



City Council Chamber
735 Eighth Street South
Naples, Florida 34102

City Council Workshop Meeting – December 15, 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 (arrived 8:29 a.m.)
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
Roger Reinke, Assistant City Manager
Michael Bauer, Natural Resources Manager
Ron Wallace, Streets & Stormwater Director
Paul Bollenback, Building Services Director
Katie Laakkonen, Environmental Specialist
Roger Jacobsen, Code Enforcement Officer
Gregg Strakaluse, Engineering Manager
Monique Krist, Admin. Coord. Natural Resources
Ann Marie Ricardi, Finance Director
Robert Middleton, Utilities Director
Russell Adams, CRA Executive Director
Richard Tindell

Doug Finlay
Ann Shortelle
Charlene Stroehlen
Erik Makus
Richard Tindell
Lisa Koehler
Lou Vlasho
Gloria Kovacs
Ron Steedman
Albert Katz
Andrew McElwaine

Media:

Ilene Stackel, Naples Daily News
Eric Staats, Naples Daily News
Other interested citizens and visitors.

SET AGENDA.....ITEM 2

MOTION by Taylor to ***SET THE AGENDA*** as submitted; seconded by Price and carried 6-0 (Heitmann-absent, Price-yes, Sorey-yes, Sulick-yes, Taylor-yes, Willkomm-yes, Barnett-yes).

It is noted for the record that Council Member Heitmann arrived at 8:29 a.m.

PUBLIC COMMENT.....ITEM 3

None.

.....**ITEM 4**
RIVERSIDE FILTER MARSH – REVIEW OF PLANS AND SPECIFICATIONS FOR A
STORMWATER FILTER MARSH ON RIVERSIDE CIRCLE. GRANT FUNDING
WILL ALLOW CONSTRUCTION OF THE FILTER MARSH TO IMPROVE THE
QUALITY OF STORMWATER DISCHARGE TO THE GORDON RIVER. BRIEF
OVERVIEW OF PROPOSED CONSERVANCY FILTER MARSH.

City Manager William Moss explained that a brief overview of two filter marshes would be provided regarding the City's Riverside Circle filter marsh, which is currently in the design phase, and a project proposed by the Conservancy of Southwest Florida. (It is noted for the record that a printed copy of both electronic presentations is contained in the file for this meeting in the City Clerk's Office.) With regard to the City's project, Natural Resources Manager Michael Bauer explained that a significant improvement in the quality of runoff into Naples Bay is anticipated with implementation of a filter marsh which would receive water from a major stormwater pipe which now empties directly into the Gordon River. The estimated maximum cost of \$545,000 includes \$80,000 for engineering, design, permitting and construction management, and \$250,000 to \$465,000 for actual construction. Funding is to be provided as follows:

- \$125,000 grant from South Florida Water Management District (SFWMD);
- \$180,000 grant from Florida Department of Environmental Protection (FDEP) 319 funds (Clean Water Act);
- \$40,000 allocated in the fiscal year 2007-08 CIP; and
- \$200,000 allocated in the fiscal year 2008-09 CIP.

Dr. Bauer then stressed the importance of various stormwater filtration areas, including the City's, that are expected to work together: Collier County's 50-acre Freedom Park which begins operation in June, the future Gordon River Greenway Park to be located west of the municipal airport, and the aforementioned Conservancy filter marsh, which will be just north of the City's installation.

Streets & Stormwater Director Ron Wallace explained that Basin V drains primarily into a ditch along the east side of Goodlette-Frank Road, but becomes increasingly restricted as it enters the Conservancy property. This creates a headwater situation which in turn becomes a tailwater situation for the City's stormwater system. The proposed Conservancy project would widen the drainage ditch to at least 35 feet, with a weir system for use during times of low rainfall as well as installation of a large water treatment area (filter marsh). Although the acre-feet of treatment capacity was yet unknown, he said, water quality credits would be applied for by the City when undergoing permitting for Basin V improvements. Additionally, a stormwater educational kiosk is to be constructed on the site which would benefit the City in meeting its NPDES permit requirements with regard to public outreach and educational programs, Mr. Wallace said. (*National Pollutant Discharge Elimination System requires all point sources discharging into waters of the United States to obtain a permit.*) Total cost for the project is estimated at \$600,000 with \$300,000 in grant funding currently available, leaving a \$300,000 deficit. The City currently has \$1.25-million budgeted for Basin V improvements, he indicated, with \$750,000 earmarked for Hole-in-the-Wall should Council decide to move forward with that proposal, \$100,000 for improvements around Naples High School, and the remainder of major planned projects are still in the design stage and not expected to be permitted within the current fiscal year. In response to Vice Mayor Taylor, Mr. Wallace confirmed that should the City not partner with the Conservancy, it would be difficult to obtain the aforementioned water quality

credits, pointing out that Naples Bay is considered impaired. Council Member Sorey, while indicating support for the project, said that with the installation of a box culvert on the northern edge of the Conservancy property and the widened ditch, the flow of freshwater into the Gordon River, and therefore into Naples Bay, would be increased and therefore this flow must be determined. Council Member Willkomm questioned the rationale of the City funding such improvements to private property and City Manager Moss explained that a majority of the project would in fact involve public property contained within rights-of-way or easements and that a drainage easement could be obtained for areas not lying in either of these conveyances.

In response to Council Member Sulick, Mr. Wallace explained that the Conservancy project would be needed because the above referenced Freedom Park would treat a mere six acre-feet of stormwater, although he said that he did not know whether the County had been approached to financially participate. Council Member Sorey cautioned that should Collier County provide funding, it would request water quality credits and that a cost of \$300,000 may reflect a nominal cost for credits the City sorely needs. Mr. Wallace indicated that the number of credits needed for Basin V improvements would be determined and provided by January.

Andrew McElwaine, representing the Conservancy, said that the drainage ditch in question predates both the Conservancy and the Big Cypress Nature Center which existed at least 35 years ago. This was prior to concerns regarding Naples Bay pollution, especially from drainage of the Coastland Mall parking lot which is routed directly into the ditch. Should construction of the project not begin by the summer of 2009, the grant funding noted above would be returned to the federal government, Mr. McElwaine explained, but also noted that permitting is nearly completed. Vice Mayor Taylor commended Mr. McElwaine for the Conservancy's effort and securing of the federal grant.

City Manager Moss clarified for Council Member Heitmann that City funding had been set aside for Basin V drainage improvements and that this project had however come to light following the budget cycle. Nevertheless, no projects were being postponed merely to allow this project to be funded, should Council decide to approve such financial support, Mr. Moss said.

Ann Shortelle, Water Quality Restoration Specialist with Mactec, the City's consultant for its filter marsh, reviewed the criteria regarding the Clean Water Act and Total Maximum Daily Loads (TMDL's) for the Gordon River and Naples Bay (Attachment 1) as well as stormwater quality data (Attachment 2), noting project goals for the Riverside Circle filter marsh as follows:

- Redirecting presently untreated water exiting the stormwater pump station to a created freshwater treatment marsh;
- Improving regional water quality in the Gordon River and Naples Bay through a reduction in the net pollution load;
- Creating wetland wildlife habitat for wading birds, amphibians, and mammals; and
- Creating an interpretative trail to be connected with the Gordon River Greenway system.

Mactec Engineer Charlene Stroehlen provided details of the existing site noting that the project would be 1,150 feet in length and 80 feet wide, located immediately south and west of the L-shaped mangrove stand and wetlands bordering the Gordon River at the Riverside Circle location. Existing swales, culverts and stormwater pump stations direct runoff from 226 acres of uplands into the Gordon River at this point, she said. Dr. Stroehlen also provided further

construction details of the proposed project wherein she noted that water would remain in the treatment area 2.5 hours prior to entering the waterway. Dr. Shortelle resumed the presentation by explaining that the number of water quality credits awarded is based upon the removal efficiencies for each element of the project, the aforementioned retention time for treatment and nutrient load reductions per storm event as well as annually (Attachment 3). She indicated that the additional filtering of the water through the mangroves would improve the final quality of the flow entering the Gordon River and had not been factored into the data noted in Attachment 3.

Dr. Shortelle further indicated that hydrologic modeling and water quality analysis should be completed by January, and that the number of water quality credits would be provided at that time. There is a February timeline for the completion of construction drawings and technical specification, as well as submittal of permit applications; construction should begin sometime in June and be completed by December, she said.

Public Comment: (9:13 a.m.) **Doug Finlay, 3430 Gulf Shore Boulevard**, expressed support of filter marshes but cautioned that septic tank usage to the north and the south of the Conservancy property contributed to the high fecal coliform count found in the water samples. Council Member Heitmann agreed with Mr. Finlay's suggestion that the homes to the south of the Conservancy connect to the City's sewer system as is the case with the Naples Zoo (formerly Jungle Larry's Caribbean Gardens) to the north. Dr. Shortelle confirmed for Mrs. Heitmann that the filter marsh would address the fecal coliform concern somewhat, but pointed out that dissolved oxygen (DO) from nutrient pollution (primarily nitrogen) remained the greatest threat to water quality in the Gordon River. Dr. Bauer added that the high fecal coliform data had been collected just south of the septic use area further north, that the data for the subject area had revealed lower levels of this particular pollutant but also higher levels of suspended solids and copper. Council Member Sorey noted that the septic use area does not in fact drain into this particular stormwater drainage outflow and stressed the importance of the June commencement date thereby encumbering any SFWMD grant funding.

City Manager Moss said that he believed the inclusion of the above referenced trail connection to the Gordon River Greenway to be questionable and cautioned that the diversion of monies from other stormwater projects for this feature might not be wise at that time; nevertheless, he said he supported the stormwater features. The trail should be presented as a separate item to compete with other projects impacted by the City's economic crisis, he added. In response to Council Member Sulick, Dr. Bauer explained that the trail and boardwalk would connect to the Greenway once the proposed pedestrian bridge was constructed. Mr. Moss noted similar trail features at the County's Freedom Park and in the Conservancy's above proposal, again questioning the wisdom of financing another such amenity when it could preclude some other stormwater project from going forward. Mr. Moss also confirmed that a breakdown of the cost of the various features in the project under discussion, as well as additional information regarding the Hole-in-the-Wall proposal, would be brought before Council within the next month or two. Dr. Bauer noted that the Riverside Circle Filter Marsh was currently fully funded but pointed out for Council Member Heitmann that the Conservancy's project should be viewed as a separate entity and unrelated; Mrs. Heitmann requested past information which had been provided to Council regarding the above referenced Gordon River pedestrian bridge.

.....**ITEM 5**
STORM DRAIN MARKERS (INSIGNIA) - PROPOSAL BY THE MOORINGS BAY CITIZENS ADVISORY COMMITTEE TO PROVIDE MARKERS ON CITY STORM DRAINS TO CAUTION AGAINST DUMPING OF LANDSCAPE MATERIAL OR POLLUTANTS INTO THE STORM DRAINAGE SYSTEM. (It is noted for the record that a printed copy of the electronic presentation utilized during this item is contained in the file for this meeting in the City Clerk's Office.) Monique Krist, Natural Resources Administrative Coordinator, provided a brief overview detailing the importance of stormwater drain markers (insignias), especially in the Moorings Bay system. This is due to at least 74 outfalls depositing pollutants into Moorings Bay, while others around the City empty directly into Naples Bay and the Gulf of Mexico. Any pollutant reaching the stormwater drains, such as fertilizers, oil and grease, pesticides/herbicides, pet feces, automotive fluids and paint, travel through the system unfiltered and empty into the waterways. She also stressed that water from swimming pools which is treated with chlorine and other chemicals was also a pollutant.

Ms. Krist stated that the proposal for the markers originated with the Moorings Bay Citizens Advisory Committee, which had also provided examples of their choice of insignia (Attachment 4) as well as an estimate of \$3,000 for the project. She also noted that she had currently been surveying the area via GPS (global positioning system) and had mapped perhaps 300 of the approximate 1000 stormwater drain catch-basins to be marked.

Public Comment: (9:28 a.m.) **Doug Finlay, 3430 Gulf Shore Boulevard**, explained that he supported the project and recommended that it be done on a citywide basis. Should it be citywide, he said that he believed that the Moorings Bay group should be reimbursed. With regard to discussion during Item 4, he stated that a plan only should be developed regarding homes still utilizing septic tanks, that removal should not be made mandatory at that time. **Albert Katz, representing the Moorings Bay Citizens Advisory Committee**, reiterated the comments made above by Ms. Krist, pointing out that the Committee had been researching the project for four to five months and that it believed, if approved, the project would improve Moorings Bay water quality. He also urged that the project proceed citywide. Council Member Sorey indicated strong support for the project and suggested that an estimate be obtained for citywide installation of the markers, even if done in a staged manner and perhaps using Moorings Bay as a trial area; Council Member Heitmann agreed. Mr. Katz added that the above referenced survey involves ascertaining the location of stormwater drains and catch basins only in the rights-of-way and would not include those on private property. Therefore, he explained, contact with individual homeowner associations would be made and markers provided for placement by the homeowners. In response to Council Member Price, Mr. Katz indicated that the proposed four-inch marker is indeed the standard size used by most communities with similar projects.

In response to Council Member Price, Code Enforcement Officer Roger Jacobsen explained that currently the maximum fine for dumping into the stormwater drains was \$5,000 through Collier County's Contractor Licensing Board. The City's Code of Ordinances mandates that an offender must be given the opportunity to correct the violation unless irreparable or irreversible harm had been demonstrated and must be brought before the Code Enforcement Board. Mr. Jacobsen further noted that while the Code prohibits anything other than water being emptied into its stormwater drains, no citation process currently exists. During additional discussion regarding the lack of established process, Council indicated that it wished to obtain an opinion from the

City Attorney regarding levying of fines, a citation policy, and the language regarding same to be placed upon citywide markers prior to granting approval of the proposed Moorings Bay project.

Consensus that City Attorney provide legal opinion regarding fine structure and Code Enforcement citation policy relative to dumping, as well as opinion regarding language to be placed upon City-wide markers regarding fine for dumping into storm system, prior to granting approval for placement.

Recess: 9:43 a.m. to 9:57 a.m. It is noted for the record that the same Council Members were present when the meeting reconvened.

.....**ITEM 6**
PENSION INVESTMENT POLICIES - BRIEF OVERVIEW OF THE SEVERAL CITY PENSION PROGRAMS, EMPLOYEE CONTRIBUTIONS, ANNUAL CITY CONTRIBUTIONS, INVESTMENT POLICIES OF THE INDEPENDENT PENSION BOARDS, AND INVESTMENT PERFORMANCE. Assistant City Manager Roger Reinke provided a summary in memorandum form dated December 8 (Attachment 5) and Finance Director Ann Marie Ricardi, provided a brief electronic presentation to overview the City's three retirement plans: general employees, police, and fire (Attachment 6), noting under each system the following:

- Governing Florida Statute(s) and City Ordinance, as well as the Internal Revenue Code;
- Membership;
- Retirement eligibility requirements (normal and early) and cost of living adjustment (COLA) for police and fire systems;
- Member and City contributions, (for Fiscal Years 2008, 2009, and 2010);
- Pension multiplier;
- Pension Board composition;
- Investment policy (same for all three systems);
- Asset Classes (same for all three systems); and
- Performance of its investments as of December 3, 2008.

In response to Council, Assistant City Manager Reinke confirmed that while the actuarial coverage is set by law, the pension multiplier for each system is negotiable, and City Clerk Tara Norman explained that recruiting is ongoing for the current vacancies on the three Boards of Trustees which administer the pension plans.

Council Member Price, also Chairman of the Board of Trustees of the City of Naples General Retirement System, informed Council that at least an additional 20% of losses could be added to the September performance figures provided, explaining that the noted asset division, 65% equity and 35% fixed income, had proven appropriate. In response to Council Member Sorey, Mr. Price noted the addition of asset classes, namely small capitalization and international, which are believed will realize a more timely recovery from the current down trend in the stock market; the management of these systems over the next few years will prove to be quite difficult, he added. A threshold of an 8% investment return may no longer be realistic, he also cautioned, given the recent economic events and Board discussion must occur regarding this expectation. Mr. Price then noted that municipalities experiencing budgetary issues may be aided in meeting their financial contribution to pension systems if a two-year grace period could be implemented for the repayment of a deficit. City Manager William Moss added that federal and/or state

mandates would however need to be waived to allow such action. Mr. Price further explained for Council Member Willkomm that when investment returns decline, as was presently happening, the City must make up the deficit via its yearly contribution to the pension funds. He further said that over the past eight to ten years, the returns from the financial markets had been sufficiently robust to supply the needed funding, therefore no City contribution had been necessary.

.....**ITEM 7**
SOUTH FLORIDA WATER MANAGEMENT DISTRICT PROPOSED WATER RESTRICTIONS – PROPOSED DISTRICT RULES TO LIMIT IRRIGATION TO TWO DAYS PER WEEK. BECAUSE THE NAPLES SYSTEM CANNOT EFFECTIVELY MEET IRRIGATION DEMAND DURING THE PROPOSED IRRIGATION TIMES, STAFF RECOMMENDS JOINING OTHER UTILITY PROVIDERS TO RETAIN LEGAL COUNSEL TO OBJECT TO RULES AS PROPOSED. Utilities Director Robert Middleton, referencing his memorandum dated December 1 (Attachment 7), summarized South Florida Water Management District (SFWMD) proposed amendment to the Florida Administrative Code (FAC) regarding restriction of irrigation to two days per week. He then explained staff's recommendation to join other local utilities in retaining legal counsel to challenge the revision; cost was expected not to exceed \$55,000 per entity participating.

Public Comment: (10:39 a.m.) **Lisa Koehler, Community Outreach and Media Specialist for the Big Cypress Basin,** explained that the District's governing board was meeting at that time to authorize additional workshops regarding the revision, that the original adoption date had been set for January but would now be delayed until February thereby allowing local government input, followed by further review of the proposed rule.

Council Member Sorey, also a member of the Big Cypress Basin Board, pointed out that he viewed the key issues with the proposed rule to be not only a lessening of the incentive for municipalities to provide an alternative (reuse, reclaimed, irrigation) water source for irrigation, but the fact that the variance process would remain within the purview of SFWMD. He also noted that Collier County was involved in current litigation regarding the rule.

City Manager William Moss indicated that no action would be needed that day, that staff had merely wanted to provide information and that the City would be in attendance at the aforementioned workshops.

.....**ITEM 8**
NEW BUILDING CODE – OVERVIEW OF THE NEW FLORIDA BUILDING CODE (FBC) EFFECTIVE MARCH 1, 2009. Building Services Director Paul Bollenback reviewed his memorandum dated November 20 (Attachment 8), noting that the effective date of the 2007 Florida Building Code (FBC) revisions was projected to be effective on March 1. Chapter 1 of this code may be amended by local jurisdictions to incorporate their administrative requirements so long as the amendments are in fact more stringent than the State mandated code, he said, pointing out that the remainder of the six volume FBC is technical in nature and may not be altered at the local level. Mr. Bollenback then reviewed the significant changes proposed for the FBC, explaining that staff had recommended that Council support its adoption. (It is noted for the record that a printed copy of the electronic presentation utilized in the review of significant amendments is contained in the file for this meeting in the City Clerk's Office and pertinent slides appended hereto as Attachment 9.)

BRIEFING BY CITY MANAGERITEM 10

(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 reviewed his memorandum dated December 10 (Attachment 10) during which he provided a brief overview of the State of Florida's Board of Trustees of the Internal Improvement Trust Fund (TIITF / Governor and Cabinet) approval of an application for a ten-year sovereignty submerged lands lease for the Crayton Cove mooring field/anchorage. In response to Council Member Price, he agreed to provide detailed criteria regarding information to be included within the report referenced in his aforementioned memorandum. Mr. Price clarified that he merely wanted this criteria brought to light prior to the timeframe noted with the intent of avoiding any misunderstanding of exactly what requirements the City should be meeting; Council concurred.

Consensus that staff provide detailed criteria of information which is to be included in the report by the Florida Department of Environmental Protection (FDEP) to the Board of Trustees of the Internal Improvement Trust Fund (TIITF / Governor and Cabinet) regarding the initial two years of operation of the Crayton Cove mooring field.

Mr. Moss then noted receipt of correspondence from the Naples Airport Authority (NAA) regarding future expansion of Fire Station #3, which is located on airport property, and also the provision of the November 2008 financial report, pointing out the recent receipt of approximately \$9-million from the collection of property taxes which brought that line item up to date.

REVIEW OF ITEMS ON THE 12/17/08 REGULAR MEETING AGENDAITEM 11

The following were removed from the Consent Agenda for separate discussion: Item 10-b(1) (beach party) by Council Member Price due to recommendation from Fire Department as to its denial; Item 10-f (City Manager's salary adjustment) by Council Member Willkomm to allow public comment; and Item 10-j (Fun Time Early Childhood Academy) by Vice Mayor Taylor who indicated her intent to abstain. Mr. Price requested additional information regarding the parking plan for Item 10-b(2) (Evenings of Fifth) and also the need for staff comments and/or recommendations regarding Item 6 (annexation for senior care development). City Manager William Moss indicated that Item 25 (boating speed litigation) would indeed be an action item.

CORRESPONDENCE / COMMUNICATIONS

Referencing City Attorney Robert Pritt's memorandum dated December 2 regarding Code Enforcement fines and liens (Attachment 11), Council Member Willkomm requested discussion regarding the placement of liens against property with large fines; City Manager William Moss indicated that such a discussion had been scheduled for the January 12 workshop. Council Member Price provided a brief overview of the first Blue Ribbon Financial Planning Committee meeting, which had been held December 12, noting that the remaining meetings would indeed be televised. He also questioned whether the opportunity existed that the City share in the revenue to be derived from certain recyclable materials, that this should be a consideration in negotiation involving a Request for Proposal (RFP) for a collection service provider. Vice Mayor Taylor stated that interest had been indicated by Lutgert Companies in providing trolley service to Venetian Village; Council Member Heitmann stressed that neighborhoods should be advised of any changes contemplated in trolley service. Mrs. Heitmann also requested details regarding the Gordon River Greenway project as to how it would be affected by various proposed City and Collier County actions, such as the proposed annexation for a senior care facility which would be located along the Gordon River just south of Golden Gate Parkway, as well as the proposed

construction of an additional pedestrian bridge across the river. Council Member Sorey suggested that she contact Ellie Krier with the Southwest Florida Land Preservation Trust regarding the aforementioned bridge. Mr. Sorey then commended staff regarding the organization of the annual Christmas Parade. Referencing past Council discussion, City Clerk Tara Norman noted that Council's meeting agendas were now being scrolled on the City's television channel.

Recess: 11:31 a.m. to 1:27 p.m. It is noted for the record that the same Council Members were present when the meeting reconvened for discussion of Item 9, which was scheduled for 1:30 p.m. time certain.

.....ITEM 9
15-YEAR COMMUNITY REDEVELOPMENT AGENCY (CRA) FINANCIAL SUSTAINABILITY REPORT AND PRIORITIZATION OF PROPOSED CAPITAL PROJECTS; FIFTH AVENUE SOUTH STREETLIGHT PROJECT. A CONTINUATION OF DISCUSSION OF PROJECTED COMMUNITY REDEVELOPMENT AGENCY 15-YEAR PROJECTED REVENUES, OPERATING, AND CAPITAL EXPENDITURES. FOCUS TO BE ON THE PROPOSED CAPITAL PROJECTS AS SUMMARIZED IN THE RECENTLY REVIEWED CRA PLAN UPDATE AND THE PRIORITIZATION FOR FUNDING IN FUTURE YEARS. DISCUSSION OF PROPOSED FIFTH AVENUE SOUTH STREETLIGHT PROJECT AND SELECTION OF LIGHT FIXTURES. City Manager William Moss explained that this item actually continues the workshop discussion of December 1 regarding the 21 proposed Community Redevelopment Agency (CRA) capital projects. Included for Council consideration were the above referenced report and individual capital expenditure requests for each project (copies of which are contained in the file for this meeting in the City Clerk's Office). He also pointed out staff's need of direction with regard to the Fifth Avenue South lighting project.

Finance Director Ann Marie Ricardi, referencing the December 1 workshop item regarding the 15-year CRA Financial Sustainability Report, explained that that discussion had resulted in the following availability of funding for the \$50.241-million of proposed capital projects:

Total Revenues	\$66,387,349
Debt Commitment	\$16,520,431
<u>Expected Operation</u>	<u>\$30,882,781</u>
Available for Capital	\$18,984,137

A shortfall of \$31,256,963 had been predicted, she pointed out.

She then provided the list of capital projects as reflected below for Council's consideration:

Sugden Plaza.....	\$40,000
River Park	1,000,000
Fifth Avenue South Lighting	1,717,000
Fifth Avenue North Improvements	95,000
Lake Manor	235,000
Sixth Avenue North Lighting.....	109,000
Park Street Project.....	750,000
D-Downtown Garage/Land.....	13,500,000
Third Avenue South Improvements.....	1,650,000
Goodlette-Frank Road Streetscaping	3,150,000

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Central Avenue Improvements	1,750,000
Four Corners Land Use Plan.....	5,000,000
Four Corners Zoning Code	10,000
Four Corners Intersection	200,000
Special Features Gateways	1,000,000
Special Features Cultural Plaza	2,000,000
US 41 Boulevard.....	7,000,000
Sixth Avenue South Promenade	2,000,000
Waterfront Connection.....	4,000,000
Pedestrian Bridge.....	5,000,000
Total Capital Required.....	\$50,241,000

In response to Council Member Heitmann, Ms. Ricardi explained that the previously discussed update should be viewed merely as a guide to future planning, that all projects are reviewed annually and requested that Council prioritize the above list. Council Member Price agreed with Mrs. Heitmann's cautionary statement, saying that while approximately \$18-million had been reflected as available capital, \$14- to \$15-million would be a more accurate figure in his opinion due to current economics; some amount should also be retained as reserves, he added. City Manager Moss noted that the following were currently contained in the coming one-year budget: Sugden Plaza/\$40,000; River Park/\$150,000; Fifth Avenue South Lighting/\$220,000; and Fifth Avenue North Improvements/\$95,000 (grant funding), for a total of \$505,000 for the current year. This involves a \$65,000 shortfall due to the \$235,000 fund balance and parking revenues being earmarked for repaying the parking garage debt, Ms. Ricardi pointed out. Council Member Sulick also agreed, pointing out that, in her opinion, the pedestrian bridge (to be located at Four Corners (intersection of US 41 and Ninth Street South) over US 41) and "D" Downtown land and garage (for an additional garage in that district) should not be a consideration at that time. Council Member Sorey reiterated his past concern that a master plan for the "D" Downtown District must be done as an element of this process, noting his opinion that the Fifth Avenue South parking facility (an additional garage to be located on the west end of Fifth Avenue) should be removed and then added to the unfunded listing; concurring with Mrs. Sulick as to the removal of the "D" Downtown land and garage expense also. Mrs. Sulick added that unrealistic expectations must be controlled due to current funding issues and that on-site parking must be encouraged with future development in the "D" Downtown; she also questioned the wisdom of continuing to utilize the shared parking concept. CRA Executive Director Russell Adams observed that the "D" Downtown ordinance contained a parking percentage provision and that developers are required to provide a certain amount of parking on-site or participate in the payment in lieu of parking (PILOP) program. Ms. Ricardi further clarified that the above list contains all projects proposed for the remaining years of the CRA's existence and the Council's decision-making should address which of these are to be funded by the CRA, the remainder to be funded from alternative sources.

In response to Ms. Ricardi, Mr. Adams explained that the Park Street Project reference involved funding set aside (\$500,000 in FY 2010-11 and \$250,000 in FY 2011-12) for the City's participation in a civic center complex recommended by town planner Andres Duany, not actual construction costs, and suggested that this item be listed under the unfunded category also. Council agreed. Council Member Sorey noted that the US 41 Boulevard (involving US 41 from the Gordon River Bridge to Four Corners, rebuilt with landscaping, lighting, medians, four lanes

of traffic, bike lanes and on-street parking) should also be moved into the unfunded category due to the unlikely approval by the Florida Department of Transportation (FDOT).

Discussion continued addressing the Waterfront connection (a pedestrian connection north and south of the Gordon River Bridge, including a connection to the Greenway and the proposed Sixth Avenue South Promenade) during which Council Member Price recommended this be entered into the unfunded category; Council agreed. Council Member Sorey indicated that the Goodlette-Frank Streetscaping (involving Goodlette-Frank Road from US 41, north to Central Avenue, including landscaping, lighting, street furniture, medians and pavers at four intersections) should also be removed from the CRA funding list, that this should await the Renaissance Village project (formerly Grand Central Station located at the west corner of US 41 and Goodlette-Frank Road). During discussion of the River Park item, Mr. Price stated that while he would rather spend on actual projects than planning, it should remain under the CRA funding and that a long-term commitment should be made to that neighborhood regarding improvements. Council agreed, although noting that this item would be further considered should additional budget amendment be needed.

Council indicated that the CRA funded projects would be on a pay-as-you-go basis except the Fifth Avenue South lighting project, which is to include street lights, ambient lighting, security lighting, and electrical infrastructure. Consultant Richard Tindell, JRL Design, provided a brief overview of the project; following discussion, Council indicated its continued support of the original choice of lighting fixture (Attachment 12). In response to Vice Mayor Taylor, City Manager Moss stated that funding to proceed in one phase would not be available in the CRA budget, therefore, staff recommended advancing monies from the General Fund at an interest rate of approximately 3% over a 4-year repayment period. Council Member Price however questioned the impact of an additional \$450,000 in debt service since the CRA's budget currently has an annual obligation of \$662,000 for the new parking garage and lacks the revenue to repay this debt; Council Member Sorey agreed. Referencing the City's budget for fiscal year 2008-09, Page 133 (Attachment 13), Ms. Ricardi pointed out the projected fund balance of \$1.8-million and confirmed that this could indeed be used to fund the lighting project although no other projects except those already indicated as funded could go forward. City Manager Moss cautioned that a General Fund loan could then still be needed should an unexpected expenditure arise within the CRA budget.

Council Member Willkomm questioned whether the cost of replacement landscaping had been included in the lighting proposal, pointing out that this must be addressed. Mr. Adams stated that it had been his understanding that the estimate had included the cost of removing plants and replacing those which do not remain viable for restoration. In response to Council Member Heitmann, he explained that the electrical infrastructure upgrades had been necessary due to an ongoing lack of essential electricity for special events, that power failures had occurred in the past; this infrastructure had not been a requirement to allow special events to continue into nighttime hours, he added.

The resulting listings of the above discussion are reflected below:

List of Capital Projects:

Sugden Plaza.....	(currently budgeted) \$40,000
River Park	(\$150,000 currently budgeted) \$1,000,000
Fifth Avenue Lighting.....	(\$220,000 currently budgeted) \$1,717,000
Lake Manor	\$235,000
Sixth Avenue North Lighting.....	\$109,000
Third Avenue South Improvements.....	\$1,650,000
Central Avenue Improvements	\$1,750,000
Four Corners Land Use Plan.....	\$35,000
Four Corners Zoning Code	\$10,000
Four Corners Intersection	\$200,000
Special Features Gateways	\$1,000,000
Special Features Cultural Plaza	\$2,000,000
Sixth Avenue South Promenade	\$2,000,000
Total Capital Required.....	(currently budgeted \$410,000) \$11,746,000

Unfunded or in need of alternate funding sources:

D Downtown Garage/Land.....	\$13,500,000
Fifth Avenue South Parking Facility	\$5,000,000
Park Street Project.....	\$750,000
Goodlette-Frank Road Streetscaping	\$3,150,000
US 41 Boulevard.....	\$7,000,000
Pedestrian Bridge.....	\$5,000,000
Waterfront Connection.....	\$4,000,000
Fifth Avenue North Improvements.....	(currently funded through grant \$95,000) \$95,000
Total Currently Unfunded.....	\$38,400,000

Public Comment: (2:21 p.m.) **Lou Vlasho, representing the Fifth Avenue South merchants,** commended Council for its realistic review of the CRA budget and provided a brief history of Fifth Avenue over the past 20 years. With current economics, revenues were down approximately 20 to 30%, he said, pointing out that commercial development to the north additionally draws retail customers from downtown. He said that Fifth Avenue is therefore in need of a more polished appearance, urging that the lighting be implemented in one phase as well as undertaking a signage project. Should Fifth Avenue fail, he said, the remainder of the downtown district would follow; Council Member Willkomm said that he strongly agreed. In response to Council Member Price, Mr. Vlasho estimated that business revenues over the coming two years would decrease an additional 15 to 20%. Mr. Price pointed out that the budget projection however contains a yearly revenue increase of 4% which in light of the current economic crisis, he projected would actually be a 20% decrease and questioned Council's fiscal responsibility in underwriting this project through the City's General Fund. Mr. Vlasho confirmed for Council his opinion that the Fifth Avenue lighting project would be the most appropriate investment in the coming two years. Council Member Heitmann however expressed the view that the entire ambience of Fifth Avenue should be reviewed, not merely the lighting. Mr. Vlasho responded that while he agreed that other improvements were needed, these should not be funded by the CRA or the City, but by the property owners.

Vice Mayor Taylor agreed with Mr. Vlasho that the lighting improvements should be supported by Council; Council Member Sorey also concurred and reiterated that if Fifth Avenue fails, the City would fail. Referencing the depiction of Fifth Avenue South provided by Mr. Vlasho (Attachment 14), Council Member Sulick questioned whether the gateway features were included in the cost under discussion. Mr. Adams indicated that this had not been entered into the bid process, that the estimated cost reflected the lighting and infrastructure as cited above, as well as replacement landscaping as needed. Council Member Sorey agreed in that JRL had added the branding features for consideration at a later time.

Additional discussion of landscaping ensued and Council directed that staff thoroughly research any ongoing issues, such as the use of mulch which occasionally spills from planting areas, as well as sidewalk elevations during reconstruction. City Manager Moss indicated that the design plans had been finalized and were ready to go out to bid; should additional landscaping issues be identified, they would be addressed at a later date.

Consensus that staff research lighting project financing from the CRA fund balance and avoiding use of City's General Fund if possible (determination on how landscaping will be replaced/restored), project to proceed in one phase over the next two fiscal years if found to be financially feasible.

ADJOURN.....
3:06 p.m.

Bill Barnett, Mayor

Tara A. Norman, City Clerk

Minutes prepared by:

Vicki L. Smith, Technical Writing Specialist

Minutes Approved: 02/04/09

**Clean Water Act
Total Maximum Daily Loads (TMDLs)**

- Rivers and lakes that do not meet water quality standards are identified as “impaired”.
- TMDLs must be developed and implemented for impaired waterbodies to reduce loading and improve water quality.
- The TMDL identifies the maximum amount of a given pollutant that a surface water can absorb and still meet the water quality standards that protect human health and aquatic life, and sets targets for meeting this objective.

TMDL for the Gordon River

- Gordon River is impaired for Dissolved Oxygen (DO).
- Causative nutrient identified as Total Nitrogen (TN).
- FDEP TMDL for the basin requires a 29% reduction in TN nonpoint source loading.

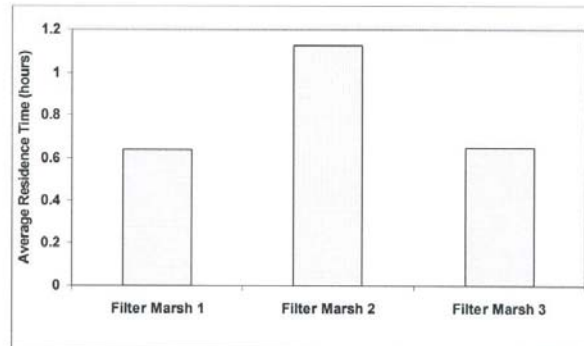
Stormwater Quality Samples

Parameter	Units	City of Naples Channel Outflow		Criteria or General Guidelines
		Dec 2006	Sept 2008	
Chlorophyll-a	mg/m ³	< 3.0	< 3.0	< 3.0 = Oligotrophic
Total Phosphorus	mg/L	0.111	0.117	> 0.1 = Hypereutrophic
Total Nitrogen	mg/L	0.19	2.08	< 0.4 = Oligotrophic; > 1.5 = Hypereutrophic
Fecal Coliform	cfu/100mL	68	230	≤ 200 monthly average**
Arsenic	mg/L	3.98	2.78	≤ 36
Copper	mg/L	0.95	6.27	≤ 3.62*
Lead	mg/L	0.07		≤ 0.54*
Magnesium	mg/L	155		
Zinc	mg/L	4.04		≤ 37.02*
Iron	mg/L	< 100		≤ 1000

* Assume hardness to be 25 mg/L

**Not to exceed 400 in 10% of samples or 800 on any one day

Estimated Treatment Marsh Residence Time within 24-hours of a Mean Annual Storm Event



Stormwater Retrofits – Removal Efficiencies

Treatment	Removal Efficiency			Source
	Total P	Total N	TSS	
Sediment Sump	30%	0%	20%	ASCE, 2001
Dry Detention Pond	65%	60%	75%	STEPL
Wet Pond	63%	33%	61%	FDEP 2006

Nutrient Load Reduction: Storm Event

- Load reductions following a mean annual storm event (2.3-yr) were calculated.
- Pre/post treatment evaluation performed.
- Additional volume reduction associated with dry detention is anticipated.

	TSS (lb)	TN (lb)	TP (lb)	BOD (lb)
Loading without Treatment Marsh	5,556	236	23	763
Loading with Treatment Marsh	2,701	184	15	534
% Removed	63%	22%	32%	30%

Nutrient Load Reduction: Annual

- Treatment Marsh will remove an estimated 24,500 lbs of suspended solids, 360 lbs of nitrogen, and 50 lbs of phosphorus from the Gordon River and Naples Bay annually.

	TSS (lb)	TN (lb)	TP (lb)	BOD (lb)
Loading without Treatment Marsh	39,119	1662	160	5375
Loading with Treatment Marsh	14,586	1297	109	3762
% Removed	63%	22%	32%	30%





Memo

Office of the City Manager

TO: Honorable Mayor and Members of City Council
FROM: Roger Reinke, Assistant City Manager
DATE: December 8, 2008
SUBJECT: Summary of City of Naples Retirement Plans

The purpose of this memorandum is to describe briefly the retirement plans available to City employees. Complete details of each plan are available in the Code of Ordinances or plan documents. The City offers both defined benefit plans and defined contributions plans. A defined contribution plan is a plan providing for an individual account for each participant, and for benefits based solely on the amount contributed to the account, plus or minus income, gains, expenses, and losses allocated to the account. A traditional defined benefit plan is a plan in which the benefit paid upon retirement is determined by a set formula. All City defined benefit pension plans are administered by a Board of Trustees that acts as the administrator of the plan. The duties of the Board include acting "solely in the interest of the participants and beneficiaries of the retirement system" and "diversifying investments of the retirement system in a manner that minimizes the risk of large losses."

Defined Benefit Plans:

General Employees' Retirement System

Membership: City employees not covered by another retirement plan supported by City funds and working twenty or more hours weekly. Participation begins after six months of service.

Active Members: 320

Retirees and Beneficiaries: 194

Vesting Period: 5 years of service.

Pension Multiplier: 2.5% (multiplied times years of service and final average compensation).

Normal Retirement Eligibility: Age 60 and 5 years of service, or when age and service total 85.

Cost of Living Increases: None

Member Contribution: 5% of compensation.

<u>City Contribution:</u>	FY2008 - \$1,110,259	9.17% of payroll
	FY2009 - \$1,881,902	12.85% of payroll
	FY2010 - \$ 2,405,311	14.38% of payroll

"Ethics above all else... Service to others before self... Quality in all that we do."

Page 2

Police Officers' Pension and Retirement System

Membership: All full-time City of Naples police officers (the Police Chief may opt out of the retirement system). Participation begins on date of hire.

Active Members: 75

Retirees and Beneficiaries: 41

Vesting Period: 5 years of service.

Pension Multiplier: 3.63% (multiplied times years of service and final average compensation).

Normal Retirement Eligibility: Age 50 or 25 years of service.

Cost of Living Increases: 3% cost of living adjustment beginning at age 55 or after one year of retirement and payable until age 62.

Member Contribution: 5% of compensation.

State of Florida Premium Tax Funding: FY2008 \$726,370

<u>City Contribution:</u>	FY2008 - \$706,600	15.73% of payroll
	FY2009 - \$1,083,488	22.55% of payroll
	FY2010 - \$1,482,624	25.74% of payroll

Firefighters' Pension and Retirement System

Membership: All full-time City of Naples firefighters. Participation begins on date of hire.

Active Members: 53

Retirees and Beneficiaries: 20

Vesting Period: 5 years of service.

Pension Multiplier: 4% (multiplied times years of service and final average compensation).

Normal Retirement Eligibility: Age 55, or 25 years of service, or age 50 with 20 years of service.

Cost of Living Increases: Retirees after June 30, 2005 receive a 3% cost of living adjustment beginning at age 50.

Member Contribution: 5% of compensation.

State of Florida Premium Tax Funding: FY2008 \$775,809

<u>City Contribution:</u>	FY2008 - \$795,545	23.10% of payroll
	FY2009 - \$1,243,380	33.02% of payroll
	FY2010 - \$1,932,334	49.51% of payroll

Defined Contribution Plans:

Supplemental Retirement

Plan participation is voluntary and open to all City employees (except those in police and fire bargaining units) after six months of service. Employees may contribute 3% of pay (pre-tax) and the City will match 2% of pay in accordance with a 3-year vesting schedule.

Executive Pension

Available only to Department Directors in lieu of participation in the General Employees' Retirement System. The plan requires a mandatory 3% employee contribution (pre-tax) with a City contribution of 7% of pay.

"Ethics above all else... Service to others before self... Quality in all that we do."



**City of Naples
Retirement Systems**

December 2008

There are 3 separate
Retirement Plans

**General
Police
Fire**

**General Employees' Retirement
System**

Governing Statute/Ordinance

- Plan established under the Code of Ordinances for the City of Naples, Florida, Chapter 29, Article III.
- Plan is also governed by certain provisions of Part VII, Chapter 112, Florida Statutes
- Internal Revenue Code.

Covered Employees

All employees except

1. Those in Police or Fire or Other Pensions
2. Contractual employees
3. Part-time, temporary & seasonal workers
4. The mayor or members of the city council.
5. Less than 6 months with the city.

Normal Retirement

- Age 60 with 5 years of Credited Service,
or
- Total age plus service equals 85 years

Multiplier: 2.5% of Final Average
Compensation

Early Retirement

- Age 55 and completion of 5 years of Credited Service
- Normal Retirement Benefit is reduced by 0.25% for each month by which the Early Retirement date precedes age 60

Contributions to Pension

City's Contribution

<u>FY 2009</u>	<u>FY 2008</u>
\$1,881,902	\$1,110,259
12.85%	9.17%
2010 Requirement is 14.38%	

Employees' contributions are 5% of compensation

Composition of Board

* Board consists of 7 trustees who serve a 4-year term

Gary Price	Council Member appted by City Council
Murray Hendel	Resident of City appted by City Council
Vacant	Resident of City appted by Trustees
Ralph LaCivita	Staff appted by City Manager
Robert Monico	Bargaining Member appted by City Mgr
Robin Valdarlo	Non-Bargaining Member appted by City Manager
Audrey Dauch	Retiree

Investment Policy

- Maximize the financial return to the retirement plan consistent with the risks of each investment
- Maintain appropriate diversification of the retirement system's assets
- Investment managers are permitted to invest in equity securities listed on the:

Investment Policy

- New York Stock, American, and principal regional and foreign exchanges.
- Fixed income securities are invested in debt securities issued or guaranteed by the U.S. government or its agencies, domestic corporations and U.S. financial institutions.
- All securities must hold at least investment grade rating.

Asset Classes

Large Capitalization Value Mgr	22.5%
Large Capitalization Growth Mgr	22.5%
Small/Mid Cap Value Manager	5.0%
Small/Mid Cap Growth Manager	5.0%
International Manager	<u>10.0%</u>
Total Equity	65.0%
Fixed Income Manager	35.0%

Performance of Investments

- This past year the investment return was (14.8%)
- Actuarial funded ratio is 73.4% compared to 83.0% last year
- Since October 2008, the pension fund has losses of \$1,449,755.
- The plan assets on December 3, 2008 were \$26,261,440.



Police Officers' Retirement System

Governing Statute/Ordinance

- Plan established under the Code of Ordinance for the City of Naples, Florida, Chapter 29, Article V.
- Plan is also governed by certain provisions of Chapter 185, Florida Statutes, Part VII, Chapter 112, Florida Statutes
- Internal Revenue Code.



Membership

Includes

All City Police officers , defined as a fulltime state certified police officer employed by the city as a member of the city's police and emergency services department.



Normal Retirement

- Age 50 with 5 years of Credited Service, or
- 25 years of Credited Service
- Multiplier: 3.63% of Final Average Compensation
- COLA
Employees retiring after January 1, 1998 receive a 3% increase in benefits on October 1st starting at age 55 and ending at age 62.



Early Retirement

- Age 45 or 20 years of Credited Service
- Normal Retirement Benefit is reduced by 0.25% for each month by which the Early Retirement date precedes age 50

Contributions		
	FY 2009	FY 2008
Early Incentive	\$40,346	\$118,529
%	0.82%	2.64%
Required	\$1,083,488	\$706,600
%	22.06%	15.73%
2010 Requirement is 25.74%		
Employees' contributions are 5% of compensation		

Composition of Board	
Board consists of five trustees who serve a two year term	
• Joseph Whitehead	Elected by Police Officers
• Seth Finman	Elected by Police Officers
• William MacIvaine	Resident appted by City Council
• Lloyd Donnelly	Resident appted by City Council
• Vacant	Elected by other four members

Investment Policy	
• Maximize the financial return to the retirement plan consistent with the risks of each investment	
• Maintain appropriate diversification of the retirement system's assets	
• Investment managers are permitted to invest in equity securities listed on the:	

Investment Policy	
• New York Stock, American, and principal regional and foreign exchanges.	
• Fixed income securities are invested in debt securities issued or guaranteed by the U. S. government or its agencies, domestic corporations and U.S. financial institutions.	
• All securities must hold at least investment grade rating.	


Asset Classes	
Large Capitalization Value Mgr	22.5%
Large Capitalization Growth Mgr	22.5%
Small/Mid Cap Value Manager	5.0%
Small/Mid Cap Growth Manager	5.0%
International Manager	10.0%
Total Equity	65.0%
Fixed Income Manager	35.0%

Performance of Investments	
• This past year the investment return was (13.8%)	
• Actuarial funded ratio is 65.2% compared to 69.3% last year	
• Since October 2008, the pension fund has unrealized losses of \$890,092.	
• The plan assets on December 3, 2008 were \$20,248,739.	



Governing Statute/Ordinance

- Plan established under the Code of Ordinance for the City of Naples, Florida, Chapter 29, Article IV.
- Plan is also governed by certain provisions of Chapter 175, Florida Statutes,
- Part VII, Chapter 112, Florida Statutes
- Internal Revenue Code.





Normal Retirement

- Age 55 with 5 years of Credited Service,
- Age 50 with 20 years of Credited Service, or
- 25 years of Credited Service

Multiplier: 4.0% of Final Average Compensation


COLA

Employees retiring after June, 30, 2005 receive a 3% increase in benefits on October 1st of each year starting at age 50.



Early Retirement


- Age 50
- Normal Retirement Benefit is reduced by 0.25% for each month by which the Early Retirement date precedes age 55



Required Contributions

	FY 2009	FY 2008
Early Incentive	\$57,135	\$57,135
%	1.52%	1.66%
Required	\$1,243,380	\$795,545
%	33.02%	23.10%

2010 Requirement is 49.51%
Employees' contributions are 5% of wages



Composition of Board

- Board consists of five trustees who serve a two year term
- James McEvoy Elected by Firefighters
- Peter DiMaria Elected by Firefighters
- Gary Price Resident apptd by City Council
- Vacant Resident apptd by City Council
- Vacant Elected by other four members



Investment Policy

- Maximize the financial return to the retirement plan consistent with the risks of each investment
- Maintain appropriate diversification of the retirement system's assets
- Investment managers are permitted to invest in equity securities listed on the:



Investment Policy

- New York Stock, American, and principal regional and foreign exchanges.
- Fixed income securities are invested in debt securities issued or guaranteed by the U.S. government or its agencies, domestic corporations and U.S. financial institutions.
- All securities must hold at least investment grade rating.



Asset Classes

Large Capitalization Value Mgr	22.5%
Large Capitalization Growth Mgr	22.5%
Small/Mid Cap Value Manager	5.0%
Small/Mid Cap Growth Manager	5.0%
<u>International Manager</u>	<u>10.0%</u>
Total Equity	65.0%
Fixed Income Manager	35.0%

Performance of Investments

- This past year the investment return was (13.8%)
- Actuarial funded ratio is 56.7% compared to 59.2% last year
- Since October 2008, the pension fund has unrealized losses of \$764,108.
- The plan assets on December 3, 2008 were \$17,832,380.



City of Naples

**NAPLES CITY COUNCIL AGENDA MEMORANDUM****Workshop Meeting Date: December 15, 2008**

Agenda Item:	Prepared By: Bob Middleton, Director	
7	Date: December 1, 2008	Department: Utilities
SUBJECT: Proposed South Florida Water Management District (SFWMD) Year-Round Irrigation Rule Revision		
<p>BACKGROUND:</p> <p>The SFWMD has initiated a rule-making process to revise FAC, Chapters 40E-2 and 40E-24 ("Year-Round Landscape Irrigation Rule"). These revisions would make the current phase II irrigation restrictions mandatory on a year-round basis. Additional changes would grant a general water use permit by rule to each person within the SFWMD's boundaries to use, withdraw or divert water at a single family dwelling or duplex for irrigation, car washing and other incidental uses. This would insure that all water users would be affected by the new landscape irrigation rule. Irrigation would be prohibited during the hours of 10:00 AM to 4:00 PM. It will require the City to submit a revised irrigation ordinance to the SFWMD for review and approval. This ordinance would outline the requirements of the Year-Round Landscape Irrigation Rule revisions.</p> <p>There are operational issues related to the proposed irrigation mandates. The proposed Rule will allow irrigation two (2) days per week based on odd/even addresses for 18 hours per day for a total of four (4) days of irrigation. The 18-hour time places a high demand on the water system that translates into lower system-wide water pressure. The City's irrigation ordinance adopted in March 2002, allows irrigation three (3) days per week based on odd/even addresses for 8 hours per day for a total of six (6) days of irrigation. The City ordinance not only reduces the allowable irrigation time by 33 percent compared to the proposed rule proposed by the SFWMD, but it also addresses the operational needs of the utility by spreading the demand over several more days.</p> <p>The two (2) day a week schedule does not allow adequate irrigation of public medians. The three (3) day a week schedule is more beneficial for public parks and medians subject to high-stress conditions.</p> <p>Water flow data suggests that during extreme dry periods, irrigation may be on a more extended period on a two-day per week schedule. This equates to a third day of irrigation. Furthermore, the 4-hour limit imposes enforcement issues. It is difficult to determine the period of time used to irrigate.</p> <p>City staff is requesting City Council's consensus to join other utilities in the retention of legal counsel to challenge the SFWMD's proposed rule revision to mandate the Year-Round Irrigation Rule. The estimated cost is not to exceed \$55,000 per entity, although participation by more utilities will lower the cost.</p>		
Reviewed by Department Director Bob Middleton	Reviewed by Finance N/A	Reviewed by City Manager A. William Moss
City Council Action:		



NAPLES CITY COUNCIL AGENDA MEMORANDUM

Workshop Meeting Date: December 15, 2008

Agenda Item:	Prepared By: Paul M. Bollenback, Building Official	
8	Date: November 20, 2008 Department: Building Department	
SUBJECT: 2007 Florida Building Code Adoption		
<p>BACKGROUND:</p> <p>The State of Florida first mandated building codes during the 1970's. These codes were not Florida specific but were actually any one of 4 (four) codes used in various areas of the United States. During the 1990's, a series of hurricanes, along with the increasing complexity of construction methods, led to a comprehensive review of the state building code system.</p> <p>This resulted in the creation of the 2001 Florida Building Code, which was adopted in March, 2002. This Florida-specific code was modeled after the International Code Council (ICC) codes, as are all Florida codes since 2001. The Florida Building codes are developed and maintained by the Florida Building Commission (FBC) and are updated every 3 (three) years. Chapter 1 of this code can be amended to incorporate local administrative requirements if these amendments are more stringent than the State mandated code. All other chapters of the code are technical in scope and cannot be altered by local government action. Currently we are working under the 2004 Florida Building Code which was adopted in October, 2005. During the approximate 3 year period that the code is in effect, deficiencies and required changes to the code are handled through amendments which are added annually.</p> <p>The Florida Building Code has always experienced a delay in implementation due to both political and technical considerations. As such, the projected date of the 2007 Florida Building Code adoption is March 1, 2009. Primarily, this delay is a result of re-writing a very controversial section of the code that deals with energy efficiency and related "green" issues. The result is this new code will make Florida a national leader in establishing energy efficiency requirements. The 2007 code is updated to reflect the latest building technology but does not contain any changes that could be described as monumental. The greatest change in modern codes occurred with the 2001 Florida Building Code, which contained the new hurricane protection standards. No change of that magnitude is contained within this code. Minor changes to Chapter 1 reflect the specific needs of the City of Naples. This code provides the basis for buildings and structures built or remodeled within the city to be constructed in a safe, efficient and healthy manner that will benefit all the residents of Naples.</p> <p>After spending a considerable amount of time reviewing this new code, staff strongly recommends that City Council support its adoption.</p>		
Reviewed by Department Director Paul Bollenback	Reviewed by Finance N/A	Reviewed by City Manager A. William Moss
City Council Action:		

SIGNIFICANT CHANGES

- Definitions: **Approved.** ~~Approved refers to approval by the building official as the result of investigation and tests conducted by him or her, or by reason of accepted principles or tests by nationally recognized organizations.~~ **Acceptable to the building official.**

SIGNIFICANT CHANGES

- Definitions: **Exterior Wall.** ~~An above grade wall enclosing conditioned space~~ **that defines the exterior boundaries of a building.**
- **Change summary:** The definition of "exterior wall" has been revised to include all walls that enclose the building and not just walls that enclose conditioned space.

SIGNIFICANT CHANGES

- **ENERGY CONSERVATION:** The provisions for energy conservation for residential building have undergone significant revisions for the 2007 code, particularly related to format.
- **Residential energy code provisions are now Chapter 11 of the *Florida Building Code, Residential*.**

SIGNIFICANT CHANGES

- **CHANGE SUMMERY:** New provisions regarding impact-resistant coverings add labeling requirements and installation requirements.
- **R615.1 Impact-Resistant Coverings.**
- **R615.2 Labels.**
- **R615.2.1 Information Required on Label.**
- **R615.3 Installation**

SIGNIFICANT CHANGES

- **1714.5.3.4 Garage Door Labeling**
- **Change Summary.** Requires garage doors to be provided with a permanent label from the manufacturer.

SIGNIFICANT CHANGES

- Naples Code of Ordinance **Building & Technical Code.**
- **105.3.2. 105.3.2. Time limitations.** An application for a permit for any proposed work shall be deemed to have been abandoned **6** months after the date of filing for the permit, unless before then a permit has been issued. One extension of time for period of not more than 30 days may be allowed by the building official for the application, provided the extension is requested in writing and justifiable cause is demonstrated. Every building permit shall have an expiration date assigned by the building official based on the type and amount of work to be done, and shall not exceed 24 months from the date of issuance. The building official may allow 1 extension of time, for a period of not to exceed 90 days.



Memo

Office of the City Manager

TO: Honorable Mayor and City Council
FROM: A. William Moss, City Manager
DATE: December 10, 2008
SUBJECT: City Manager's Report – Item 10

Mooring Field

Attached is a memo from the City Manager explaining the outcome of the meeting with the Florida Board of Trustees regarding the mooring field.

Expansion of Fire Station #3

Attached is a letter from Naples Airport Authority Executive Director Ted Soliday regarding the expansion of Fire Station #3.

Financial Report

The monthly financial report for the period ending November 30, 2008 will be included in the Friday Supplement.

Ethics above all else... Service to others before self... Quality in all that we do.

C & C - WILKOMM



MEMORANDUM

850 PARK SHORE DRIVE
TRIANON CENTRE - THIRD FLOOR
NAPLES, FL 34103
239.649.2714 DIRECT
239.649.6200 MAIN
239.261.3659 FAX
rpritt@ralaw.com

TO: Hon. Bill Barnett, Mayor
Naples City Council

FROM: Robert D. Pritt, City Attorney

DATE: December 2, 2008

RE: Code Enforcement Fines & Liens

CLIENT 016763.0001

MATTER:

At the December 1, 2008 Workshop, Council requested information as to whether and how it could exercise greater control over the forgiveness of code enforcement fines against property.

The Florida Local Government Code Enforcement Boards Act is mandatory and covers, among other things, the imposition of fines, and creation and enforcement of liens.¹ In essence, if the Code Enforcement Board finds that there is a violation, it may issue an order to comply and if compliance is not achieved by the date specified in the order, impose a fine in the amount specified by the Board, not to exceed \$250 per day (in most cases), plus costs of repair and costs of enforcement (if applicable).

A certified copy of the order may be recorded in the public records and that, in essence, constitutes a lien against the property and other real and personal property of the violator.

The statute is silent on the question as to who files the certified copy of the order. Is it the Code Enforcement Board secretary, at the direction of the Code Enforcement Board? Or is it the administrative staff at the direction of the City Council?

On the one hand, the Code Enforcement Board theoretically might have the power to have a certified copy of the order filed, as part of its quasi judicial function. Courts routinely file their orders with the clerk of circuit court. However, a second filing in the public records is required for a judgment lien to attach to real property.

¹ See, in general, Part I, Chapter 162, Florida Statutes (2008) and in particular, Section 162.08 and 162.09 Florida Statutes (2008).

MEMORANDUM

(PAGE 2 OF 3)

On the other hand, the administrative staff, as prosecutor, would theoretically have the authority to file the order or to refrain from filing the order upon the instruction of the party to the Code Enforcement proceeding i.e., the City Council of the City of Naples.

Since the filing of the certified copy of the order in the public records is optional, and since that filing of a certified copy of the order determines whether or not a lien is created, it would follow that the prevailing party, i.e., the City Council of the City of Naples, acting through its administrative staff (code enforcement staff) would have the authority to determine whether or not to file record the order and create the lien.

Therefore, it is my opinion, that the City Council, through the administrative staff, has the authority to determine whether and when to file a certified copy of the order in the County public records. This is especially so since the statute specifically provides that the lien runs in favor of the governing body.²

The Attorney General has explained the history of this reallocation of authority in an Attorney General's opinion.³

Previously, the statute provided that the Code Enforcement Board had the power to reduce a fine. That provision remains today. However, during the 1994 Legislative Session the statute was amended to provide that the lien "runs in favor of the local governing body, and the local governing body may execute a satisfaction or release of lien entered pursuant to this Section".

The Attorney General concludes that the local governing body may reduce or satisfy a fine that has been imposed by the Code Enforcement Board and that runs in favor of the Commission (i.e., is filed as a lien).

Therefore, until a certified copy of the order imposing the fine (plus costs of repair and costs of prosecution if any) is filed in the public records, the Code Enforcement Board has the power to reduce the fine. Once the order is filed it is the City Council's authority to refuse to settle, settle or issue a release of lien. This determination as to whether and when to file the lien can be done on a case-by-case basis or upon a blanket authorization, in my opinion. That would be a matter of Council policy.

There are pros and cons that should be weighed, including, for example, the following:

- I. Likelihood of non-recovery of fine because lien did not attach in time.
- II. Likelihood of becoming embroiled in multiple settlement negotiations in a bad market.

² Section 162.09(3)

³ AGO 98-40

MEMORANDUM

(PAGE 3 OF 3)

III. Relationship between the City as a litigant in front of a quasi-judicial board over which the City Council has appointment authority.

IV. Effect of frustrating the power of the Board to resolve code enforcement matters by exercising its power to reduce fines.

There may be many other considerations.

Note however, that the local governing body attorney may only foreclose an unpaid lien after three months from the filing of the lien and upon authorization of the Code Enforcement Board.⁴

Also, note that no lien created under this code enforcement process may be foreclosed on homestead property.⁵

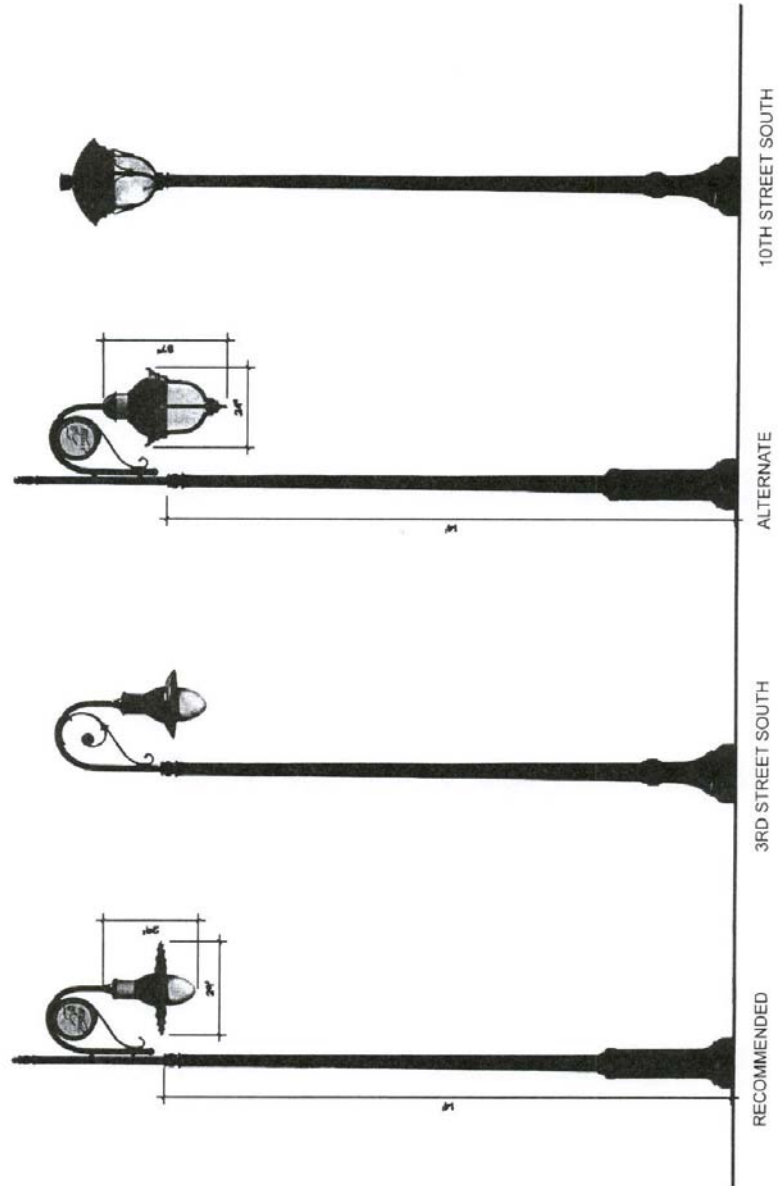
RDP/dk

cc: A. William Moss, City Manager

⁴ See 162.09(3)

⁵ Id.

5TH AVENUE SOUTH FIXTURE COMPARISON



JRL
LANDSCAPE ARCHITECTS + PLANNING + DESIGN
10000 South Loop West, Suite 100
Houston, Texas 77042
Phone: 281-4607-7444 Fax: 281-4607-1518



COMMUNITY REDEVELOPMENT AGENCY
FINANCIAL SUMMARY
 Fiscal Year 2008-09

Fund Balance as of Sept. 30, 2007	\$3,876,085
Projected Revenues FY 2007-08	\$10,023,898
Projected Expenditures FY 2007-08	\$12,287,383
Net Increase/(Decrease) in Net Unrestricted Assets	(\$2,263,485)

Expected Fund Balance as of Sept. 30, 2008 **\$1,612,600**

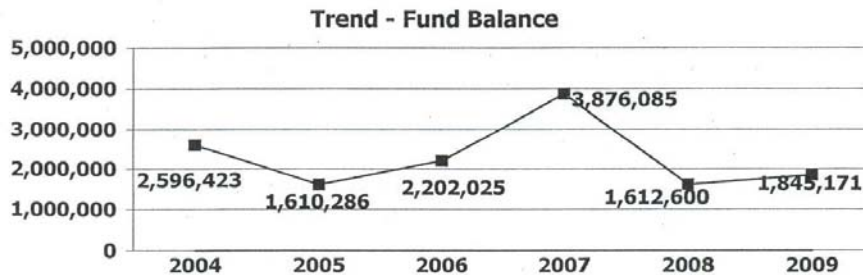
Add Fiscal Year 2008-09 Budgeted Revenues		
Tax Increment Financing City 1.1315 mills	778,951	
Tax Increment Financing County 3.1469 mills	2,264,983	
Grant	95,000	
Parking Space Purchases	300,000	
General Fund Transfer in	12,038	
Interest Income	\$125,000	
		<u>3,575,972</u>

TOTAL AVAILABLE RESOURCES: **\$5,188,572**

Less Fiscal Year 2008-09 Budgeted Expenditures		
Personal Services	\$ 722,149	
Operating Expenses	\$ 479,087	
Transfer - Administration	\$ 213,056	
Capital Improvements	\$ 505,000	
Transfer to Bond Fund	\$ 1,064,436	
Transfer - Other Funds	\$ 359,673	
		<u>3,343,401</u>

BUDGETED CASH FLOW **\$232,571**

Projected Fund Balance as of September 30, 2009 **\$1,845,171**



H9 VLAS AB

