, she said. Mr. Kroeschell also clarified his differing opinion in his letter regarding the definition of a U-shaped dock and/or the use of a catwalk in a design to access a vessel; he further noted that revision of the chart depicting navigable channels in the area would be undertaken in the near future. City Attorney Pritt pointed out that the provisions under discussion reference a 1991 chart and therefore must be updated if a new chart is provided as had been noted by Mr. Kroeschell; also Mr. Pritt noted the desirability of a provision with regard to access by a property owner to the navigable channel and accounting for the natural movement of a channel due to its changing depth.

City Attorney Pritt asked that when completed, Mr. Kroeschell provide the above referenced depth chart to staff for consideration in the amendments to be brought forward; Mr. Kroeschell agreed to do so.

Staff directed to provide impact of use of treated pilings on water quality and recommendations for amendments to the Code of Ordinances regarding dock placement in Moorings Bay.

Recess: 9:57 a.m. to 10:06 a.m. It is noted for the record that the same Council Members were present when the meeting reconvened.

.....**ITEM 7**
MARINE RESOURCE CONSERVATION PARTNERSHIP (MRCP) OF COLLIER COUNTY & TEAM OCEAN (OCEAN CONSERVATION EDUCATION ACTION NETWORK) PRESENTATION ON KEEWAYDIN ISLAND.

Jennifer Rogers, Florida Fish & Wildlife Conservation Commission (FWC) presented a historical background of the Marine Resource Conservation Partnership (MRCP) of Collier County and explained its mission. (It is noted for the record that a copy of Ms. Rogers' presentation is contained in the file for this meeting in the City Clerk's Office.) The MRCP, Ms. Rogers said,

had been formed through the efforts of the FWC and the Florida Department of Environmental Protection (FDEP) in order to address local issues in Collier County, and specifically, Keewaydin Island. She reported that impacts due to high use events have proven to be detrimental to the natural resources of the County and pointed out that over 400 vessels participated in the most recent annual Great Dock Canoe Race that resulted in an estimated 3,000 people congregated on the southern end of Keewaydin Island. Ms. Rogers said that the day after the event, twenty, 55-gallon trash bags of refuse had been collected. In addition, on the day before the event, six, 55-gallon trash bags of refuse were removed from the site. Ms. Rogers stated that marine debris often results in damage both to the habitat and area wildlife, therefore the MRCP is developing a new volunteer education outreach program known as “Team Ocean” (Ocean Conservation Education Action Network) to take their message of marine conservation, known as sustainable behaviors, out to the public beaches, boat ramps, the Fishing Pier, and similar locations. Ms. Rogers requested Council’s continuing support and input for the program, to which Mayor Barnett and Council agreed.

Consensus to support continued involvement of staff and review of necessary interlocal agreements regarding Marine Resource Conservation Partnership (MRCP) of Collier County.

.....**ITEM 8**
MAINTENANCE – REPORT ON DECIBEL READINGS FOR LAWN MAINTENANCE EQUIPMENT – NOISE ORDINANCE AND LANDSCAPE. With regard to hours of operation for commercial lawn maintenance, notably provisions to address noise standards for leaf blowers, City Manager William Moss noted that the ordinance reviewed by Council in late 2007 had however not been endorsed. Instead, Council had recommended that the existing Code be enforced pertinent to decibel level readings when this equipment was in use. City Manager Moss however stated that all of the decibel level reading tests had shown that equipment had failed to meet the noise ordinance standards, including City trash removal activity. He therefore requested Council’s direction in this regard.

Council Member Sorey suggested modifying the current noise ordinance to address hours of operation. Council Member Sulick recommended that Council consider its original proposal dealing with leaf blowers and time limitations on hours of operation. Mayor Barnett requested City Attorney Robert Pritt’s advice as how to manage the current ordinance. Mr. Pritt suggested redrafting the ordinance to exclude the various categories of noise sources, simplifying provisions by adjusting the hours of operation for lawn maintenance equipment. Council Member Heitmann voiced support for Council Member Sorey’s suggestion, but Council Member Sulick disagreed, saying that complaints had been specific to certain types of lawn equipment and the hours of operation. Council Member Price recommended that consistency apply throughout the noise ordinance, instead of using different benchmarks for decibel levels, depending on the source of the noise. He also said that limiting hours of operation for lawn maintenance might not be a viable solution.

Vice Mayor Taylor proposed rewriting the noise ordinance to differentiate between stationary objects, such as pool heaters, air conditioners, or live entertainment, and noise sources in motion such as lawn maintenance machinery. In that way, the hours of operation rules would remain the same, she added. City Attorney Pritt responded that changing the ordinance to adjust the hours of operation would not be problematic, however, he cautioned that allowing a certain level of

noise because it is difficult to pinpoint is not an appropriate rationale for amending the noise ordinance.

Public Comment: (10:45 a.m.) **Lane Hawley Cole, 980 Fifth Street South**, asserted that the City violates its own noise ordinance by City-employed contractors whose equipment exceeds maximum decibel limits and is therefore at risk for possible litigation. She suggested that the City reconsider the recent proposal of limiting hours of operation to 8:00 a.m. until 6:00 p.m., Monday through Saturday, without Sunday lawn service, and emphasized that the ordinance apply only to commercial landscape companies, not to individual homeowners. City Attorney Pritt commented that the City is protected by sovereign immunity which prohibits a lawsuit such as was alluded to by Ms. Cole.

Consensus by Council to move forward on the agenda without changes to the noise ordinance.

.....**ITEM 9**
WEEKLY RENTAL IN SINGLE-FAMILY ZONED NEIGHBORHOODS – INTERPRETATION AND ENFORCEMENT OF EXISTING CODES THAT PROHIBIT TRANSIENT RENTALS IN SINGLE-FAMILY DISTRICTS.

City Manager William Moss stated that this discussion had been prompted by inquiries regarding reported transient rentals of single-family homes on a daily or weekly basis. He further said that the Land Development Code defines transient lodging but is silent on the issue of transient lodging being permissible in single-family neighborhoods. Further, he said, City Attorney Robert Pritt had opined that the Code, as written, is applicable and enforceable; however, staff would determine whether enforcement action would be the responsibility of the City's Code Enforcement Board or the local civil courts. Mr. Moss also suggested that citizens contact Code Enforcement when having observed transient rentals and staff would also search advertisements for notices in this regard.

Public Comment: (10:54 a.m.) **Sharon Kenny, resident of Aqualane Shores** addressed the Council by citing instances that had occurred in her neighborhood relative to transient lodging. She proposed that the City require homeowners to register their dwellings as rental properties, as is done in Collier County. City Attorney Robert Pritt commented that registration of single-family rentals is required and regulated by the State. A possible solution, he said, may be to further define the term "transient" in the City's Code relative to dwelling units, and to clarify what is permitted and what is prohibited.

Consensus for staff to research clarification of definition of transient lodging facilities to include dwelling units.

.....**ITEM 10**
INSURANCE SERVICES ORGANIZATION (ISO) RATING – BUILDING CODE EFFECTIVENESS GRADING SYSTEM (BCEGS) – STRATEGY TO IMPROVE RATING FROM 3 (1 OF 10) TO A RATING OF 2 OR 1.

Building Official Paul Bollenback reviewed his memorandum of February 5 and gave a brief electronic presentation (Attachments 7 and 8 respectively) regarding the Building Code Effectiveness Grading System (BCEGS). The City, he said, currently has a rating of three in residential and commercial properties, although the lower the rating, the lower the overall insurance rate for new construction because the rating reflects the performance of staff with regard to inspections and the like. Mr. Bollenback explained that during discussion with the Insurance Services Organization (ISO), it had been suggested that the City pursue a rating of two by maintaining its overall present effort but increasing the professional training of the department staff. He noted the 2006 analysis (see Attachment 8) wherein of a maximum 13 points possible for training, the City received 4.59

points. Annually \$17,000 has been budgeted for training purposes in the Building Department, Mr. Bollenback said, and to achieve the aforementioned level of training, an expenditure of approximately three times the current amount would be needed; he also pointed out that an improved rating would benefit only new construction, not existing structures. Mr. Bollenback further noted that the current three rating is shared by approximately 120 communities within the state, with only 24 having achieved a higher rating and 200 a lower rating, although many are not rated whatsoever.

Council Member Sorey recommended that Mr. Bollenback compute the financial implications both for a reasonable amount of training to maintain the three rating and possibly achieve the two, pointing out both budget constraints and the fact that the next analysis for a rate change would not occur until 2012. Vice Mayor Taylor agreed. Council Member Willkomm however voiced support for pursuit of the two rating, saying that the service rendered by the Building Department would be reflected in the quality of life for residents; Council Member Price agreed, stressing that the budget for the training must however be controlled.

Mr. Willkomm also requested that staff provide larger sized images of the materials presented by staff, including the printed matter in the meeting packet, for readability.

Mr. Bollenback and City Manager William Moss explained that the Building Department budget would be reviewed closely and brought before Council with recommendations.

Consensus to support staff recommendation not to actively pursue rating of two or higher except as a long-term goal depending upon budgetary constraints / 5-2 (Willkomm and Price dissenting).

.....**ITEM 11**
PROPOSED SMOKING BAN ON CITY BEACH PARKS, PARKS, AND RECREATIONAL AREAS – PROPOSED ORDINANCE THAT WILL PROHIBIT USE OF TOBACCO PRODUCTS AT FOUR BEACH AREAS (BEACH PARKS), FISHING PIER, MUNICIPAL DOCK, AND PARK AND RECREATION AREAS. Mayor Barnett opened the discussion and voiced his support for the proposed ordinance as written. City Manager William Moss clarified that the ordinance was applicable to City parks and recreation areas, as well as the sections of the beach that are seaward of the City's four parks, the Fishing Pier, and the City Dock.

City Attorney Robert Pritt explained Subsection 23(b), which defines the prohibition of smoking within any public beach park or on any portion of the beach located seaward or waterward of a public beach park, including parking lots and beach access areas, and specifically including, without limitation, any municipal dock or municipal pier at any time. In response to Council Member Sorey's question with regard to including Moorings Beach Park, Attorney Pritt suggested language dealing with any public area of any beach, including without limitation, beach areas in which the public has a prescriptive right or customary use, and such areas at which the City and the upland owner have entered into an agreement.

Public Comment: (11:35 a.m.) **Bill Kroeschell, 272 Mooring Line Drive**, waived comment. **Annette Pipitone, 15956 Paseo Lane**, stated that she is owner of two tobacco stores in Naples, and a representative of smokers, both tourists and residents. She said she was opposed to the idea of a smoking ban and offered a petition of opposition, which she said, had been signed by

hundreds of her customers. She also noted that Lee County has said that smokers are welcome on their beaches.

Council Member Willkomm said he thought the purposed ordinance was discriminatory against a class of taxpayers. Further, he characterized it as inappropriate and an example of what he termed reason withering political correctness. He said that the City should not have an ordinance of this type.

Mayor Barnett said the Council would hear and take action on the item at the upcoming, regularly scheduled meeting.

Consensus to proceed with first reading of ordinance as proposed.

(Added Item – see Item 2 above)ITEM 12
DISCUSSION OF GRANT AMENDMENT TO ALLOW JOINT PROJECT AGREEMENT WITH COLLIER COUNTY TO ALLOW INSTALLATION OF A TEST ASR (AQUIFER, STORAGE AND RECOVERY) WELL AT THE COUNTY'S WATER QUALITY PARK LOCATED AT GOODLETTE-FRANK ROAD AND GOLDEN GATE PARKWAY.

City Manager William Moss reviewed his memorandum of March 28 (Attachment 9) explaining that staff recommends that the City coordinate efforts with Collier County regarding the installation of a test ASR (aquifer, storage and recovery) well at the County's Water Quality Park located at the corner of Goodlette-Frank Road and Golden Gate Parkway. If the well were successful, he added, it could provide an unrestricted source of water to supplement the City's alternative water supply for irrigation (reclaimed/reuse) purposes. He noted that the \$500,000 grant had originally been designated for an exploratory ASR well on Broad Avenue but due to geology of the area, success is unlikely. The County had received FDEP (Florida Department of Environmental Protection) permitting to install such a well at the aforementioned location but currently has no available funding; therefore, a Joint Project Agreement would allow the City's grant to be utilized for the drilling of the ASR well under the County's permit. Data collected from this well would provide information enabling future planning of additional wells north of Golden Gate Parkway, City Manager Moss pointed out.

Council Member Sorey noted that decreasing the amount of stormwater into the Golden Gate Canal had been mandated of both entities by the FDEP and stressed that the stormwater entering into the Water Quality Park actually comes from the City. Furthermore, he cautioned, if not used, the funding would revert to the Big Cypress Basin Board and similar funding at a later date could not be guaranteed. He therefore urged that Council heed staff's recommendations. In response to Council Member Price, Mr. Sorey clarified that the water stored in the subject well would require minimal treatment for bacteria prior to entering the alternative water supply system and then used for irrigation.

Council Member Heitmann referenced a 2002 water study which had listed many similar alternatives as those noted recently by consultants. Vice Mayor Taylor provided a brief history of the use of ASR wells in the City and Council Member Sorey explained that geology of coastal areas is not conducive to the drilling of such wells. Fracturing and voids occur and it becomes necessary to test further inland where the chance of these is lessened, he added. Mrs. Heitmann reiterated her belief that a stewardship committee should be formed to oversee the entire reuse/reclaimed water issue, including its acquisition and storage, which had been included in the

above referenced 2002 study. (It is noted for the record that Section 6 of the aforementioned study is contained in the file for this meeting in the City Clerk's Office.) Following a brief discussion of the upcoming water feasibility report due in June, Council voiced support for staff's recommendations.

Consensus to proceed with negotiations with Collier County.

BRIEFING BY CITY MANAGER.....ITEM 13

(It is noted for the record that a copy of the City Manager's report is contained in the file for this meeting in the City Clerk's Office.) City Manager William Moss referred to approval of valet parking on Third Street South, and Council Member Heitmann requested the identity of the petitioner for the valet parking service permit; Engineering Manager Gregg Strakaluse explained that the permit allowed the valet service to park vehicles off the street, inside a private parking garage. Mr. Strakaluse clarified that the permit was issued for 60 days as a pilot program to gauge the operation and in response to Council Member Heitmann, confirmed receipt of a report that more than the permissible three public parking spaces were being utilized; however, he said, this substantiates interest in the service.

Mayor Barnett suggested that future petitions for valet parking service be brought before City Council for review.

Public Comment: (12:16 p.m.) **Sharon Kenny, no address given**, said she agreed that there are too many uses occurring on Third Street South and a possible solution may be to place valet parking service signage on Broad Avenue, instead of Third Street South, in order to keep traffic moving.

City Manager Moss stated that staff could rescind the existing permit for the location on Third Street South, and advise the applicant that the City would entertain a request for the service on Broad Avenue. Manager Moss said he would invite the applicant to the next regularly scheduled Council meeting for further discussion of the issue. Council then determined that future valet parking service applications would be reviewed by the Council.

Consensus that all valet parking permits are to be reviewed by Council and that discussion of Third Street South valet service location be added to the April 2 regular meeting agenda.

Council Member Price stated he wanted Council to mandate the use of helmets at the Edge Skate Park (Fleischmann Park). Vice Mayor Taylor pointed out that the enforcement of the regulation would require two to three additional staff members at the park. Mayor Barnett suggested bringing the item to a regularly scheduled Council meeting for further discussion. City Manager Moss said that if the City imposed a mandatory helmet rule, it could be held liable for enforcement.

Consensus not to require helmet use at the Edge Skate Park / 6-1 (Price dissenting) but that future discussion be conducted with regard to cost implications of such a requirement.

City Manager Moss continued with his memo review and discussed summer dates for budget workshops with the Council.

Consensus for budget workshop to be conducted August 18, 2008 after 5:00 p.m. and subsequent evenings, as needed.

Consensus to cancel September 2, 2008 workshop (due to proximity of Labor Day holiday).

With regard to the stormwater ordinance, Council Member Willkomm referred to the March 26 memorandum from Building Official Paul Bollenback (Attachment 10) stating that various engineers had informed the City that they would not become involved in designing site drainage plans to the City's standards. City Manager Moss said he thought the statement was made by landscape architects who were not qualified to do the design work.

REVIEW OF ITEM ON THE 04/02/08 REGULAR MEETING AGENDAITEM 14

City Manager William Moss requested the addition of Item 17 (House Bill/HB 1291 regarding autism) and Item 18 (height limit proposal in R3-15 District). Various Council Members requested that the following be removed from the Consent Agenda for separate discussion: Item 7-d (contract amendment regarding stormwater project); Item 7-e (Basin V stormwater improvements); and Item 7-f (purchase of property for Basin II stormwater improvements). With regard to Item 7-g (trolley funding), Council Member Heitmann requested that information be provided regarding the location of discretionary funding in the budget.

CORRESPONDENCE / COMMUNICATIONS

(12:47 p.m.) Council Member Heitmann noted her continued support for a stewardship committee on reclaimed/reuse water and consensus was forthcoming to conduct a community workshop following staff's presentation in June of the ongoing water feasibility study. Vice Mayor Taylor expressed appreciation to former Vice Mayor Johnny Nocera for his donation to The Edge Skate Park located in Fleischmann Park. She also commended Lois Selfon, Chair of the Community Services Advisory Board (CSAB), for her insistence on adhering to the City's legislation regarding naming of parks, recreation areas and facilities (Resolution 00-8854) during consideration of renaming The Edge Skate Park, which had taken place prior to Mr. Nocera's donation. Vice Mayor Taylor suggested that the resolution be reviewed by staff with regard to a revision to require that nominations of this type be brought forward as a formal agenda item; Council concurred.

ADJOURN.....

12:57 p.m.

Bill Barnett, Mayor

Tara A. Norman, City Clerk

Minutes prepared by:

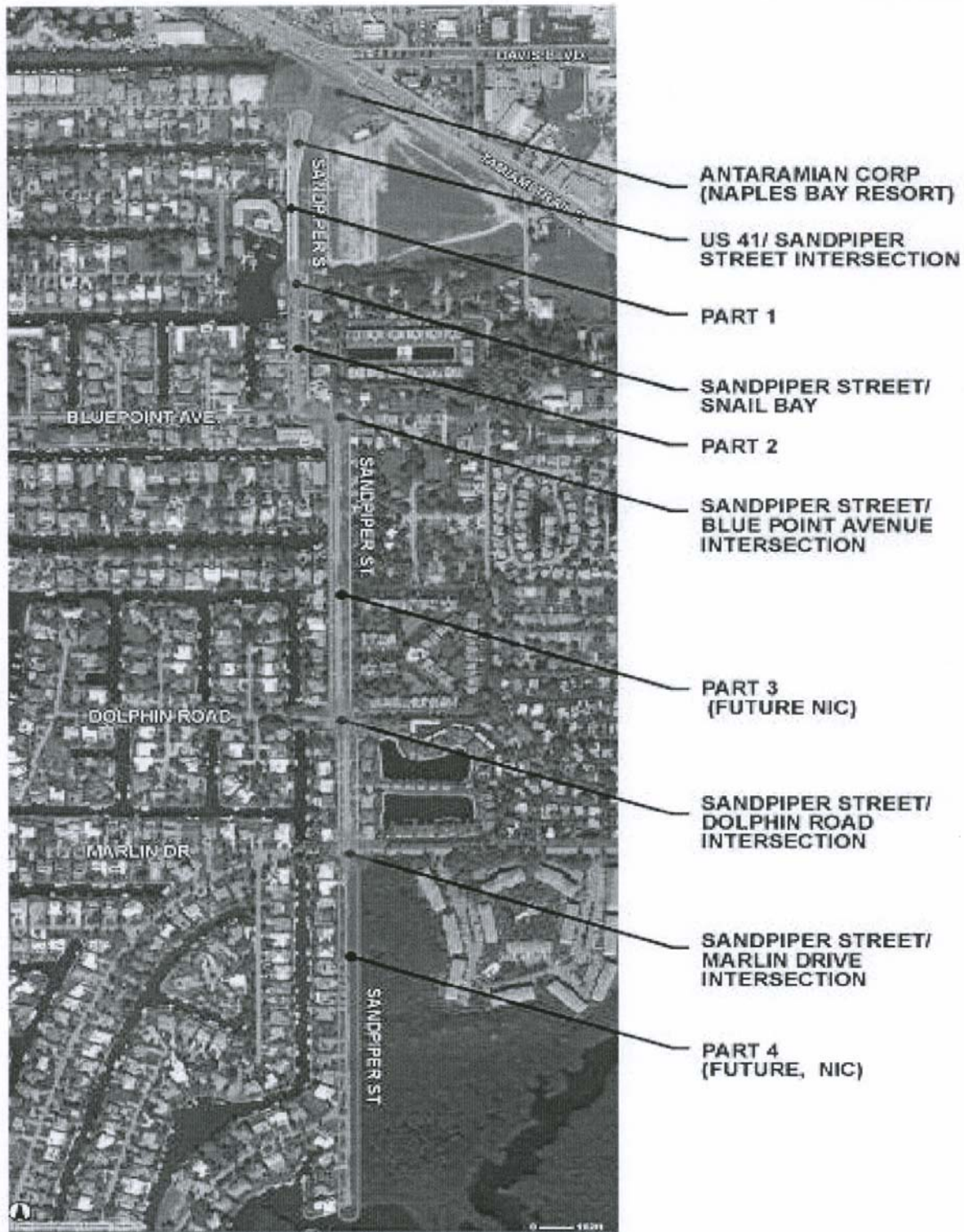
Vicki L. Smith, Technical Writing Specialist

Linda Bedtelyon, Technical Writing Specialist

Minutes Approved: 05/07/08

Sandpiper R.O.W. Improvements

Project Overview



Irrigation Water System Issues

- **Irrigation Water Project Debt of \$6.1 million**
- **Other Irrigation System Debt of \$7.5 million**
- **Impact of golf courses switching to the bulk irrigation water rate in 2009**
 - Currently most golf courses pay \$25/acre/year for irrigation water service

Irrigation Water System Issues

- **Irrigation water chloride concentration is 520 mg/l**
 - City Council by consensus set the minimum level at 400 mg/l
 - City Council directed staff to proceed with 3 strategies:
 - Lining sewer system and lateral repairs
 - Permitting of potable water main extension for dilution of irrigation water
 - Permitting of Golden Gate Canal water supply

TO: A. William Moss, City Manager
FROM: Chet L. Hunt, Assistant City Manager *CLH*
DATE: March 24, 2008
SUBJECT: Moorings Bay Special Taxing District Advisory Board
Workshop Meeting of March 31, 2008 – Agenda Item 6

At the City Council Workshop of February 20, 2008, the Council asked that the City Attorney review the requests made by Mr. Bill Kroeschell regarding allowing the Moorings Bay Special Taxing District Advisory Board to:

1. Review and approve all nonconforming docks and piers proposed for the Moorings Bay water system.
2. Be able to address water quality issues concerning the Moorings Bay water system.

Once the City Attorney assessed the issues, it was requested that the matter be brought back to a City Council Workshop for further discussion.

Attached are two memorandums from the City Attorney responding to Moorings Bay issues.

Several Council Members indicated a desire for more neighborhood involvement and a suggestion was made to consider a structure similar to the Docks & Shoreline Committee in Port Royal. This would be a voluntary committee separate from the Taxing District Board that would review proposed plans for docks and piers.

This memorandum is offered for review by City Council during their Workshop meeting of March 31, 2008.

MEMORANDUM

TO: Chet L. Hunt, Assistant City Manager

FROM: Robert D. Pritt, City Attorney
Meghann Hoskinson, Esq.

DATE: February 24, 2008

RE: Moorings Bay Taxing District

I. Facts

The Moorings Bay Citizens Advisory Committee has expressed concern over the current environmental conditions in Moorings Bay. In Naples Bay, certain testing programs have been implemented, and the Committee would like for testing to be performed that is comparable to that done in Naples Bay. The Committee wishes to use special taxing district funds for the project.

II. Questions Presented

- (i) Is the cost of the water quality testing project a lawful expenditure of the special taxing district funds?
- (ii) May the District's millage rate be increased to pay for the project?

III. Short Answers

- (i) Yes. The Committee may utilize taxing district funds for the testing of water quality and subsequent maintenance of the water quality in Moorings Bay.
- (ii) No. The millage rate currently assessed within the district may not be increased to engage in said testing or for other purposes, without extraordinary measures such as 2/3rds or unanimous vote of council.

IV. Discussion

The Moorings Bay Citizens Advisory Committee has requested the exploration of the feasibility of using some of the taxing district funds for the purpose of supporting an expanded

water quality testing program in Moorings Bay. Naples City Ordinance 87-5328 allows for a maximum of one-half of one mill (.5). Currently, the taxing district is collecting one-fortieth of one mill (.025). Natural Resources Manager, Dr. Michael Bauer believes that the water quality testing would require an additional staff member to be hired.

Water quality testing appears to be an activity that is related to the purposes of the taxing district. Authority for this power is found in Resolution 06-11818, as one of the duties of the Moorings Bay Citizens Advisory Committee is to make recommendations to City Council on the maintenance of the Moorings Bay Waterways System, which includes the “surveillance of the surface water pollution and other evidence of the degradation of the bay’s ecosystem.” The funds to engage in said monitoring are to come from the special taxing district’s funds.

(ii) While the district appears to have the authority to utilize taxing district funds to pay for the water quality testing project, it may not increase the current millage rate to do so (except as explained below).

The Florida legislature passed House Bill 1-B in the 2007 Special Session, which requires a “rollback” of ad valorem taxes. House Bill 1-B provides for the amendment of Florida Statute section 220.185, which mandates that a special taxing district may only assess the millage rate mandated by 200.065. Beginning in the 2008-2009 fiscal year, the maximum millage rate allowed to be assessed is the rolled back rate from 2007-2008. The maximum number of mills allowed in the special taxing district in 2008-2009 is the rate that would provide for the same amount of revenue collected in 2007-2008, adjusted for growth in per capita Florida personal income. In the 2009-2010 fiscal year and beyond, the maximum taxation collected shall be based on the amount of taxes that would have been collected if the maximum number of mills allowed had been collected in the previous year, which is then adjusted for growth by the per capita Florida personal income. The property appraiser is required by law to provide the proper methodology for calculating the rolled back rate.

There are two scenarios under which a higher millage rate may be assessed in this dependent special taxing district. A millage rate may be increased if it does not increase the rate by more than 110% of the prior year’s rolled back rate if two-thirds of the governing body of a municipality vote in favor of such a referendum. The second scenario is if the municipality’s governing body votes unanimously to increase the millage rate by more than 110% of the previous year’s rolled back rate. In no situation may the taxes increase if the total ad-valorem taxes assessed by the county is already at the maximum rate allowed by law.

The Moorings Bay Special Taxing District is able to use the funds collected through the special taxing district assessment for the purpose of water quality testing and monitoring. However, if the budget does not currently provide for the allocation of these funds, the taxing district is not able to assess a higher rate at this time due to the Florida statute that was passed in

2007. If Collier County is not assessing the maximum allowable ad valorem tax rate, the City Council may vote to increase the millage rate for the dependent special taxing district.

CC: Honorable Bill Barnett, Mayor and Naples City Council
A. William Moss, City Manager
David Lykins, Community Services Director
Dr. Michael Bauer, Natural Resources Manager

TO: Chet L. Hunt, Assistant City Manager

FROM: Robert D. Pritt, City Attorney
Meghann Hoskinson, Esq.

DATE: February 25, 2008

RE: Moorings Bay Citizens Advisory Committee-Dock Permit 270 Spring Line

I. Background

This memorandum is in response to a your inquiries concerning a recent series of correspondence from the Moorings Bay Citizens Advisory Committee. The Committee is concerned about certain provisions of the Naples City Code (“Code”) due to the recent permit issued at 270 Spring Line Drive that they believe is not in conformance with the Code.

II. Question Presented

Was the permit issued for the construction of the dock located at 270 Spring Line Drive granted in error either (i) as a result of its placement and length or (ii) due to the shape of the pier?

III. Short Answer

The granting of the permit for the pier located at 270 Spring Line Drive does not violate the Code with respect to either the length of the pier or the shape of the pier.

IV. Discussion

(i). Some members of the Moorings Bay Citizens Advisory Committee are of the opinion that a pier constructed at 270 Spring Line Drive intrudes into the access channel as defined in Section 52-96 of the Naples City Code (“Code”) (copy attached). Natural Resources Manager Dr. Michael Bauer maintains that the permit for the pier was not issued in error.

Code section 52-96 requires that the designated 20 foot wide channel not be obstructed by construction of piers, docks, mooring piles or similar structures unless such obstruction has been permitted by the City. Code section 52-96 goes on to define the Moorings Bay access channel as the “channel dredged around the periphery of the Moorings Bay system in 1991, 20 feet in width.” Variances from this specification are allowed, provided that the Moorings Bay

Citizens Advisory Committee grants such a variance after they review the permit application. This is the only situation in which the Committee has the authority to review permits.

Dr. Bauer distinguishes Code section 52-96, which defines the Moorings Bay system access channel, from Code section 56-93 (copy attached), which applies to the siting and dimensions of all residential piers and boat lifts. Code section 56-93 requires that piers constructed in the Moorings not extend into the Moorings Bay system access channel, as defined in Section 52-96.

The pier at 270 Spring Line Drive extends approximately 40 feet into the waterway. Therefore, the pier located at 270 Spring Line Drive does arguably extend into the Moorings Bay system access channel as defined by that portion of Code section 52-96. However, the ordinance further states that the channel alignment is shown on a series of aerial photographs. These aerial photographs do not indicate depth, and Dr. Bauer is of the opinion that said aerial photographs are insufficient to show the true location of the channel. Therefore, Dr. Bauer required the property owner to have soundings taken, which indicated that the channel was more than 40 feet offshore.

Code section 56-93 states that the channel *generally* lies 15 to 20 feet from the shoreline. Code section 56-93 also states that the location of the channel is shown on aerial photographs located in the City Clerk's office. Because the dock does not impede access to the channel based on the true location of the channel today, Dr. Bauer's opinion is that the permit was not issued erroneously and the Moorings Bay Citizens Advisory Committee has no authority to review the permit application.

Code section 52-96 does state that the channel is 20 feet offshore. However, the channel location in 1991 and the channel location today are no doubt not the same, as erosion and silting has occurred since this time. Additionally, the channel depth is irregular, and cannot be relied upon to be 20 feet in all places. Some members of the Citizens Advisory Committee believe that a variance should be obtained for the particular property in question, which Dr. Bauer contends is unnecessary.

Additionally, Committee members believe that they should had the authority to review the permit application due to the fact that it extends into the navigable channel, which Dr. Bauer also denies.

A strict construction of City Code Section 52-96 does present an argument favorable to the Committee members, as the pier does extend more than 20 feet from the shoreline. However, City Code section 56-93 indicates that no pier is to impede the navigable channel, defined in Code section 52-96. Code section 52-96 states that the channel alignment is shown on a series of aerial maps. These aerial maps do not actually show the true location of the channel. The navigable channel, based on soundings obtained by the owner of 270 Spring Line Drive, is actually found at approximately 40 feet from the shoreline. Additionally, the purpose of a pier is

to provide access to one's vessel, which in turn must be far enough from the shoreline or to have sufficient water depth to safely access (or to be adjacent to) the navigable channel. Due to the fact that the placement of the pier does not impede the navigable channel, the fact that the true location of the channel has apparently moved since 1991 so that it is not the same as it was when defined in Code section 52-96, and the fact that the channel's true location has been determined, there has not been a clear misinterpretation of Code sections 52-96 and 56-93.

The upland owner has a right to wharf out to use in a reasonable way, the adjacent waters, which in this case, would seem to be to access the channel. Having to seek a variance to do that which he has a right to do, is inconsistent with the idea that it is a right. The power to grant a variance is also the power to deny, and if the purpose of the ordinance is to allow piers to the navigable channel, there is nothing served by requiring a variance, since the denial would be unlawful.

Therefore, the permit issued for the pier at 270 Spring Line, based on its length, does not appear to have been issued erroneously.

Additionally, because the pier is not a variance from what is allowed by the Code, the Moorings Bay Citizens Advisory Committee would have no authority to review such an application.

(ii). The Citizens Advisory Committee is also concerned with the granting of the same permit, as they contend that the pier is "U" shaped, which is prohibited by Code section 56-93. The Code section requires that piers constructed in the Moorings must be "T" or "L" shaped. Dr. Bauer contends that the pier itself is an "L" shape, but the addition of a catwalk makes it a "U" shape. It is his opinion that this does not violate the city code, because lifts and catwalks are distinct from piers, and it is a pier that must be constructed in an "L" or "U" shape. Additionally, the catwalk cannot be on the outboard side of the lift, and in the case of the Spring Line Drive pier, it is not.

The shape of the pier is a construction issue. The Code distinguishes "pier" from "boat lift," and specifies that *piers* shall be "L" or "T" shaped. Piers are synonymous with docks. The Code also discusses "catwalks", which are presumably distinct from boat lifts or piers. In this case, the pier itself is "L" shaped. While the addition of a catwalk does make the entire structure "U" shaped, this is not what is prohibited by the Code. Therefore, the granting of the permit for the pier at 270 Spring Line Drive was not in error, as the shape of the pier itself is in conformance with the Code.

CC: A. William Moss, City Manager
Honorable Bill Barnett and Naples City Council
David Lykins, Community Services Director
Dr. Michael Bauer, Natural Resources Manager

Sec. 52-96. Moorings Bay system access channel.

(a) The channel dredged around the periphery of the Moorings Bay system in 1991, 20 feet in width, is hereby designated the Moorings Bay access channel. The channel is located 20 feet offshore of the shoreline, where no piers or docks were present at the time of dredging, and 15 feet offshore from any piers or docks that were present at the time of channel dredging. The channel alignment is shown on a series of aerial photographs that can be viewed in the offices of the city clerk.

(b) The designated 20-foot-wide channel shall not be obstructed by construction of piers, docks, mooring piles or similar structures, nor shall it be obstructed by vessels at anchor or moored to any structure, unless such obstruction has been permitted by the city.

(c) Exceptions related to subsection (b) of this section may be granted by the Moorings Bay taxing district advisory committee, upon petition. The petition shall be submitted to the city manager, who will prepare an evaluation for presentation to the Moorings Bay taxing district advisory committee at its next regularly scheduled meeting. The Moorings Bay taxing district advisory committee shall evaluate the petition based upon the uniqueness of the property, determine whether a need is clearly established for encroaching into the designated channel, and determine that the remaining unobstructed channel will be of adequate width to allow passage of vessels using the channel.

(1) No consideration of encroachment into the Moorings Bay system access channel shall be given based upon a statement of need related to the size of the vessel to be moored to the proposed structure.

(2) The petition shall include the names and addresses of the adjacent neighbors and the address of all property owners' associations in whose jurisdiction the petitioner's property is located. The neighbors and property owners' associations will be notified, in writing, at the petitioner's expense, of the variance petition hearing a minimum of 15 days before the date of the advisory committee meeting.

(d) The decision of the Moorings Bay taxing district advisory committee shall be considered final unless a notice of appeal is filed in accordance with subsection (e) of this section.

(e) Notice of appeal to a decision of the Moorings Bay taxing district advisory committee shall be filed by any of the affected parties listed in subsection (c)(2) of this section, within 15 days of the date of the advisory committee meeting. The notice of appeal, the decision of the advisory committee, and a staff analysis and recommendation will be submitted to the city manager for presentation to city council within 15 days of receipt of the notice of appeal. The city manager will place the appeal on the agenda for the next regularly scheduled city council meeting. The appellant and the other affected parties will be notified, in writing, of the date of

the city council meeting.

- (f) The application and fee for processing a variance application under subsection (c) of this section shall be as set forth in appendix A to this Code.

Sec. 56-93. Piers and boat lifts, siting and dimensions.

- (a) *Definitions.* As used in this section:

Boat lift means any mechanical structure capable of lifting or raising a vessel clear of the water, and shall include 1 or more davits, overhead systems that lift vessels using detachable cables or slings, and cantilevered and pile-supported cradle or platform systems.

Pier means any structure, whether floating or fixed in position, to which a vessel can be moored and that affords access to a vessel from the adjacent upland property. For the purpose of this section, "pier" and "dock" are synonymous.

Shore-normal means extending at a right angle, or perpendicular, from the alignment of the shoreline.

- (b) *General standards.* If no specific subdivision standards, as set forth in subsection (c) of this section, are applicable:

- (1) The shore-parallel dimension of a pier shall not exceed the width of the rear yard, less the side yard setback dimensions for the subject zoning district. This restriction on encroachment into each side yard shall apply to both fixed and floating piers and to boat lifts.
- (2) The shore-normal dimension of a pier shall be restricted to a size such that:
 - a. The pier plus the vessel to be moored to the pier does not exceed 25 percent of the width of the waterway adjacent to the subject property; and
 - b. If the pier is to be combined with an outboard or offshore boat lift, the shore-normal dimension of the pier plus the boat lift also shall not exceed 25 percent of the aforementioned waterway width.

- (c) *Standards for specific subdivisions.*

- (1) *Aqualane Shores, including Phillip G. Rust Development, Elliott Subdivision, Marina Shores Replat, and Kluck Subdivision.*
 - a. Side yard setback for piers, boat lifts, and vessels is 7 1/2 feet.

- b. Shore-normal dimension for a pier shall not exceed the smaller of 15 feet or 10 percent of the waterway width, whichever is more restrictive. For a boat lift or a combined pier and boat lift, the dimension shall not exceed the smaller of 25 feet or 25 percent. Freestanding mooring piles or dolphins shall comply with the same offshore dimension restriction as for boat lifts.
- (2) *Golden Shores and Oyster Bay.* The following standards apply to piers, vessels, and boat lifts.
- a. In canals 60 feet or less in width, a pier, moored vessel, and vessel/lift combination cannot exceed 25 percent of the width of the waterway adjacent to the subject property.
 - b. In canals greater than 60 feet in width a 32-foot-wide centerline channel shall be maintained and a pier, moored vessel, and vessel/lift combination cannot exceed 50 percent of the remaining channel width adjacent to the subject property.
- (3) *Coquina Sands and the Moorings.*
- a. Marginal piers may be no more than 8 feet in width. If there is a need to locate a pier further off shore it must be T- or L-shaped, with the deck no wider than 8 feet and the walkway no wider than 6 feet. Mooring piles and boat lifts can be located off shore of piers, but no catwalks can be placed on the outboard sides of the lifts. None of the foregoing shall preclude the construction of a deck area upland of the top of the revetment or seawall cap, provided all other requirements of this section are met.
 - b. Piers, boat lifts, mooring piles, or vessels shall not extend off shore into the Moorings Bay system access channel, as designated in section 52-96. That access channel exists around the entire periphery of the Moorings Bay System, including Coquina Sands, the Moorings, and Park Shore, and lies generally 15 to 20 feet off shore from the shoreline and any piers or mooring piles that were in place at the time of channel dredging. The location of the channel is shown on a series of aerial photographs that can be inspected in the offices of the city. Exceptions to these restrictions may be granted, as described in section 52-96(c). Within the Moorings Subdivision, there are 11 platted lots with shorelines less than 45 feet in length (Unit 2, Block J, Lots 5, 29, 30, 36 and 37, Block Q, Lots 14 and 15, and Unit 7, Block Q, Lots 29, 30, 59, and 61). For those properties, the side yard setback restriction shall not apply.

- (4) *Park Shore, Units 1, 3, and 4.* Piers shall not extend beyond the platted wharf limit line, said line being platted 15 feet off shore from the platted seawall and property line. Pier decks may be no more than 8 feet in width and walkways to them no wider than 6 feet. Piers must be T- or L-shaped. Mooring piles and boat lifts can be located off shore of piers, but no catwalks can be placed on the outboard sides of the lifts.
- (5) *Port Royal.* The pier restrictions for Port Royal are contained in section 58-121, and are part of the regulations for the R1-15A zone. In summary, they establish a 20-foot side yard setback for piers, lifts, piles, vessels on lifts and an 22-foot extension into the waterway from the toe of the revetment for all piers and lifts. If environmental conditions dictate a greater extension, the side yard setback increases 2 feet for every additional foot off shore the structure must extend.
- (6) *Royal Harbor.*
 - a. *All interior canals and waterways.* The shore-normal dimension for a pier shall not exceed the platted property line, said line being 5 feet off shore from the platted seawall line. There shall be no restriction on vessel width or beam.
 - b. *Properties facing Naples Bay and Haldeman Creek.* The exposed location of these properties, and the interactions of the wake-generated waves by reflection off vertical bulkheads, often dictate a shore-normal positioning of piers and boat lifts. Shore-normal dimensions shall be governed by the proximity of the primary and secondary navigation channels, the shore-parallel shoal, and the existing line of construction. Final dimensions shall be agreed upon by the property owner, the Royal Harbor Association, and the city manager.
 - (d) *Grandfathering of structures and vessels.* All piers, boat lifts, mooring piles, and vessels present on the effective date of the ordinance from which this section is derived shall be considered as grandfathered nonconformities, and shall not be required to conform to the various dimension restrictions contained in subsections (b) and (c) of this section. Property owners who believe that their piers, boat lifts, mooring piles, and/or vessels are nonconforming shall have a period of 120 days from the date of adoption of the ordinance from which this section is derived to request an inspection and formal determination from the city manager. If a positive determination is made, a brief description and sketch will be made and placed in the property file for the subject property.
 - (e) *Exceptions.* In consideration of the fact that numerous canals and waterways have undulating, nonparallel shorelines, and dead-end areas where platted lots have minimal

waterfront footage, exceptions to the side yard setback or the shore-normal dimension may be granted, upon approval of the city manager, in consultation with the property owner, the affected neighbors, and the subdivision property owners' association, if applicable. Decisions of the city manager are administrative decisions, and appeals of such decisions shall be pursued as set forth in section 2-84.

(f) *Modifications for persons with disabilities.* To ensure that the above-referenced dimension and location criteria do not create problems for individuals with disabilities, the city manager shall have the ability to modify the criteria upon receipt of a written petition for such a modification. The petition shall describe the extent of modification needed to accommodate the disability.

(Code 1994, § 110-94; Ord. No. 97-7948, § 1, 4-16-1997; Ord. No. 99-8638, § 2, 9-15-1999; Ord. No. 00-8902, §§ 3, 4, 8-16-2000; Ord. No. 01-9068, §§ 1, 2, 1-17-2001; Ord. No. 02-9554, § 1, 3-20-2002)

Bill Moss

From: Lindap9043@aol.com
Sent: Sunday, March 30, 2008 3:31 PM
To: Bill Moss; Mayor Bill Barnett; City Council
Cc: Djfinlay@aol.com; chinesepot@comcast.net
Subject: March 31 Workshop

Dear Mayor, Council and Mr. Moss,

I'll not be able to make the Workshop on Monday but would like to address several items:

Item #6

I met with Robin Singer , Paul Bollenback and Mike Bauer on Friday, the 21st regarding the issues surrounding the pier at 270 Springline Drive. We all agreed that Code 56.93(3)(a) was subject to interpretation and much too subjective. A rewrite via a text amendment was suggested and that perhaps a committee composed of representatives from the HOAs of Moorings, Park Shore and Coquina Sands (all of whom have homes that front on Moorings Bay) plus a representative of the dock builders would be a good beginning. Staff would , of course, execute the final document and bring it before Council. I have attended all of the meetings of the Moorings Bay Taxing District Advisory Board regarding this issue, so feel that I am "grounded" in the issues relative to this particular ordinance.

TO: A. William Moss, City Manager
FROM: Paul Bollenback, Building Official
DATE: February 5, 2008
SUBJECT: B.C.E.G.S. Rating

In November, 2007 Building Department staff presented the results of a Building Code Effectiveness Grading System (B.C.E.G.S.) to Council. This grading by the Insurance Services Organization (I.S.O.) is performed every 5 years and provides needed information to the insurance companies that provide property insurance to building owners within the City. Currently the City has a 3 rating in both residential and commercial properties, based on a 1 thru 10 scale, with 1 being the maximum (best) rating. The lower the B.C.E.G.S. rating enjoyed by a community the lower the overall insurance rate charged by the insurance provider. For practical purposes the B.C.E.G.S. rating is a reflection of the overall ability of the Building Department in performing its job.

During our presentation Council directed staff to explore the cost of having a goal of obtaining a rating of 2 or possibly even a 1. We have investigated this directive in depth and wish to make our findings available to Council.

At present there is only 1 community in Florida that qualifies for a 1 rating, Coral Gables (see attachment #1 and # 2). This city also has a tax rate of 6.150 mills (among Florida's highest) and it must be assumed that this high tax rate helps Coral Gables in achieving such a rating. As such, staff does not support or recommend the goal of achieving a rating of 1. Staff does believe that a rating of 2 is an obtainable goal and can achieve this rating solely through the use of Building Department funds. For the purpose of understanding the amount of "increase" our department must realize in order to qualify for the 2 rating a compilation of the grading system used by I.S.O. follows:

B.C. E. G. S. Rating System

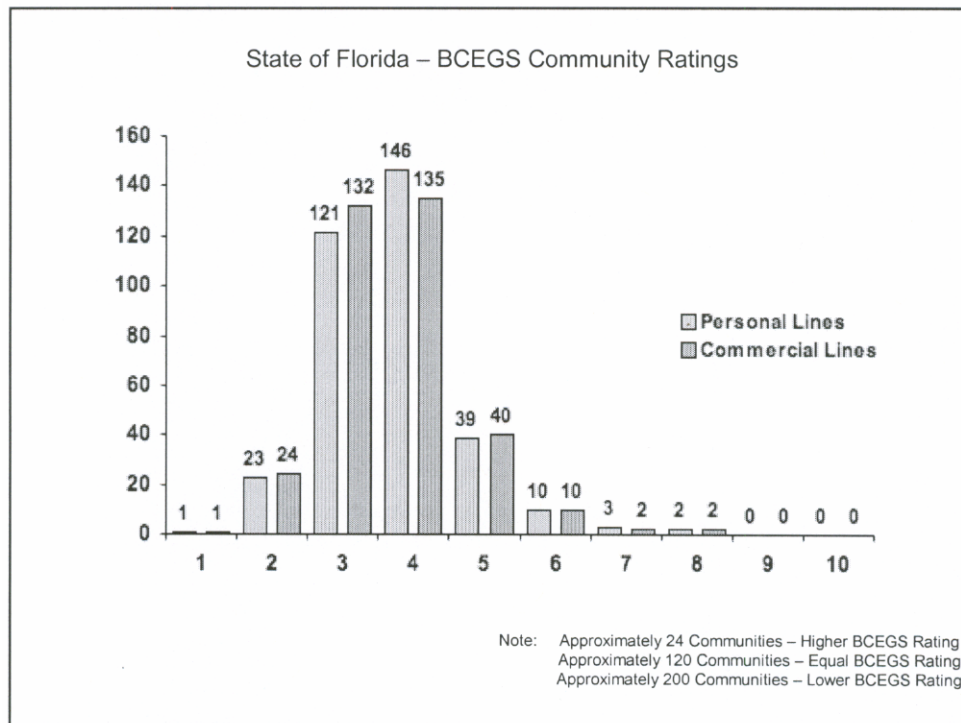
<u>Rating</u>	<u>Point Spread</u>	<u>City of Naples Grade</u>
1	93-100	
2	85-92.99	(Goal/Objective)
3	77-84.99	(80.02 Comm/78.69 Res)
4	65-76.99	

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In discussions with the I.S.O. personnel it was suggested that the City could most easily qualify for a 2 rating by maintaining its overall present effort (as determined by our recent grading) while increasing our budget in the professional training of our department staff. In order to qualify for the maximum number of points allowable under training (see attachment #2 and #3) the department would need to allocate 2% of its total annual budget to training. In recent years we have budgeted approximately \$17,000 annually for department training but would need to increase this amount by approximately 3 times our recent historical amount.

It must be remembered that the I.S.O. grading only occurs every 5 years. We will next be graded in 2012. This makes a lower B.C.E.G.S. rating a long-term goal. Also important is the fact that such an effort will not benefit existing building owners. The rating issued to a building is based upon the rating in effect at the time the Certificate of Occupancy is issued. Should the City set a goal of a rating of 2 on the B.C.E.G.S. and achieve it, buildings constructed and C.O.'d prior to that time, will not realize the benefit of lower insurance costs. It will only affect new buildings.

In conclusion, it appears that the decision to obtain a rating of 2 in the B.C.E.G.S is primarily a budget decision that can be realized if it is supported via policy decisions that result in sufficient professional training funds being available long term.



Below is a partial list of communities in Florida that have the highest grades (1-2) as of February 2007.

Community Name	County Name	Class	Survey Year
Coral Gables*	Miami-Dade	01	2000
Altamonte Springs	Seminole	02	2004
Clermont	Lake	02	2002
Gomez	Martin	02	2001
Indian Shores	Pinellas	02	2005
Jupiter	Palm Beach	02	2003
Sanibel	Lee	02	2002
Sunrise	Broward	02	2004
Winter Park	Orange	02	2005

*Coral Gables is the only community in the State of Florida with a 1 rating.

**There are 35 communities in the State of Florida with a 2 rating.

**Jurisdiction: City of Naples
Survey Date: 4/28/06
BCEGS Points Analysis**

	2006 – Commercial	2006 – Residential	Maximum Points Possible
Section I – Admin. Codes	38.87	38.87	
105 – Adopted Building Codes	8	8	8
108 – Additional Adopted Codes	3.35	3.35	4
110 – Modification to Adopted Codes	4	4	4
112 – Method of Adoption	0	0	1
115 – Training	4.59	4.59	13
120 – Certification	10.83	10.83	12
125 – Building Official's Qualifications	2.75	2.75	4
130 – Selection Procedure for Building Official	.25	.25	.5
135 – Design Professionals	0	0	2.0
140 – Zoning Provisions	1	1	1
145 – Contractor/Builder Licensing & Bonding	.9	9	1
150 – Designer Licensing Violation Reporting	0	0	.5
155 – Public Awareness Programs	2.5	2.5	2.5
160 – Participation in Code Dev. Activities	.5	5	.5
165 – Admin. Policies & Procedures	.2	2	.5

**Jurisdiction: City of Naples
Survey Date: 4/28/06
BCEGS Points Analysis continued**

	2006 – Commercial	2006 – Residential	Maximum Points Possible
Section II – Plan Review	22.27	22.27	
205 – Existing Staffing	9	9	9
210 – Experience of Personnel	1.02	1.02	1.5
215 – Detail of Plan Review	11.5	11.5	11.5
220 – Performance Evaluation for Quality	.75	.75	1
Section III – Field Inspection	18.88	17.55	
305 – Existing Staffing	7.47	6.14	9
310 – Experience of Personnel	2.41	2.41	3
315 – Manage Inspection & Re-Inspection Activity	1	1	1
325 – Special Instructions	0	0	2
330 – Inspections for Natural Hazard Mitigation	1.5	1.5	1.5
335 – Final Inspections	2.5	2.5	2.5
340 – Certificate of Occupancy	2	2	2
345 – Performance Evaluation for Quality Assurance	1	1	1
Final Score	80.02	78.68	100

TO: A. William Moss, City Manager
FROM: Bob Middleton, Acting Public Works Director *Robert Middleton*
DATE: March 28, 2008
SUBJECT: Exploratory ASR Well – Water Quality Park – Workshop Item to be Added

The City received an Alternative Water Supply (AWS) Grant agreement from the South Florida Water Management District (SFWMD) to construct an Exploratory ASR well on Broad Avenue. This grant will provide half the construction cost up to \$500,000. City Staff has not acted on this agreement because the results of a prior exploratory well suggests that the geology at this location may not be conducive to storage of water. Areas more inland and north of Golden Gate Parkway may be a better location for ASR technology.

The City has been in discussions with Collier County Transportation to participate in a joint ASR project at the Water Quality Park. The County has received an FDEP permit to install an ASR well at this location but they have no funding for construction. The City has \$1.2 million budgeted under CIP 07M37 for ASR well design and construction along with the \$500,000 AWS grant money but does not have a permit to construct. The Big Cypress Basin is anxious for the City to begin an ASR project. If we are not able to proceed, the grant money will be directed to other projects in the County. With City Council consensus, staff will work with County staff to prepare a Joint Project Agreement for the City to pay for the construction cost of an Exploratory ASR well at the Water Quality Park under the County's FDEP permit.

The City has an agreement with Rowe Drilling, the contractor that installed the exploratory ASR well at the wastewater treatment plant. It may be possible to amend this contract to allow Rowe Drilling to install a well at the Water Quality Park. If this is not acceptable, City Staff can rebid the job based on the existing bid specifications. City staff could have a construction agreement back to City Council possibly before the summer break.

The City would benefit from this joint project by having an unrestricted source of water to supplement the irrigation system. Source water from this well would initially be stormwater and water from the Golden Gate Canal. The data collected from this well would provide information to proceed with planning additional ASR wells north of Golden Gate Parkway.

RECOMMENDATION:

City Staff recommends that City Council direct City staff to work with County staff to bring back a Joint Project Agreement for approval of the Collier County Commission and the City Council. City staff will bring back an amendment to the Rowe Drill construct or bid the construction services for an exploratory ASR to be located at the Water Quality Park.

SUPPLEMENT

TO: A. William Moss, City Manager
FROM: Paul Bollenback, Building Official
DATE: March 26, 2008
SUBJECT: Stormwater Ordinance 07-11807 Update

On December 17, 2007, Council approved a new stormwater ordinance. This ordinance was considered to be innovative in design standards and established a very high level of stormwater management, especially for single-family residences.

At the time this ordinance was passed, Council directed the Building Department to closely monitor the implementation and progression of this new requirement. They further directed staff to report back to Council with an update on observations and findings within five (5) to six (6) months after implementation.

The Building Department has reviewed in excess of forty (40) new single-family home permit applications since the effective date of the ordinance. After informal discussion with our site drainage plans examiner, building contractors and a small number of engineers, the following observations can be made:

1. Approximately 50% of new stormwater designs fail to meet the requirements of the ordinance and are rejected for redesign. This results in a delayed permit.
2. Of the 50% that fail, about 10% fail to redesign correctly after the first rejection and receive a second reject letter. This results in a delayed permit.
3. Select design engineers appear to be mastering the requirements of this ordinance. A small number of engineers have informed us that they will not become involved in designing systems to our standards.

Our stormwater design engineer regularly consults with and assists design engineers in understanding this ordinance. Within a few months, our stormwater consultant, TetraTech will complete a Best Management Practices handbook which we believe will be helpful in assisting design professionals in meeting our requirements. This handbook will be available on-line.

Staff will continue to monitor stormwater designs in the field and we are anxious to monitor the results of these new designs once the expected heavy summer rains occur. At the conclusion of the rainy season, staff will provide a final update to Council.