



City Council Chamber
735 Eighth Street South
Naples, Florida 34102

City Council Regular Meeting – April 16, 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
Victor Morales, Chief of Police & Fire Department
Denise Perez, Human Resources Director
Joe Boscaglia, Parks & Parkways Superintendent
Robert Middleton, Acting Public Works Director
Adam Benigni, Planner
Michael Bauer, Natural Resources Manager
Jessica Rosenberg, Deputy City Clerk
Robin Singer, Planning Director
Erica Goodwin, Planner
Ron Wallace, Construction Mgmt Director
Baht Yameem Weiss
Dan Rodriguez

Joe Biasella
John Passidomo
Claude Reeder
Gloria Kovacs
Cormac Giblin
Donna Krall
Patrick White
Donald Pickworth
Summer Houglin
Lou Vlasho
Amber Crooks
James Siedel
Stefan Boruz

Media:

Jenna Buzzacco, Naples Daily News

Other interested citizens and visitors

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

Rabbi Baht Yameem Weiss, Temple Shalom.

ANNOUNCEMENTSITEM 3

Mayor Barnett presented the following proclamations:

- Red Hat Day –April 25;
- National Public Safety Telecommunicators Week – April13 through 19; and

- Employee Service Awards were also presented and a list of the recipients is contained in the file for this meeting in the City Clerk's Office.

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

MOTION by Taylor to ***SET THE AGENDA*** removing ***Item 7-b (Bayfront Boat Show)*** from the Consent Agenda for separate discussion; withdrawing ***Item 7-a (Design Review Board/DRB appointment)***; and adding ***Item 16-d(3) (Fifth Avenue South Action Committee/FASAC appointment)***, ***Item 17 (representation by the City Attorney on proposed annexation)***, ***Item 18 (amended schedule for Eighth Street and Sixth Avenue South parking garage)***, and ***Item 19 (expression to Collier County with reference to Clam Bay Management Plan)***. This motion was 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).

PUBLIC COMMENT.....ITEM 5

(9:38 a.m.) **Joe Biasella, Naples**, welcomed the newly-appointed Council Members but took issue with the recently established three minute limit for public speakers. He also was critical of the handling of the recent issue involving the nesting of Cooper's hawks on the parking garage site (Eighth Street and Sixth Avenue South) and noted what he characterized as unclean conditions at Crayton Cove due to large deposits of bird droppings. Mr. Biasella also said that a home and dock in the Crayton Cove area which had suffered severe fire damage had not yet been demolished. **Amber Crooks, representing the Conservancy of Southwest Florida**, noted her organization's concurrence with Natural Resources Manager Michael Bauer's recommendation to, at a minimum, await the fledging of the Cooper's hawk nestlings prior to the City moving forward with the construction of the aforementioned parking garage. While this species is not endangered, she said, it is considered uncommon in Florida and is protected by the Migratory Bird Treaty Act. **Gloria Kovacs, 677 Banyan Boulevard**, stated her ongoing interest in a regular, as opposed to an alternate, seat on the Planning Advisory Board (PAB). **John Passidomo, representing Senior Care Development, LLC**, sought clarification following Council's discussion of the proposed annexation of a 22-acre site located at Golden Gate Parkway and Goodlette-Frank Road. He explained that, following the April 14 City Council workshop discussion of necessary Comprehensive Plan amendments, it should be noted that the petitioner in this case would not wish to move forward with annexation prior to land use approvals, the documentation of which had been requested by Council during the March 17 review of this matter. He said this order of submittal had in fact occurred in the past.

In response to Mayor Barnett, City Manager William Moss clarified that it had been Council's direction that a proposed Comprehensive Plan amendment dealing with this project had not been approved for inclusion in the Evaluation and Appraisal Report (EAR) discussed at that week's workshop. Council Member Price explained that his concern had been with the aforementioned Comprehensive Plan amendment process which would have gone forward prior to the City's formal consideration of annexing this particular parcel. However, he said that the process proposed does nevertheless have precedent, and Council would retain final approval authority of any annexation or land use rezoning petitions. Council Member Sorey agreed, pointing out that during review of the annexation policy, certain elements should be included such as utilization of the subject property with regard to intensity, density, height and scale of any proposed development.

Council Member Sulick however expressed concern with increased density, but City Manager Moss explained that although the site is currently zoned multi-family, the proposed continuing care retirement community (CCRC) is unique in that uses would exist which are not found in any current City zoning districts. Uses would include the multi-family facilities but also assisted living and clinic facilities, along with additional services provided for the convenience of residents. Planning Director Robin Singer said that the proposed development would be compact and a more efficient use of the property. She further clarified for Council Member Sulick that a “PD” Planned Development designation does not exist as a land use category; therefore, it is necessary to undertake a Comprehensive Plan amendment. However, with the creation of a land use category, it could be applicable to other assisted living facilities. She also provided Mrs. Sulick with a brief review of the process to be followed for adoption of a land use amendment which would, Ms. Singer noted, allow for ample public input. Council Member Price indicated that the process under discussion was similar to that applied to Ruffina (later a portion of Naples Bay Resort). Council Member Willkomm however agreed with concern expressed previously by Council Member Sulick that the site under discussion was currently not within the boundaries of the City. Director Singer nevertheless pointed out that should all petitions regarding this project be accepted for consideration, plans for the proposed CCRC facility would come before Council prior to final annexation approval. Attorney Passidomo further clarified for Mrs. Sulick that every annexation requires an amendment to the Comprehensive Plan, that the zoning for Moorings Park (north of the site in question on Goodlette-Frank Road) is for high-rise, high-density development while the proposed project would generate approximately 25% of the traffic impact of residential use; he also pointed out that the current Collier County zoning on the parcel is commercial.

Consensus to allow petitions to move forward as proposed / 5-2 (Willkomm and Sulick dissenting).

CONSENT AGENDA

APPROVAL OF MINUTESITEM 7-a
March 17, 2008 Workshop (as amended) and March 19, 2008 Regular Meeting, as submitted.

RESOLUTION 08-12021.....ITEM 7-c
A RESOLUTION ACCEPTING A GRANT FROM THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT FOR THE DESIGN AND CONSTRUCTION OF A STORMWATER FILTER MARSH AT THE CITY’S RIVERSIDE CIRCLE CAMPUS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.
Title not read.

RESOLUTION 08-12022.....ITEM 7-d(1)
A RESOLUTION APPROVING AN AGREEMENT FOR PURCHASE AND SALE OF GOODS BETWEEN THE CITY OF NAPLES AND COAST PUMP WATER TECHNOLOGIES FOR THE PURCHASE OF SUBMERSIBLE WELL WATER PUMP MOTORS; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT FOR PURCHASE AND SALE OF GOODS; AND PROVIDING AN EFFECTIVE DATE.
Title not read.

RESOLUTION 08-12023.....ITEM 7-d(2)
A RESOLUTION APPROVING AN AGREEMENT FOR PURCHASE AND SALE OF GOODS BETWEEN THE CITY OF NAPLES AND HUDSON PUMP & EQUIPMENT FOR THE PURCHASE OF SUBMERSIBLE WELL WATER PUMPS; AUTHORIZING

THE CITY MANAGER TO EXECUTE THE AGREEMENT FOR PURCHASE AND SALE OF GOODS; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 08-12024ITEM 7-e
A RESOLUTION REPEALING RESOLUTION 03-10178; APPROVING A NEW EMPLOYEE PERSONAL COMPUTER PURCHASE PLAN; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 08-12025.....ITEM 7-f
A RESOLUTION REPEALING RESOLUTION 05-10729; APPROVING A NEW EMPLOYEE STORM PROTECTION PURCHASE PLAN; AND PROVIDING AN EFFECTIVE DATE. Title not read.

***MOTION** by Sorey to **APPROVE CONSENT AGENDA except Item 7-b;**
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

SPECIAL EVENTITEM 7-b
BAYFRONT BOAT SHOW – MARINE INDUSTRIES ASSOCIATION OF COLLIER COUNTY – BAYFRONT – 05/15/08, 05/16/08, 05/17/08 AND 05/18/08. Council Member Sorey explained his request for separate discussion of this item had been due to the inclusion of a four to five member band performing for a total of eight hours on Saturday and six hours on Sunday. He noted that while he supports this special event and the live entertainment, he could not support the extent of the hours proposed. Summer Houglin appeared on behalf of the petitioner, and agreed to various amendments which were reviewed during discussion which followed.

***MOTION** by Price to **APPROVE THIS EVENT** with the following
amendments: live entertainment Saturday (05/17/08) and Sunday (05/18/08)
from 12:00 p.m. to 4:00 p.m. Police officers on duty shall have noise meter
available for use and Bayfront residents shall be notified of event by its sponsor.*

It is noted for the record that during a brief discussion of Item 7-c above, City Manager William Moss clarified for Council Member Heitmann that the subject filter marsh is included within the Community Services Department's Capital Improvement Program (CIP). Mrs. Heitmann described her concern as having been with priorities of stormwater projects and that the grant being accepted would require a match by the City. Mr. Moss explained that the project had been approved in the CIP and would therefore go forward regardless of the grant unless Council withdrew its approval. Natural Resources Manager Michael Bauer further explained that while the larger Broad Avenue South linear water quality park was much larger and therefore deemed a CIP construction project, the smaller one under discussion will have an impact on water quality and wildlife habitat and therefore fell under the jurisdiction of Natural Resources. Dr. Bauer stated that he had worked with the South Florida Water Management District (SFWMD) in the grant application process and had championed this project from its beginning. Mrs. Heitmann thanked staff for its explanation and the meeting proceeded per the agenda.

It is noted for the record that Vice Mayor Taylor left the meeting at 10:25 a.m. and returned at 10:42 a.m. following consideration of Items 8 and 9 below.

ORDINANCE (First Reading).....ITEM 8
AN ORDINANCE PERTAINING TO THE R1-15A RESIDENCE DISTRICT;
AMENDING SECTIONS 58-116(2), 58-116(4), 58-116(5)(b), 58-118 AND 58-122(e) OF

THE CODE OF ORDINANCES, CITY OF NAPLES, IN ORDER TO INCORPORATE CURRENT REQUIREMENTS OF THE PORT ROYAL DEED RESTRICTIONS GOVERNING HEIGHT MEASUREMENT, SIDE YARD ENCROACHMENTS AND RIPRAP RETAINING WALLS; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (10:25 a.m.). Planner Adam Benigni noted the March 12 recommendation for approval by the Planning Advisory Board (PAB) and the motion below was proffered. Prior to the vote, however, Mr. Benigni clarified for Council Member Price that the ordinance provides a means for homes west of Gordon Drive in the above referenced zoning district to be built in accordance with the intent of a maximum height of 30 feet by providing options from where a measurement is made.

Public Comment: (10:29 a.m.) None.

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

ORDINANCE (First Reading).....ITEM 9
AN ORDINANCE PERTAINING TO THE R1-10A RESIDENCE DISTRICT; AMENDING SUBSECTIONS (1) AND (4) OF SECTION 58-206, SECTION 58-207(1), SECTION 58-209, AND ADDING SECTION 58-211 TO THE CODE OF ORDINANCES, CITY OF NAPLES, IN ORDER TO INCORPORATE CURRENT REQUIREMENTS OF THE PARK SHORE DEED RESTRICTIONS GOVERNING FRONT YARD SETBACKS, MINIMUM FLOOR AREA, OFF-STREET PARKING, AND FENCES; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (10:29 a.m.). Planner Adam Benigni noted the recommendation for approval by the Planning Advisory Board (PAB); Mr. Benigni responded to Council Member Price to the effect that the minimum front yard 40-foot requirement for lots on Crayton Road and Park Shore Drive had been a long-standing deed restriction and had been adhered to when homes were constructed.

Public Comment: (10:31 a.m.) **Cormac Giblin, 770 Fountainhead Lane**, waived comment.

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

RESOLUTION 08-12026 (Denied – see motion below).....ITEM 10
A RESOLUTION DETERMINING VARIANCE PETITION 08-V3 FROM SECTION 50-35(a)(2) OF THE CODE OF ORDINANCES, CITY OF NAPLES, WHICH REQUIRES POLE SIGNS TO HAVE A FRONT SETBACK OF 10 FEET AND BE A MINIMUM OF 50 FEET FROM AN INTERSECTION IN ORDER TO USE A NONCONFORMING POLE WITH A FRONT SETBACK OF 7.6 FEET AND 9 FEET AWAY FROM AN INTERSECTION, FOR PROPERTY LOCATED AT 3770 9TH STREET NORTH, MORE FULLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (10:31 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: Sulick, Price and Heitmann/visited the site but no contact; Willkomm and Barnett/familiar with the site but no contact; Sorey/visited the site and spoke with petitioner's agent; and Taylor/familiar with the site but no contact. (It is noted for the record that Vice Mayor Taylor's disclosure occurred

after she returned to the meeting at 10:42 a.m.) Planning Director Robin Singer explained that the existing sign is non-conforming and that another location on the property would accommodate a sign; therefore, staff recommended denial. The Planning Advisory Board (PAB) had however indicated approval by a 3-2 vote. The petitioner was represented by Consultant Claude Reeder, Site Enhancement Services, who provided information and photographs depicting the placement of the sign per Code requirements. (It is noted for the record that the aforementioned material is contained in the file for this meeting in the City Clerk's Office.) He further cited undue hardship in this instance since existing landscaping would obscure the sign from potential patrons traveling on US 41 if it were moved from its present location.

Council Member Willkomm said that he could not support this petition and pointed out the desirability of the City's overall lack of signage. Council Member Sorey stated that he favored monument signs, but Mr. Reeder explained that southbound traffic, especially with the median landscaping, would be unable to see the sign. Mr. Sorey however pointed out that even the current signage could not be seen by southbound traffic; he then confirmed with Director Singer that signage would in fact be allowed on the storefront, but Mr. Reeder maintained that trees would also obscure this signage from the street.

It is noted for the record that Vice Mayor Taylor returned to the meeting at 10:42 a.m.

In response to Council Member Price, Mr. Reeder pointed out that if the current sign were moved to within setback requirements, it would be placed within a stormwater retention area. Mr. Price however explained that he did not believe the subject variance had met the criteria for approval.

Public Comment: (10:44 a.m.) None.

MOTION by Willkomm to APPROVE RESOLUTION 08-12026 DENYING THIS VARIANCE based upon a failure to meet standards as contained in Section 46-37(c)(2). This motion was seconded by Sorey and unanimously carried, all members present and voting (Sorey-yes, Price-yes, Heitmann-yes, Willkomm-yes, Taylor-yes, Sulick-yes, Barnett-yes).

Following the vote, City Attorney Pritt reviewed for the petitioner's agent the process available for appealing the above decision.

Recess: 10:45 a.m. to 10:55 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 10:56 a.m.

RESOLUTION (Continued – see motion below)ITEM 11
A RESOLUTION DETERMINING PRELIMINARY AND FINAL PLAT APPROVAL FOR RYAN SUBDIVISION IN ORDER TO REPLAT FOUR EXISTING PARCELS INTO SIX LOTS, SAID PROPERTY BEING LOCATED AT 2255 MARINA DRIVE AND 820 JAMAICA LANE, ALL LOCATED IN THE R1-10 ZONING DISTRICT, MORE FULLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (10:56 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: Price and Sorey/visited the site and spoke with the petitioner's agent; Willkomm, and Sulick/familiar with the site and spoke with the petitioner's agent; and Barnett, Taylor and Heitmann/familiar with the site but no contact. Planner Adam Benigni offered a brief overview of the above petition, noting that the proposed lots exceed minimum requirements of the R1-10 zoning district with

regard to size and that the two waterfront parcels would be flag lots allowing ingress and egress; the Planning Advisory Board (PAB) and staff recommend approval, he said. (It is noted for the record that documents referred to during consideration of this item are contained in the file for this meeting in the City Clerk's Office.)

Attorney Patrick White, agent for the petitioner, noted an addendum to the description of the subdivision and further explained that should the flag lot configuration be denied, smaller, more numerous lots would result and thereby increase the amount of impervious surface impacting the City's stormwater infrastructure. While acknowledging a recently adopted prohibition of flag lots, the configuration under consideration follows the petitioner's goal to avoid contributing to an over-intensification of the Aqualane Shores neighborhood. Mr. White further pointed out that each parcel must accommodate its own stormwater management and utilities, and also provide a private pathway system for pedestrians within the enclave. With regard to fire protection access, an April 10 memorandum by Traffic Engineer George Archibald was noted as confirming that these issues would be analyzed further during the individual building plan review by the Fire Marshall. Council Member Sorey then confirmed a prior contact with Mr. White to the effect that the above referenced pedestrian pathways would be private, with no connection to public sidewalks, and that docks may be considered in the future.

Council Member Price however urged that fire safety access be addressed during the current approval phase rather than during the permitting process. Planner Benigni, however, noted that Mr. Archibald's findings were that the turning radius for the fire trucks had been met within the subdivision platting. Should fire hydrants be needed in the future in conjunction with placement of the future homes or boat docks, the petitioner would be responsible for providing additional fire hydrants to account for a differing fire fighting radius; however, no comments had been received from the Fire Marshall in this regard, Planner Benigni added.

Discussion followed regarding the replat of the subdivision during which continued concern with emergency vehicular traffic access was noted by various Council Members. Mr. Benigni read into the record Mr. Archibald's above referenced memorandum (Attachment 1); however, Council Member Price stated that this item should have also been reviewed by the Fire Marshall prior to Council's consideration.

Public Comment: (11:29 a.m.) None.

MOTION by Taylor to CONTINUE THIS RESOLUTION to May 7, 2008, subject to provision of Fire Marshall's report; 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).

(Added Item).....ITEM 17

DISCUSSION / ACTION REGARDING REPRESENTATION BY THE CITY ATTORNEY (ROETZEL & ANDRESS) ON PROPOSED ANNEXATION OF A CONTINUING CARE RETIREMENT COMMUNITY (CCRC).

City Attorney Robert Pritt explained that due to a representational conflict within his firm, he could not participate in negotiations regarding this particular annexation but that a partner in his firm, Attorney Donald Pickworth, could do so should Council approve the necessary waiver. Furthermore, if Council agreed, he would continue to advise regarding annexation issues in general and also handle any negotiations with Collier County regarding an interlocal service boundary agreement (ISBA).

Public Comment: (11:40 a.m.) None.

MOTION by Sorey to APPROVE REPRESENTATION BY THE CITY ATTORNEY ON POSSIBLE ANNEXATION OF A 22-ACRE PARCEL ON WHICH A PROPOSED CONTINUING CARE RETIREMENT COMMUNITY (CCRC) WOULD RESIDE; SHOULD NEGOTIATIONS WITH PETITIONER BECOME NECESSARY, ATTORNEY DONALD PICKWORTH WOULD REPRESENT THE CITY. *This motion was seconded by Taylor and unanimously carried, all members present and voting (Price-yes, Heitmann-yes, Taylor-yes, Willkomm-yes, Sorey-yes, Sulick-yes, Barnett-yes).*

RESOLUTION 08-12027.....ITEM 12
A RESOLUTION (RESPONDING RESOLUTION) OF THE CITY COUNCIL, CITY OF NAPLES, PURSUANT TO PART II OF CHAPTER 171, FLORIDA STATUTES (FLORIDA’S INTERLOCAL SERVICE BOUNDARY ACT) IN RESPONSE TO A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA TO COMMENCE THE PROCESS FOR NEGOTIATING AN INTERLOCAL SERVICE BOUNDARY AGREEMENT REGARDING 22.04 ACRES OF LAND, MORE OR LESS, LOCATED ON THE SOUTH SIDE OF GOLDEN GATE PARKWAY IMMEDIATELY WEST OF AND ADJACENT TO THE GORDON RIVER, PROPOSED TO BE ANNEXED INTO THE CITY OF NAPLES; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (11:32 a.m.). In response to Vice Mayor Taylor, Mr. Pritt explained that the interlocal service boundary agreement (ISBA) had been designed to ascertain provision of services, and to what level of service, following annexation of a property, therefore the proposed development, not vacant property, would be considered. Council Member Sorey questioned the benefit of such negotiations due to the cost, that the negotiation is not mandatory and therefore moved to not enter into negotiations with Collier County in this regard; Mayor Barnett seconded.

In response to the above motion, City Attorney Pritt briefly summarized that Part II, Chapter 171.201, Florida Statutes, contains language reflecting this as an alternate to Part I regarding annexation but as with Hole-in-the-Wall, he does not consider such negotiation as mandatory. Council Member Sorey added that should the decision to decline be challenged by the County, further clarification from the state in this regard would be forthcoming.

Public Comment: (11:40 a.m.) None.

MOTION by Sorey to APPROVE RESOLUTION 08-12027 DECLINING REQUEST BY COLLIER COUNTY TO NEGOTIATE AN INTERLOCAL SERVICE BOUNDARY AGREEMENT (ISBA). *This motion was seconded by Barnett and carried 6-1, all members present and voting (Willkomm-yes, Price-yes, Taylor-yes, Sorey-yes, Sulick-yes, Heitmann-no, Barnett-yes).*

During the above vote, Council Member Heitmann attributed her negative vote to concern regarding possible litigation resulting from denying the County’s requested negotiations.

EXECUTIVE SESSION.....ITEM 6
(11:41 a.m.) Mayor Barnett advised that Council would enter into an executive session pertaining to BOARD OF TRUSTEES NORTH NAPLES FIRE CONTROL DISTRICT v BOARD OF TRUSTEES CITY OF NAPLES FIREFIGHTERS PENSION FUND AND CITY OF NAPLES, COLLIER COUNTY CIRCUIT COURT, CASE NO. 03-491-CA.

Executive Session: 11:43 a.m. to 12:00 p.m. It is noted for the record that the same Council Members were present when the meeting reconvened except Mayor Barnett and Council Member Price who left at 11:58 a.m.

(12:00 p.m.) No action was taken.

Recess: 12:00 p.m. to 1:00 p.m. It is noted for the record that all Council Members were present when the meeting reconvened except Council Members Price and Sulick who returned at 1:03 p.m. and 1:07 p.m. respectively.

ORDINANCE (First Reading).....ITEM 13
AN ORDINANCE ESTABLISHING A RECYCLING PROGRAM FOR NON-RESIDENTIAL PROPERTY IN THE CITY OF NAPLES; ADDING A NEW SECTION 32-40 PROVIDING FOR: TITLE AND CITATION; INTENT AND PURPOSE; CONSTRUCTION AND INTERPRETATION; DEFINITIONS; DESIGNATION OF RECYCLABLE MATERIALS; MINIMUM STANDARDS FOR RECYCLING ON NON-RESIDENTIAL PROPERTY; EXEMPTIONS FROM RECYCLING STANDARDS; EXTRAORDINARY AND INNOVATIVE RECYCLING; AWARDS PROGRAM; RECYCLING EDUCATION AND PROMOTION PROGRAM; EVALUATION OF PROGRAM; RECYCLING SERVICE AGREEMENTS; STANDARDS FOR RECYCLING CONTRACTORS; SELF-HAULING; CITY RECYCLING CENTER; OTHER EXCEPTIONS; INSPECTIONS, ENFORCEMENT, AND PENALTIES; CITY MANAGER TO ADMINISTER; PROVIDING FOR SEVERABILITY; REPEAL OF CONFLICTING ORDINANCES; INCLUSION IN THE CITY’S CODE OF LAWS AND ORDINANCES; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (1:00 p.m.). City Manager William Moss explained that this ordinance would not only reduce the solid waste stream but it would preserve valuable landfill space and natural resources. He further noted support from the Naples Area Chamber of Commerce and pointed out that Collier County had experienced success with similar recycling legislation. Council Member Sorey moved approval and Vice Mayor Taylor seconded.

In further discussion, Vice Mayor Taylor said that she fully supports the ordinance based on her experience as a tenant of a building which had been utilized by the City to test its recycling collection system. Council Member Heitmann, who noted that she too had allowed her commercial property to be a test case, said that she had however received no feedback from tenants to date. Mrs. Heitmann further said that she nevertheless supports the ordinance. Mr. Moss pointed out that the ordinance allows flexibility both in implementation and dealing with those who would be mandated to comply. Acting Public Works Director Robert Middleton pointed out that existing commercial trash containers would be monitored to ascertain whether they were continued to be used for recyclables. Council Member Heitmann received clarification with reference to Sections 32-40(b)(2) and (3) to the effect that a handbook would be provided that would also contain names of companies with outstanding recycling histories as an additional incentive. Mrs. Heitmann requested that Council be provided with ongoing reports regarding implementation of the program, including community feedback; Mayor Barnett suggested this information be included within the City Manager’s monthly report and Council agreed. Mr. Middleton added that staff would be meeting with commercial property owners on a regular basis and information could be gleaned at that time.

In response to Council Member Heitmann, Mr. Moss explained that should adoption of this ordinance cause revenues to decline within the Solid Waste Division, operating expenses would be reviewed; Council Member Sorey added that the frequency of pick-ups should also be reconsidered.

Public Comment: (1:08 p.m.) None.

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

Following the above vote, Vice Mayor Taylor stated that in some seasonal communities, homeowners notify the local jurisdiction to suspend refuse collection while they are away and that rebates are granted. Mayor Barnett noted that in such communities, private companies may be providing service which would then make such arrangements possible. Director Middleton agreed, pointing out that if this were offered in the City, it may be necessary to redeploy staff to maintain sufficient levels of personnel to accommodate peak season demands. Council Member Sulick suggested that a review of horticultural refuse service also be undertaken since she believed that most landscaping companies themselves haul debris away. As an alternative, she suggested that a system be implemented similar to the collection of large household goods wherein residents contact the City when a pick-up is desired. Mr. Middleton agreed to discuss this option with the contractor providing this service.

ORDINANCE 08-12028.....ITEM 14
AN ORDINANCE RELATING TO RATES FOR RECLAIMED, REUSE, OR IRRIGATION WATER; AMENDING SECTION 30-2, DEFINITIONS, OF THE CODE OF ORDINANCES, CITY OF NAPLES, FOR THE PURPOSE OF AMENDING THE DEFINITION OF RECLAIMED WATER TO INCLUDE IRRIGATION WATER; AMENDING SECTION 30-259(1), RECLAIMED/IRRIGATION WATER RATES OF APPENDIX “A”, FEES AND CHARGES SCHEDULE IN ORDER TO REFLECT THE CURRENT RATES AND DELETING THE EXCEPTION FROM THE RATE SCHEDULE FOR BULK RECLAIMED WATER CUSTOMERS WITH RECLAIMED WATER AGREEMENTS; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (1:12 p.m.) City Manager William Moss reviewed his memorandum regarding this item (Attachment 2).

Public Comment: (1:14 p.m.) **Stefan Boruz, 950 Nelson’s Walk**, questioned the advisability of residential customers in fact subsidizing golf courses which, as bulk users, are granted a lower rate. Therefore, he suggested that the current bulk rates be extended to all users until all issues are resolved in this regard. He also cautioned that a provision should be included within the aforementioned contract allowing the City the option of cancelling service. In response to Council Member Willkomm, City Manager Moss indicated that the rate would be further discussed by Council following summer recess; Mr. Moss also referenced supplemental information (Attachment 3). Mr. Willkomm suggested a flat rate based on usage be discussed at that time. Council Member Price agreed, also questioning the possibility of considering the cancellation provision referred to by the above member of the public. Mr. Moss explained that the ordinance before the Council in fact does not alter rates; it merely reaffirms the current rate when the bulk user contracts expire and clarifies the language regarding bulk rate contracts. Further analysis would take place prior to the fall discussion, he added.

City Manager Moss then pointed out that the intent is to draft a contract acceptable to all, and City Attorney Pritt stated that the contract terminates after five years thereby allowing the golf courses to plan with regard to irrigation water availability. (It is noted for the record that a copy of the aforementioned contract is contained in the file for this meeting in the City Clerk's Office.) Council Member Price said that this had prompted a concern that there would be no clause in the contract to allow the City to cease providing reuse/reclaimed water in quantity to the golf courses. City Attorney Pritt also pointed out that the contract would allow users to cancel should an annual rate increase involve a percentage greater than a 10% cap contained therein.

City Manager Moss further stressed that Council had not had sufficient time to properly review the draft golf course contract provided and therefore suggested that discussion be scheduled during the next workshop. Council Member Heitmann agreed, saying that should the City wish to instead route the water to residential users, this would not be possible under the current contract; therefore further discussion is warranted. In further response to Mrs. Heitmann, Mr. Moss clarified that the golf course rate would default to the bulk user fee should the current contracts expire. Mr. Pritt noted that the quantity of water that must be accepted by the golf courses would expire along with the contracts, which provision is mandated by the South Florida Water Management District (SFWMD).

In response to Vice Mayor Taylor, Acting Public Works Director Robert Middleton confirmed that the only amendments currently being proposed in the draft golf course contract is the inclusion of the five year term with no automatic renewal, and denoting the amount of water that the golf courses must accept. Mr. Moss added that no rates are contained within the ordinance under consideration, that this would be reflected in the future irrigation rate ordinance to be decided by Council and the bulk users would be required to adhere to whatever rate is decided upon.

Council Member Sorey stated that he believed that the ordinance under consideration should go forward so as to allow the golf courses to default to the bulk user rate as their contracts expire. Following meeting with golf course representatives, he said, staff should discuss the contract further with Council; he noted that the golf courses should be afforded whatever means is necessary to ensure their capability of accepting the mandated volume of reclaimed/reuse water from the City. Mr. Sorey therefore moved approval and Mayor Barnett seconded.

Council Member Sulick then called attention to the fact that water was becoming an important and costly resource, that once quality issues are addressed, residential demand would increase substantially; therefore, she urged continuation of both the ordinance and the contract until further research is accomplished with regard to all issues. City Manager Moss pointed out that the golf courses are mandated by the Florida Department of Environmental Protection (FDEP) to have entered into a contract of some type with regard to reclaimed/reuse water for irrigation.

Council Member Heitmann also noted that regardless of a low rate for reclaimed/reuse water, golf courses had also found it necessary to take steps to mitigate the quality of the water received which represented an additional cost. She further said that while these users agree that a rate increase is necessary, the process undertaken by the City to date had been unacceptable to them;

therefore, she stressed that further discussion with golf course management is necessary. In response to Mrs. Heitmann, Director Middleton confirmed that all but two of the courses are allowed, through SFWMD permitting, to store water in on-site lakes.

Noting a possible loss of revenue, Council Member Willkomm expressed support for the proposed ordinance but also urged serious consideration of a flat rate of \$.53 per 1,000 gallons, based upon usage.

In response to Vice Mayor Taylor, Director Middleton provided a brief overview of the inception of the expanded reclaimed water system, along with applicable FDEP mandates.

Council Member Price recommended that no decision be made without additional information, predicting that the changes contained therein would prove to be substantial over time. Additional discussion ensued regarding possible extension of the existing contracts and the need to await the June presentation of the water study. City Attorney Pritt cautioned that, if delayed, a dispute may arise over the cost of water already delivered as the existing contracts expire. Council Member Heitmann again expressed concern regarding the process for the amending of the golf course contract and what she characterized as a lack of communication with golf course representatives.

Following confirmation that the above ordinance, not a golf course contract, was being considered, the motion below was forthcoming. In response to Council Member Willkomm, City Manager Moss confirmed that following the June review of the aforementioned study, rates would be further addressed in the fall.

MOTION by Sorey to ADOPT ORDINANCE 08-12028 as submitted; seconded by Barnett and carried 4-3, all members present and voting (Willkomm-yes, Heitmann-no, Price-no, Sorey-yes, Sulick-no, Taylor-yes, Barnett-yes).

Council Member Sulick suggested that clarification be provided to the golf courses regarding the above action, namely, that no final rate had been acted upon. In response to City Manager Moss, Council indicated that staff should meet with golf course representatives to discuss the above referenced contract and then provide Council with their input. Mrs. Sulick also asserted that the contract was in need of review by Council and further explanation by staff. City Attorney Pritt explained that when drafting the contract, he had used language from the existing document as well as the format of a contract between Collier County and a local golf course obtained through the FDEP; in addition, contracts of other municipalities had also been reviewed.

RESOLUTION 08-12029.....ITEM 15

A RESOLUTION RANKING THE TOP THREE FIRMS, IN ORDER OF PREFERENCE, TO PROVIDE PROFESSIONAL ENGINEERING SERVICES RELATED TO THE CONSTRUCTION OF A STORMWATER FILTER MARSH AT THE CITY'S RIVERSIDE CIRCLE CAMPUS; AUTHORIZING THE CITY MANAGER TO NEGOTIATE A CONTRACT WITH THE TOP-RANKED FIRM; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (2:11 p.m.) who indicated the firms, in order of ranking, are as follows: MACTEC, Kimley Horn & Associates, and RWA Consulting; Council Member Sorey moved approval and Vice Mayor Taylor seconded. In response to Council Member Price, Natural Resources Manager Michael Bauer noted that the cost estimate for the engineering portion of the filter marsh under consideration was \$50,000, as

indicated in the Capital Improvement Program (CIP), and that \$250,000 was indicated for actual construction in the coming year. In addition to an existing \$50,000 grant, Council Member Sorey added that further grant funding should be forthcoming from the Big Cypress Basin Board in the upcoming budget cycle, hopefully in the amount of \$125,000. Dr. Bauer pointed out that staff was currently pursuing a Clean Water Act (Section 319) grant, from the Department of Environmental Protection (DEP) and confirmed for Council Member Price that he deemed the above referenced \$50,000 to be reasonable for engineering of such a project.

Public Comment: (2:13 p.m.) None.

MOTION by Sorey to **APPROVE RESOLUTION 08-12029** as submitted; seconded by Taylor and unanimously carried, all members present and voting (Price-yes, Heitmann-yes, Taylor-yes, Willkomm-yes, Sorey-yes, Sulick-yes, Barnett-yes).

(Withdrawn – see Item 4 above).....ITEM 16-a
A RESOLUTION APPOINTING ONE MEMBER TO THE DESIGN REVIEW BOARD FOR A THREE-YEAR TERM COMMENCING JUNE 1, 2008, AND EXPIRING MAY 31, 2011; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 08-12030.....ITEM 16-b(1)
A RESOLUTION APPOINTING ONE MEMBER TO THE PLANNING ADVISORY BOARD FOR THE BALANCE OF A THREE-YEAR TERM EXPIRING APRIL 30, 2009; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (2:14 p.m.). Council Member Willkomm nominated Dorothy Hirsch and Council Member Sorey nominated Gloria Kovacs. Following a statement from Mr. Pritt indicating that candidates should be considered in the order of nomination, the following action was forthcoming.

Public Comment: (2:14 p.m.) None.

MOTION by Willkomm to **APPROVE RESOLUTION 08-12030 APPOINTING DOROTHY HIRSCH TO THE PLANNING ADVISORY BOARD (PAB).** This motion carried 4-3, all members present and voting (Taylor-yes, Heitmann-yes, Willkomm-yes, Sorey-no, Price-no, Sulick-yes, Barnett-no).

Mayor Barnett noted that while he supports the above decision, Ms. Kovacs, who is currently occupying an alternate position, should have been appointed as a full member. Vice Mayor Taylor however said that she disagreed due to her belief that Ms. Hirsch demonstrated more planning experience than Ms. Kovacs.

RESOLUTION 08-12031.....ITEM 16-c
A RESOLUTION APPOINTING ONE MEMBER TO MOORINGS BAY CITIZENS ADVISORY COMMITTEE FOR A THREE-YEAR TERM COMMENCING ON APRIL 16, 2008, AND EXPIRING APRIL 15, 2011; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (2:16 p.m.).

Public Comment: (2:16 p.m.) None.

MOTION by Sorey to **APPROVE RESOLUTION 08-12031 APPOINTING HAROLD ZINK TO THE MOORINGS BAY CITIZENS ADVISORY COMMITTEE.** This motion was unanimously carried, all members present and voting (Price-yes, Heitmann-yes, Taylor-yes, Willkomm-yes, Sorey-yes, Sulick-yes, Barnett-yes).

RESOLUTION 08-12032.....ITEM 16-d(1)

A RESOLUTION APPOINTING ONE MEMBER TO THE FIFTH AVENUE SOUTH ACTION COMMITTEE FOR A THREE-YEAR TERM COMMENCING JUNE 1, 2008, AND EXPIRING MAY 31, 2011; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (2:17 p.m.). Council Member Willkomm expressed concern with the candidacy of Karen Caco due to absenteeism, explaining that it was his understanding that she had missed three consecutive meetings. Deputy City Clerk Jessica Rosenberg noted that she had spoken recently with Ms. Caco who had indicated that she would commit to attending future meeting with regularity. Mr. Willkomm said that if the problem should continue, however, he would bring the issue to Council for its consideration, he then nominated Ms. Caco.

Public Comment: (2:18 p.m.) None.

MOTION by Willkomm to APPROVE RESOLUTION 08-12032 APPOINTING KAREN CACO TO THE FIFTH AVENUE SOUTH ACTION COMMITTEE (FASAC). *This motion was unanimously carried, all members present and voting (Price-yes, Heitmann-yes, Taylor-yes, Willkomm-yes, Sorey-yes, Sulick-yes, Barnett-yes).*

RESOLUTION 08-12033.....ITEM 16-d(2)

A RESOLUTION APPOINTING AN ARCHITECT TO THE FIFTH AVENUE SOUTH ACTION COMMITTEE FOR A THREE-YEAR TERM COMMENCING ON JUNE 1, 2008, AND EXPIRING MAY 31, 2011; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (2:18 p.m.).

Public Comment: (2:18 p.m.) None.

MOTION by Willkomm to APPROVE RESOLUTION 08-12033 APPOINTING CARL ERICKSON TO THE FIFTH AVENUE SOUTH ACTION COMMITTEE (FASAC). *This motion was unanimously carried, all members present and voting (Price-yes, Heitmann-yes, Taylor-yes, Willkomm-yes, Sorey-yes, Sulick-yes, Barnett-yes).*

Vice Mayor Taylor noted that when Council had established the position of City Historian, no term limitation had been discussed and the following consensus was forthcoming.

Consensus to examine possibility of assigning a term limit to the position of City Historian.

RESOLUTION 08-12034.....ITEM 16-d(3)

A RESOLUTION APPOINTING ONE MEMBER TO THE FIFTH AVENUE SOUTH ACTION COMMITTEE FOR THE BALANCE OF A TERM CONCLUDING MAY 31, 2008; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (2:20 p.m.).

Public Comment: (2:20 p.m.) None.

MOTION by Barnett to APPROVE RESOLUTION 08-12034 APPOINTING CHARLENE GREENBLATT TO THE FIFTH AVENUE SOUTH ACTION COMMITTEE (FASAC). *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 18

DISCUSSION OF AMENDED SCHEDULE FOR NEW PARKING GARAGE (EIGHTH STREET AND SIXTH AVENUE SOUTH) DUE TO PRESENCE OF COOPER’S HAWK NESTING SITE. City Manager William Moss provided a brief overview of the work

completed to date as contained in his memorandum of April 16 (Attachment 4). Noting the need for a two to three week period for test concrete piles to cure, he said that based on the assumption that the nestlings would fledge and the parents abandon the nest during the first week in June, the contractor has rescheduled the start date for actual construction to the second week in June. Furthermore, he said, the original date for substantial completion of the project, December 29, had been extended to January 26, 2009, in that the structure would be operational as intended. In response to Vice Mayor Taylor, Construction Management Director Ron Wallace, confirmed that the past three parking garages built in Collier County by the contractor selected by the City (Kraft Construction) had been completed on time; in fact, of those, one had been finished six weeks ahead of schedule. He also stated that the parking garage would be open for use on the above referenced completion date and that landscaping and exterior site improvements would also be substantially completed.

Public Comment: (2:26 p.m.) **Joe Biasella, Naples**, stated that he believed that the test pilings should not have been put in place but delayed until the hawks had abandoned the nest. Council Member Sorey noted that John Ogden, ornithologist with the Audubon Society of Florida, had however opined that a limited risk would be involved and that the City Manager had been showing responsibility with the decision to move forward with the testing. Council Member Sulick however expressed concern with the loss of 119 spaces in the current lot, pointing out that the timeline now carries over into heavy seasonal use and the demand represented by special events, especially those involving street closures; therefore, she said, such events should either be strictly limited or perhaps banned altogether. Mr. Sorey suggested that special event petitioners should be required to provide alternate parking plans; however Mrs. Sulick stressed that in any instance, no streets should be closed. City Manager Moss pointed out that discussion of special event issues had been scheduled for the May 19 workshop, but recommended that the matter be moved ahead to the May 5 workshop; Council agreed. Mr. Biasella concluded his comments by observing that members of the public no longer address Council because they feel unwelcome.

Consensus to review at the May 5, 2008, Workshop any street closures proposed on Fifth Avenue or Eighth Street South during construction of the parking garage at Eighth and Sixth.

(Added Item – see Item 4 above)**ITEM 19**
DISCUSSION OF EXPRESSION TO COLLIER COUNTY COMMISSION WITH REFERENCE TO CLAM BAY MANAGEMENT PLAN (PELICAN BAY SERVICES DIVISION). Council Member Sorey read into the record his April 16 letter to be addressed to the Board of County Commissioners (BCC) (Attachment 5). He recommended that the Pelican Bay Services Division not be granted another ten-year permit for the management of Clam Bay. He noted that Natural Resources Manager Michael Bauer had also provided a memorandum on the subject (Attachment 6) concurring with this position. Mr. Sorey therefore requested that Dr. Bauer be allowed to present his personal letter to the BCC; however Vice Mayor Taylor objected. During additional discussion, Mr. Sorey indicated that he would ask another individual to read his letter into the record. Vice Mayor Taylor noted her conversation with the Chair of the BCC who indicated that a time certain for the above referenced consideration would be scheduled.

Consensus that City staff attend but not present Council Member Sorey's letter to Board of County Commissioners regarding opposition to this plan.

PUBLIC COMMENT.....

(2:39 p.m.) **Joe Biasella, Naples**, expressed concern with regard to the Crayton Cove mooring field in that past direction had not been followed, namely, that the Mayor, City Manager and City Attorney were to have travelled to Tallahassee regarding the Temporary Use Agreement (TUA) and that he believed this had not been done.

CORRESPONDENCE AND COMMUNICATIONS.....

(2:43 p.m.) Vice Mayor Taylor noted a past request by Council Member Heitmann for a review of the Community Redevelopment Agency (CRA) budget, and City Manager William Moss stated that a presentation would be forthcoming during the May 5 workshop. Council Member Sulick pointed out that directional signs to Venetian Village are located in the medians along Harbour Drive and Park Shore Drive, and questioned whether staff had authorized this; Council Member Price said that he had brought this issue forward to Council previously and that the signs in question had been removed. She also questioned the allowing of signage for business liquidations to remain for months at a time, suggesting that this practice be monitored and the sign ordinance be enforced. City Attorney Robert Pritt gave a brief overview of legislation regulating such practices and the consensus below was forthcoming.

Consensus that Council consider an ordinance regulating business liquidation signage.

Council Member Willkomm then expressed interest in the drafting of a Charter amendment addressing Section 2.4 so as to define the term absent as meaning outside the limits of Collier County; he requested inclusion on this proposal on the November general election ballot. Mr. Willkomm clarified for Mr. Price that the Vice Mayor assumes responsibilities when the Mayor is absent with regard to direction of the City Manager, but no definition exists with regard to what constitutes an absence. Mr. Willkomm further noted that although it had subsequently come to light that four Council Members had indicated that the test piling procedure for the parking garage on Eighth Street and Sixth Avenue South should not go forward due to nesting of Cooper's hawks in the vicinity, the City Manager, following his most recent Council direction, had gone forward. Council Member Heitmann stated that while she has the utmost confidence in Mayor Barnett's decision-making, future mayors may not be so strongly supported, therefore, she said she was concerned that special Council meetings should be called when prior Council decisions may be required to be overridden. City Attorney Pritt clarified that the Mayor's power to make decisions occurs only when Council is not in session, except in the case of an emergency such as a major storm event. Council requested that clarification regarding the convening of special meetings be added to the discussion noted below, as well as discussion of a chain of command in the event of an emergency. Mr. Pritt also noted the existence of emergency management plans from the state level and local applicability, suggesting that new Council Members review the City's emergency plan. Vice Mayor Taylor requested discussion of possible attendance by Council Members via telecommunications; City Attorney Pritt however noted a clarification provided by the Florida Attorney General to the effect that this should be allowed only in special circumstances. City Clerk Tara Norman noted that she would provide follow-up information regarding placing a local issue on the ballot.

City Attorney Pritt also provided a brief review of the procedure regarding the convening of a special meeting by the Mayor or a majority of Council, provided due notice, reasonable under the circumstances, is given. In response to Council Member Price, Mr. Pritt confirmed that it would not be considered in violation of the Sunshine Law (Chapter 286, Florida Statutes) if a

City Council Regular Meeting – April 16, 2008 – 9:00 a.m.

majority of Council Members had contacted the City Manager, individually, requesting a special meeting, that the meeting could then be scheduled and noticed to the public.

Consensus for possible Charter amendment of Section 2.4 regarding definition of the term absent to be included on the May 5 workshop agenda, as well as various other topics noted above.

Mayor Barnett expressed the view that the present Council had become divisive and encouraged Council Members to show decorum with regard to their comments to staff.

ADJOURN
3:22 p.m.

Bill Barnett, Mayor

Tara A. Norman, City Clerk

Minutes prepared by:

Vicki L. Smith, Technical Writing Specialist

Minutes Approved: 05/21/08

TO: Adam Benigni
FROM: George Archibald
DATE: April 10, 2008
SUBJECT: Ryan Plat—Utility Plan Review for Fire Protection

In response to the inquiry from Patrick White subject as above, the issue of fire protection for properties within the existing plat is addressed in the utility plans prepared by the land owner's engineer. The plans show the existing water main along the east side of Marina Drive, proposed water service extensions and the existing fire hydrant centered along the street frontage of the plat. The location of the existing fire hydrant and the proposed easements provide for an average spacing radius of less than 250 feet to the lots (Note: this conforms with the average spacing criteria per Uniform Fire Code of 500 feet). At the time of actual building design and building placement, final determinations will be made for fire protection as part of the Fire Marshall's plan review. Should an additional hydrant be required at the time of re-development due to building placement, building size, dock facilities or related improvements, the property owner(s) will remain responsible for water main extension and hydrant installation as set forth in Sec. 54-67 of the Code (Note: Marina Drive is currently served by two hydrants, one at 21st Avenue/Marina Drive and one at the south end of the street, centered on the properties being platted; this spacing is approximately 500 feet).

There are additional issues involving fire access and utilities that will need to be analyzed during the individual building plan review phases. These are typically 'building' issues and are not anticipated to affect the platting of the lots.

Upon review of the above, don't hesitate to call for additional information.

GFA

MEETING OF APRIL 16, 2008 - AGENDA ITEM 14
APPROVED AT FIRST READING ON APRIL 2, 2008

SUBMITTED BY CITY MANAGER A. WILLIAM MOSS 

RECOMMENDATION: Consider adoption of an ordinance on Second Reading to update the reclaimed water rates.

AUTHORIZATION: City of Naples Charter, Article 1, Section 1.4 - Powers of city.

BACKGROUND: On December 5, 2007, the City Council adopted Ordinance #07-11859 that increased the water and sewer rates based on a rate study prepared by the City's rate consultants, but deferred consideration of a rate increase for reclaimed water.

A Notice of Public Hearing on a proposed rate increase (to \$1.50 per 1,000 gallons) for reclaimed water was scheduled for April 2, 2008.

During the City Council Workshop of March 31, 2008, City staff recommended that an increase for reclaimed (irrigation) water be deferred pending further analysis of the irrigation and related alternate water supply strategy.

City Council held the advertised public hearing, accepted staff's recommendation, and adopted an ordinance on first reading to reflect the current reclaimed rate following the Annual Rate Adjustment by Index since the rate was last revised. The current applicable rates for reclaimed water are:

| | |
|----------------------------|-------------------------|
| General Service | \$0.80 per 1000 gallons |
| Governmental/Institutional | \$0.35 per 1000 gallons |
| Bulk Users | \$0.32 per 1000 gallons |

The proposed ordinance amends the following language in section 30-259(1), reclaimed water rates of appendix "a": *The above rates do not apply to any bulk customers that have a bulk reclaimed water customer agreement.* This language is not necessary since the nine (9) bulk agreements (golf courses) expire in 2008 and 2009. The rates in the Agreements will prevail until expiration of the Agreements. The bulk rates for those users after the contracts expire will be \$0.32 per 1000 gallons or the applicable rate schedule as may be adopted by City Council.

FISCAL IMPACT/FUNDING SOURCE: No immediate change to revenues and expenditures. As Irrigation Water customers connect, revenues will decline pending a revised rate analysis later this year.

TO: A. William Moss, City Manager
FROM: Bob Middleton, Acting Public Works Director *Robert Middleton*
DATE: April 7, 2008
SUBJECT: Irrigation Water Rate and Comparison – Item 14

During the regular City Council meeting on April 2, 2008, Mr. Willkomm asked staff to determine the irrigation rate if all the rate classes were the same. Our rate consultant has determined that the rate would be \$0.53 per 1000 gallons.

Mr. Willkomm also requested a comparison of irrigation water rates of local utilities. The following information is provided:

| | Residential Base | Residential Rate | Bulk Rate |
|----------------------|---------------------|------------------|-----------|
| City of Naples | - | \$0.80 | \$0.32 |
| Collier County | \$5.00/ERU | \$0.75 | \$0.30 |
| Lee County | - | - | \$0.43 |
| City of Ft. Myers | - | - | \$0.73 |
| City of Marco Island | - | \$1.38 | \$1.03 |

Collier County is the only utility that has a base charge on a residential meter service. Lee County and Ft Myers do not have residential rates only bulk rates.

MEETING OF APRIL 16, 2008 – ITEM TO BE ADDED

SUBMITTED BY CITY MANAGER A. WILLIAM MOSS 7

RECOMMENDATION:

Review construction schedule for parking garage.

BACKGROUND:

On March 19, 2008, City Council awarded a contract to Kraft Construction Company, Inc. in the amount of \$7.4 million for a new parking garage at 8th Street South and 6th Avenue South. The contractor mobilized on or about April 1st to install a test pile. The equipment for the test pile was set up on April 7th. The test pile auger work was conducted on April 8th and the subcontractor concluded demobilization on April 9th.

The attached memorandum from HJ Foundation explains the test pile specification and procedure.

In order to determine whether the piles, as designed, have suitable bearing capacity, the test pile must be "loaded" after the concrete has cured (2-3 weeks). A frame is placed over the concrete pile for the 260 ton compression test. Mobilization and demobilization will take approximately two days. While the auger work activity for the test pile was not excessively noisy (see decibel readings), the compression test should be even less intrusive.


Currently the contractors are preparing shop drawings to be provided to the architect and structural engineer. Upon approval, the contractor will order the fabricated precast sections and start delivering to the site.

The next phase of on-site work following the preconstruction test pile is site preparation. City staff believes the site preparation work raises the risk of disturbing the nesting Cooper's Hawks, a species protected by the Migratory Bird Treaty Act. Therefore, staff has asked the contractor to defer site preparation work until June 9th or such time as the hawks have left the nest.

As shown in the attached preliminary construction schedule, substantial completion of the project is anticipated on January 26, 2009.

This subject matter is presented to City Council for discussion.

**TO: HONORABLE MEMBERS OF THE BOARD OF
COUNTY COMMISSIONERS**

FROM: JOHN F. SOREY, III 

DATE: APRIL 16, 2008

RE: CLAM BAY MANAGEMENT PLAN

For the record, I am John Sorey, 220 Gulf Shore Boulevard North, Naples, FL, and these comments are from me individually and I am not representing Naples City Council or the Coastal Advisory Committee.

Thank you for allowing this statement to be read into the record.

The Pelican Bay Services Division is requesting to have Pelican Bay Services Division prepare, sign and submit the Clam Bay Management Plan to the Federal and State Agencies.

I endorse the position taken in the staff document from Mr. Gary Mc Alpin – Coastal Zone Management and Ms. Colleen Green – County Attorney's Office dated April 14, 2008.

It is essential that we view the Clam Bay waterway as a whole versus the two elements of mangroves and stormwater. I congratulate the Pelican Bay Services Division on the progress they have made in these areas, but it is time to move to a more inclusive status.

Since the lower portion of Clam Bay is within the City of Naples, the City and its citizens must be involved in this restoration. With this request comes both a funding and involvement responsibility. Based on my discussion with a number of citizens in this area, it appears they are committed to do their part in this effort.

I have had the honor to be a part of the broad based work group considering Clam Bay. At one point we had an agreement with the Pelican Bay Services Division to extend the existing permit for one year and allow the work groups to address the nine items identified that required analysis and recommendations. Unfortunately this decision was changed to make an immediate request for a new ten year permit. It would appear that this is not the appropriate action based on the facts that have been determined.

Please support the Staff's recommendation and do not allow the Pelican Bay Services Division to go forward on the permit renewal.

Thank you for the opportunity to provide these comments.

TO: Mr. A. William Moss, City Manager
THROUGH: Mr. Dave Lykins, Community Services Director
FROM: Dr. Mike Bauer, Natural Resources Manager
DATE: April 15, 2008
SUBJECT: Clam Bay Estuary

The Clam Bay estuary is an ecosystem stretching from Vanderbilt Road in the north to the Venetian Bay/Moorings Bay system in the south. Prior to development, the bay was part of a contiguous body of water that stretched from south of Doctors Pass to Estero Bay in Lee County. Over time, the wetland has been dissected by roads and residential development. The current Clam Bay estuary is mostly within the confines of Pelican Bay; however, the southern edge of Outer Clam Bay is within the City limits. The City's Sea Gate and Naples Cay neighborhoods, along with a linear buffer parcel of property owned by the city, all have shorelines along that bay.

For the last 10 years, the Pelican Bay Services Division (PBSD), an arm of Collier County government with residents of Pelican Bay serving on its board, has held a permit from the Florida Department of Environmental Protection (DEP) that has primarily addressed the restoration of damaged mangroves in the northern part of the system. During that time period, the PBSD has successfully restored the condition of those mangroves and managed Clam Pass. However, during that time period, a sea grass in outer Clam Bay (shoal grass) declined. The County brought in an expert, Dr. Dave Tomasko (PBS&J) to assess the condition of Outer Clam Bay. Dr. Tomasko reported that sea grasses were present in relatively fair numbers; however, it was a different species of sea grass (paddle grass). He found no shoal grass. A year and a half ago, Katie Laakonen and I snorkeled Outer Clam Bay and found a few sprigs of shoal grass in only one small location.

Dr. Tomasko further reported that Outer Clam Bay was incurring impacts to its water quality from the City of Naples to the south. However, that conclusion resulted from a mathematical model that was based solely on development features of the land (impervious surfaces), not on any water quality data whatsoever.

The existing permit held by the PBSD will expire in July 2008. Collier County is interested in establishing a new permit that will address the management of the entire Clam Bay system and address not only mangroves, but also water quality, seagrasses, and the Pass. This concept has met with resistance from Pelican Bay residents who wish to obtain another 10 year pass addressing the management of mangroves.

The county's current strategy is to request a 1 year extension from DEP which will allow it time to create a new management plan for the entire ecosystem. This would be done with input from all relevant stakeholders, including the City. At the end of a year, with a well-defined plan in hand, the County will seek a new 10 year permit. Later this month, the PBSD will be requesting the Collier County Board of County Commissioners to move forward on their request for a new permit primarily addressing mangroves.

I would suggest and recommend with your support that the City's strategy should consist of working on the management plan in conjunction with Collier County and providing input in terms of water quality improvements, sea grasses, oysters and other habitat restoration efforts in Outer Clam Bay.