



City Council Chamber  
735 Eighth Street South  
Naples, Florida 34102

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**City Council Workshop Meeting – February 17, 2009 – 8:29 a.m.**

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Mayor Barnett called the meeting to order and presided.

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**ROLL CALL .....ITEM 1**

**Present:**

Bill Barnett, Mayor  
Penny Taylor, Vice Mayor

**Council Members:**

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

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**Also Present:**

William Moss, City Manager  
Roger Reinke, Assistant City Manager  
Tara Norman, City Clerk  
Vicki Smith, Technical Writing Specialist  
Ann Marie Ricardi, Finance Director  
Robin Singer, Planning Director  
Michael Klein, Waterfront Operations Manager  
Russell Adams, CRA Director  
David Lykins, Community Services Director  
Joe Boscaglia, Parks & Parkways Superintendent  
Ron Wallace, Streets & Stormwater Director  
Robert Middleton, Utilities Director  
Jessica Rosenberg, Deputy City Clerk  
Wafaa Assaad  
Brian Leiding

Gene Scott  
Rick Dykman  
Jim Boula  
Marvin Easton  
Richard Tindell  
Lisa Swirda  
Lou Vlasho  
Falconer Jones, III  
Ernest Wu  
Fraser Smithson  
Andrea Douglas

**Media:**

Jenna Buzzacco, Naples Daily News  
Other interested citizens and visitors.

**SET AGENDA.....ITEM 2**

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

**PUBLIC COMMENT.....ITEM 3**

(8:30 a.m.) **Rick Dykman, 5040 Seashell Avenue, and Ernest Wu, 5194 Seahorse Avenue,** sought Council's assistance in achieving installation of channel markers in Clam Pass/Clam Bay which had been mandated by the Army Corps of Engineers (ACOE) several years prior. Council Member Sorey requested that Council address the matter at that week's regular meeting since he

believed that the Collier Coastal Advisory Committee (CCAC) should be urged to enforce the aforementioned mandate as well as a directive from the United States Coast Guard (USCG); Council agreed to further discuss the matter during Correspondence and Communications (see below).

**BUDGET CALENDAR.....ITEM 4**

**The Budget Calendar provides the specific dates for the accomplishment of each phase of the annual budget preparation and adoption. Included are dates for City Council Workshop meetings and anticipated dates for the adoption of the budget. Confirmed dates for public hearing for the adoption of the millage rate and budget cannot be set until public hearing dates are set by Collier County and the School Board.** City Manager William Moss pointed out that March 30, June 1, and August 17 were dates scheduled for budget review, and Council Member Price noted that the Blue Ribbon Financial Planning Committee report would be completed by April 30 and provided to Council. (It is noted for the record that the aforementioned calendar is contained in the file for this meeting in the City Clerk's Office.)

*Consensus to approve schedule as submitted.*

**METHODOLOGY FOR ASSESSING ADMINISTRATIVE FEES.....ITEM 5**

**Public Service Enterprise Funds, such as the Utility Fund, Dock Fund, and Solid Waste Fund, pay an administrative allocation to off-set costs paid by the General Fund, such as Accounting, Human Resources, and Risk Management (insurance). Discussion on methods of allocation.** Finance Director Ann Marie Ricardi utilized an electronic presentation during which she reviewed the information as outlined in Attachment 1. (It is noted for the record that a printed copy of Ms. Ricardi's electronic presentation is contained in the file for this meeting in the City Clerk's Office.)

**Public Comment:** (8:51 a.m.) **Jim Boula, 702 Broad Avenue,** said that no administrative fees should be removed from the City Dock Fund so that a maintenance reserve could be established to make repairs to the facility. Referencing the allocation history chart (see Attachment 1, Page 5), he noted deductions from the City Dock Fund had increased over the past few years. City Manager William Moss explained that the same formula is however applied to all funds for determination of administrative costs, and Ms. Ricardi pointed out that the Tennis Fund had realized approximately the same yearly increase due to similarities with regard to size and the number of employees. She further clarified however that the Tennis Fund is deliberately undercharged per Council direction in 2000, although a more accurate amount in this instance would be \$100,000 per year. Council Member Price requested that the aforementioned direction be reviewed in the near future; Council Member Sulick agreed.

In response to Council Member Price, Ms. Ricardi further explained that the total administrative charges do not vary significantly from 2001 to compensate for past overcharging, especially with regard to the Water/Sewer Fund. She further clarified that the approximate \$4-million figure does in fact not reflect the total of all administrative costs which approximate \$6.2-million (see Attachment 1, Page 5). Mr. Price asked the staff to ascertain whether the \$6.2-million is comparable to other Florida municipalities with similar budgets. Council Member Sorey also requested a detailed administrative fee breakdown with regard to the City's budget.

*Consensus for staff to provide further research of four/five similar municipalities with regard to their total budget and the percentage of administrative chargebacks contained in that particular city's budget (5-2 / Barnett and Taylor dissenting).*

**Recess: 9:51 a.m. to 10:04 a.m. It is noted for the record that the same Council Members were present when the meeting reconvened.**

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**CITY DOCK FUND .....ITEM 6**

**Overview of the current status of the City Dock Fund, a self-supporting Public Service Enterprise.** Finance Director Ann Marie Ricardi pointed out that this item had been in response to a Council direction and that the first issue to be addressed would be the \$200,000 deficit reflected within the 2007-08 financial data (Attachment 2). This had been due to the decline in fuel and bait sales, as well as rental of boat slips, she said, noting that net assets had decreased from \$523,331 in 2006, to \$137,632 in 2008.

It was also noted that the 2008-09 fiscal year operating budget reflects minimal fuel sales in the first quarter which are however the profits which subsidize operations. Ms. Ricardi then noted the components of the \$417,430 in administration fees charged to the City Dock Fund for 2008-09:

- General Administration - \$144,428 (includes 1/10 of Community Services Director salary);
- Self-insurance - \$165,987 (Worker's Compensation, automotive, general liability and property insurance); and
- Payment in Lieu of Taxes (PILOT – which is calculated at 6% of a fund's revenue in March prior to the final budget) - \$107,015.

Ms. Ricardi however noted that the current budget is to be re-evaluated by mid-year to reflect an increase in slip rentals, but lower fuel sales, and a capital project (fuel tanks / \$300,000) completed under budget, she said.

In response to Council Member Willkomm, Ms. Ricardi explained that \$200,000 had been taken from cash to bring the fund into balance and confirmed that privatization of the facility had in fact been considered approximately two years prior. Mr. Willkomm requested that this however be a topic of future discussion. In response to Council Member Price, Ms. Ricardi indicated that only enterprise funds, such as the Water/Sewer and Solid Waste, contribute to the general fund through the PILOT program; however, this does not include the Tennis Fund, although this should be the case since it is an enterprise fund with competitors in the private sector. Mr. Price recommended that all enterprise funds be reviewed with regard to the proper PILOT percentage, but Ms. Ricardi indicated that, rather than a percentage, the amount could reflect the actual impacts.

Council Member Sorey recommended that the appraised property value for each enterprise be compared to the PILOT figure of 6% of revenue, pointing out that with regard to the City Dock Fund, the charge for legal fees in the insurance category should decrease substantially in the next fiscal year. Ms. Ricardi also confirmed for Mr. Sorey that, should it be necessary, cash could be transferred from the General Fund into the City Dock Fund. Mr. Sorey called for a review of past charges to the City Dock Fund, such as its paying for Naples Bay navigational signage and Naples Landing renovations. City Manager Moss noted that increased revenues to the City Dock Fund could be obtained by charging fees similar to that of Collier County for boat launching at Naples Landing.

In response to Council Member Heitmann, City Manager Moss explained that payment of legal costs are built into the administrative fees via risk management, an explanation of which is contained in the memorandum dated February 9 from Risk Manager Lori Parsons (Attachment 3).

Council Member Sulick requested details of the past four years of slip rentals, and Community Services Director David Lykins indicated that this would be provided as well as results of annual cost comparisons to other public facilities. Waterfront Operations Manager Michael Klein explained that the opening of the Crayton Cove mooring field awaited receipt of the final agreement review by Florida Department of Environmental Protection (FDEP) as well as a final FDEP inspection. Mr. Klein also recommended that daily charges for use of the anchorage be increased from \$10 to \$20 per vessel per day due to the necessity of regular inspections of moored vessels; Mrs. Sulick agreed. In response to Council Member Price, Mr. Klein clarified that the City upgrades to the mooring field had cost \$10,000, although there is no difference in the amenities available for a \$10 mooring and a \$45 per day transient vessel slip accommodating a 30-foot vessel. City Manager Moss added that to merely have staff travel out to a vessel and seal its sewage tanks would cost more than the proposed \$10 per day. Mrs. Sulick recommended that staff research mooring charges in marinas such as in Stewart, Florida.

Mr. Klein also explained that the fueling operation at the dock had been suspended by the FDEP for 71 days to allow the replacement of lines which had stretched over time and rendered the fuel pumps unable to operate. Both City Manager Moss and Mr. Klein suggested imposing user fees for both recreational and commercial use at Naples Landing.

**Public Comment:** (10:55 a.m.) **Jim Boula, 706 Broad Avenue**, noted a letter he had provided to Council Member Price (a copy of which is contained in the file for this meeting in the City Clerk's Office), wherein a boater, David Moseley, indicated that Naples had been unfriendly. Mr. Boula also questioned the safety of the present City Dock facility, citing loose boards and that the new FDEP agreement states that maintenance responsibility lies with the lessee. He therefore urged reduction of transfers from the City Dock Fund. Council Member Price summarized the above referenced letter, noting that while it had not indicated the source of the unfriendliness, all visitors should be welcomed. Mayor Barnett assured Council that he would have staff respond. **Brian Leiding, 235 Bahia Point**, commended the City Dock staff and pointed out that the Waterfront Manager's salary should be divided between all the operations with which he works, not merely at the City Dock. He also said that because the boating industry has been drastically affected by the current economy, competition for slip rentals and fuel sales has increased. Council Member Sulick enumerated marinas and boat storage facilities recently approved by Council, and Mayor Barnett pointed out that dock space had been at a premium just a few years prior..

Council Member Sorey requested a business plan as well as a preliminary analyses of the coming year's budget. He suggested that if the City Dock could be considered a pier it might be eligible for TDC (Tourist Development Council) funding. Mr. Klein also noted that a grant application to the Florida Fish & Wildlife Conservation Commission (FWCC) would soon be ready for submittal.

Council Member Price received confirmation that the 6% calculation of PILOT had commenced in 2005 due to the increase cited therein; City Manager Moss indicated that it had indeed begun that year. Mr. Moss enumerated various possible recommendations such as waiving the City Dock PILOT payment, reallocation of the Waterfront Manager's salary, and relining rather than replacing fuel tanks; he also suggested reducing staff by one. Vice Mayor Taylor commended Mr. Klein and his staff for the recent improvements in the appearance of the City Dock.

**FIFTH AVENUE SOUTH LIGHTING.....ITEM 7**

**Review of the final design for the Fifth Avenue South Lighting Project and discussion regarding construction schedule and short-term financing.** CRA Executive Director Russell Adams briefly reviewed his memorandum dated February 2 (Attachment 4) as well as the attached bid items list (Attachment 5), noting that the only branding included within the base scope would be the circular medallions on the 73 streetlight poles along Fifth Avenue South and that \$200,000 had been allocated to cover all landscaping and irrigation repairs and/or modifications that would be necessary following installation of infrastructure. He then reviewed the project schedule and estimated project cost (see Attachment 4, Page 2), explaining that funding would be discussed following the consultant's presentation.

Landscape Architect Richard Tindell, JRL Design, addressed landscaping issues (Attachment 6) explaining that the contractor would be directed not to disturb the existing plant material unless absolutely necessary. Referencing the bid items listing (see Attachment 5), he noted the three areas delineated: Fifth Avenue South (from Ninth Street South to Third Street South); side streets and other avenues; and alleyways. In addition to listing base design items, add alternate items that could be considered should pricing allow, and a third section for pricing of such items as an entry monument at Four Corners (Fifth Avenue South and US 41), as well as signage options and a secondary monument (at north end of Sixth Street South) had been denoted. With regard to Area 2 (see Attachment 5, Page 2) he clarified that the 21 poles/lamps for the alleyways should have been shown as included within the base design. Mr. Tindell also reviewed costs as reflected in Attachment 7, noting that the cost for "pole base w/landscape (without pavers) would be included within the base design cost total, however, paver installation (see Attachment 8, detail of design with and without pavers) would be considered an add alternative.

In response to Council Member Sulick, Consultant Andrea Douglas, JRL Design, provided a brief description of bollards and their proposed location on the south side of Fifth Avenue South at Sixth Avenue, noting that they would be included within the base design estimate

Council Member Willkomm said that he did not believe the project should go forward because of the current economic crisis, that unless it is an emergency repair or maintenance, no capital project not already underway should in fact be considered at that time. Mr. Adams explained that the current figures were estimates, pending direction to staff to proceed with bidding. City Manager William Moss noted that staff also sought direction as to the following:

- Scope of the project and the add alternates above discussed; and
- Whether the project is to be accomplished in one phase or several.

However, Mr. Moss also asked that the Council address

- A funding method for the project;
- Whether to proceed with the project at all; or
- Whether to await possible federal stimulus package funding.

In further discussion, City Manager Moss indicated that funding decisions must await receipt of actual bids. Council Member Sulick agreed, but also pointed out that new lighting along the north side of Fourth Avenue South, from Sixth to Third Street does not lie within the Community Redevelopment Area (CRA) and questioned the funding mechanism for these installations. She also questioned the 49 Florida Power & Light (FPL) poles and fixtures, and Mr. Moss indicated that FPL would not offer any funding assistance in the replacement process since the company would rather its lighting remain and the City continue to pay for its use. Mrs. Sulick questioned whether FPL had been contacted to ascertain the cost for rental of more decorative lighting; Mr. Moss stated that this concept had however not been a consideration.

In response to Vice Mayor Taylor, Mr. Moss recommended that City staff be responsible for the replacement of landscaping allowing the City to retain control of funding as well as planting selection.

Referencing the staff report (see Attachment 4, Page 2), Council Member Price questioned the \$100,000 line item regarding construction management; Mr. Moss indicated that this amount had been earmarked should this task need to be outsourced. Streets & Stormwater Director Ron Wallace explained that this amount had merely been a contingency, that his staff would monitor and inspect the project, although should services be required, such as an electrical engineer to review plans, this would be outsourced. At that time CRA Executive Director Adams read into the record a consensus contained in the December 15, 2008, City Council Workshop minutes as follows: “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.”. From this, he said, staff had brought forward that day’s discussion.

Vice Mayor Taylor questioned whether moving forward with the proposed project was a fiscally sound decision. City Manager Moss noted that the CRA’s current fund balance of \$1.8-million could be utilized, although the original intent had been to fund the project over four years. Council Member Price stated that the CRA debt service on the two parking garages amounts to \$1.2-million per year and asked whether the project funding noted on page 2 of the staff report (see Attachment 4) had taken that debt service into account. Mr. Adams responded that the repayment schedule would be over the four-year period (48 months) and that some amount would be needed from the fund balance to meet the repayment schedule. In that case, Mr. Price said, the CRA would have no monies available for any other projects in the foreseeable future; Mr. Adams agreed. Discussion ensued regarding the calculations used in the modeling for the CRA 15-Year Sustainability Report (Attachment 9), which had been a 4% increase in property taxes; Council Members Price and Willkomm agreed that a decline would however more likely be realized. Mr. Moss confirmed that property tax revenues for the current year are \$700,000 to \$800,000 below the projected amount, also pointing out that sale of parking spaces in the recently completed parking facility which had been projected at \$300,000 would not be realized. Finance Director Ann Marie Ricardi pointed out that the report (see Attachment 9) had however not included the aforementioned \$300,000 as revenue, and in response to Vice Mayor Taylor, Mr. Moss indicated that he would recommend first awaiting possible assistance from federal stimulus funding should it materialize; Mayor Barnett agreed. City Manager Moss noted that to

compete for the stimulus, projects must however be at a stage at which they could proceed immediately after being funded.

*Consensus that staff complete bid documents reflecting a base scope of work with various other elements considered add-ons and bid separately.*

**Recess: 12:30 p.m. to 12:44 p.m.** It is noted for the record that the same Council Members were present when the meeting reconvened except Vice Mayor Taylor who returned at 1:59 p.m. during discussion of Item 10.

.....ITEM 10  
**REVIEW OF FISCAL YEAR 2008-09 CAPITAL IMPROVEMENT PROGRAM.**

Following review of a 5-year General Fund revenue and expenditure summary, and in recognition of projected short-falls of \$2.1-million to over \$4-million in each of the five years, City Council agreed to review currently budgeted capital projects to determine whether cancellation or deferral of projects may be appropriate. City Manager William Moss referenced the memorandum by Finance Director Ann Marie Ricardi dated February 5 (Attachment 10) noting that staff's recommendations would be contained in that day's presentation with regard to the projects recommended for deferral.

**Public Comment:** (12:46 p.m.) **Fraser Smithson, 2390 Tarpon Road**, representing residents of the Royal Harbor neighborhood, urged that the Sandpiper project be completed, that less than the budgeted amount of \$100,000 would actually be needed with the revised scope of the project. This effort had been ongoing for over ten years, he added. Confirming for Council Member Price that safety is also a factor at the intersection of Sandpiper and Marlin, Mr. Smithson stressed that residents desire for the project to be completed. Council Member Sorey expressed his support, and Streets & Stormwater Director Ron Wallace provided a brief overview of the work necessary to complete the project, estimating a cost of approximately \$75,000. He said that funding would be derived from Public Services Tax and, if the project were not approved, the monies would be returned to the General Fund. Council Member Willkomm reiterated that, like the project discussed under Item 7, no project that is not an emergency or a maintenance function to address safety should be undertaken.

Ms. Ricardi utilized an electronic presentation (a printed copy of which is contained in the file for this meeting in the City Clerk's Office). (Please see Attachment 11 for itemized projects.) The following consensus was reached regarding the Public Service Tax Fund:

- Police and Fire (see Attachment 11, Page 1):
  1. Air conditioning (\$481,657) / develop proposal but do not move forward as yet;
  2. Fire Station 1 (\$500,000) / defer;
  3. Accept recommendations as to other projects deferred by staff for savings of **\$556,500** in this category.
- Community Services Administrative and Parks & Parkways (see Attachment 11, Page 2):
  1. 08F02 3<sup>rd</sup> Street S Streetscape improvements (\$50,000) / deferred / savings of **\$50,000**.
- Community Services Recreation (see Attachment 11, Page 3):
  1. 09G01 Norris Center enhancements (\$20,487) / deferred;
  2. 09G02 River Park / Anthony Park interior (\$12,711) / deferred;
  3. River Park Pool (\$20,000) deferred / savings of **\$106,094**.
- Community Services Facilities (see Attachment 11, Page 4):
  1. River Park pool roof (\$5,550) completed, remaining balance forward; and

2. 09I10 Sign replacement (\$470) completed, remaining balance forward / savings of **\$6,020.**

- Streets (see Attachment 11, Page 5):

1. 09U14 Sandpiper Street improvements (\$100,000) deferred / savings of **\$100,000.**

Total savings within the Public Service Tax fund: **\$818,614.**

Consensus was as follows regarding the Streets/Traffic Fund (see Attachment 11, Pages 5 and 6):

- 1. Bike Path Master Plan implementation (\$50,000) deferred;
- 2. Sidewalk Master Plan implementation (\$25,000 approved for City's portion of Fun Time sidewalk / \$75,000 transferred to Sandpiper Street improvements).

Total savings within the Streets/Traffic Fund: **\$50,000.**

**Total amount deferred: \$818,614 from Public Service Tax Fund and \$50,000 from Streets/Traffic Fund.**

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**It is noted for the record that Vice Mayor Taylor returned to the meeting at 1:59 p.m.**

**Recess: 2:00 p.m. to 2:10 p.m. It is noted for the record that the same Council Members were present when the meeting reconvened and discussion if Item 10 continued.**

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City Manager Moss briefly summarized the above discussion as reflected.

*Various items eliminated from program realizing a reduction in expenditures from the Public Service Tax Fund totaling \$818,614 and \$50,000 from Streets/Traffic Fund; resolutions to be brought forward reflecting this action in March.*

.....**ITEM 8**  
**PROPOSED ZONING AMENDMENT TO ALLOW RESTAURANTS ON THE SECOND FLOOR ON FIFTH AVENUE SOUTH AS RECOMMENDED BY THE COMMUNITY REDEVELOPMENT AGENCY ADVISORY BOARD (CRAAB).** Currently, new or expanded restaurants may not utilize the second floor of a building on Fifth Avenue South. City Council has been asked to consider amending the Land Development Code to allow such use on a second floor. Planning Director Robin Singer briefly reviewed her memorandum dated February 2 wherein she noted that restaurants (dining areas) on the second floor along Fifth Avenue South are currently prohibited by Code. (It is noted for the record that a copy of this memorandum is contained in the file for this meeting in the City Clerk's Office.) The Community Redevelopment Agency Advisory Board (CRAAB), she said, had however requested that staff draft sample text to allow second floor dining and, after having reviewed the text, recommended that it be brought before Council for consideration. The proposed amendment would require petitioners to obtain conditional use approval from Council; in addition, she noted, while CRAAB had discussed the prohibition of live entertainment on the second floor, it had not recommended such a restriction.

In response to Council Member Price, Ms. Singer indicated that so long as the conditional use process addressed impacts to adjacent residential uses, staff foresaw live entertainment as the only additional concern. While one such second floor dining establishment predates the restriction, no complaints had been received, Ms. Singer noted. Council Member Sulick cautioned against the amendment, pointing out that second floor dining is not a necessity for the viability of restaurants, also noting that the district in question is mixed use. Agreeing with Mrs.



Sulick, Mr. Price added that he had yet to identify a compelling reason for the change, that this had been in response to a request from one business and not a public outcry.

Council Member Sorey however expressed support for the amendment, citing current economic conditions and stating that second floor dining would help address the changing market place. Mayor Barnett noted that while he enjoyed second floor dining, he would not support it as prudent if residential existed on the third floor, although a conditional use permitting process should address this, he added.

*Consensus NOT to pursue this revision (4-3 / Barnett, Taylor and Sorey dissenting).*

.....**ITEM 9**  
**DISCUSSION OF TOPICS FOR PLANNING ADVISORY BOARD (PAB) MEETING WITH COLLIER COUNTY PLANNING COMMISSION.** The Planning Advisory Board would like to meet with the Collier County Planning Commission to discuss land development issues relevant to the City of Naples. The Planning Advisory Board seeks input from City Council regarding proposed discussion topics. Referencing Planning Director Robin Singer's memorandum dated February 2 (Attachment 12), Council Member Sorey suggested that the joint meeting go forward but recommended that discussion of Naples Bay be limited to impacts such as TMDL's (total maximum daily loads). With regard to the third topic, he suggested adding stormwater, as well as an additional topic regarding the interface between the City and County dredging projects. Council Member Price however questioned the purpose of the Planning Advisory Board (PAB) addressing these issues, and Council Member Sulick stated that she believed the topics listed should be discussed between the City Council and the Collier County Board of Commissioners; land use and pertinent codes should be the PAB discussion agenda, she added. Mr. Sorey pointed out that land use in the County directly affects the water quality of Naples Bay and therefore his recommendation with regard to TMDL discussion.

Vice Mayor Taylor voiced opposition to the proposal, noting that unintended consequences could arise; Council Member Price agreed, saying that he feared that the PAB would generate recommendations in direct conflict with Council positions. Council Member Sulick warned that dialog such as this would empower an advisory board beyond its intended scope.

Ms. Singer noted that the PAB had been discussing such a joint meeting for some time and that the list of topics had been compiled for Council's review. Council Member Sorey reiterated his support, but Council Member Sulick suggested that instead the head of County Community Development attend a PAB meeting and air timely County/City issues; Council Member Price agreed.

*Consensus NOT to concur with joint meeting.*

.....**ITEM 11**  
**DISCUSSION OF SETBACK LIMITATIONS ON OVERHANG ENCROACHMENTS.** *Continued from 02/02/09 Workshop.* Additional discussion regarding overhangs encroaching into the required side yard setback. Prior to a staff presentation, Council Member Willkomm noted that he no longer supported such an amendment, that the staff time would be better spent on more critical items. Planning Director Robin Singer then noted that additional information requested by Council had been provided within her memorandum dated

February 10, one from Site Plans Review Engineer Sandeep Dasari, and City Attorney Robert Pritt (Attachments 13, 14, and 15 respectively). City Manager William Moss indicated that proposed text had also been provided and, if approved, would be returned to Council in ordinance form for first reading; if not supported, the matter would be dropped from further consideration.

In response to Council Member Sorey, Council Member Willkomm agreed that reduction in the footprint of a home should be addressed at a future date, but Mr. Willkomm nevertheless maintained that he supported the distinctive appearance of the usual three-foot overhang currently used in architecture on homes within the City. The intent, he further said, had been to increase the visual distance between homes, although this would not occur with the proposed amendment. Council Member Sulick disagreed, saying that such a requirement exists within her neighborhood, but residents also want overhangs and therefore position their homes inward to accommodate them.

*Consensus NOT to go forward with this proposal (4-3 / Heitmann, Sulick and Taylor dissenting).*

**BRIEFING BY CITY MANAGER.....ITEM 12**

(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 briefly reviewed his memorandum dated February 11 (Attachment 16).

**REVIEW OF ITEMS ON 02/18/09 REGULAR MEETING AGENDA.....ITEM 13**

City Manager William Moss explained that the petitioner had requested that Item 7 (Hole-in-the-Wall conditional use and fence waiver) be continued to March 4; Mayor Barnett noted that the agenda contained a typographical error in the petitioner's name regarding Item 9 (Six Degrees Exhibitions waiver of distance for beverage license). Council Member Willkomm requested clarification as to whether a violation of the noise ordinance (Item 21) would result in a citation or arrest, and Council Member Sorey requested the addition of Item 24 (discussion of Council letter to Collier Coastal Advisory Committee and Collier County Commission concerning navigational markers in Clam Bay).

**CORRESPONDENCE / COMMUNICATIONS .....**

(2:49 p.m.) The following comments were noted regarding advisory boards and committees:

- Structure and functions should be examined with the possibility of joint workshops (Heitmann);
- Reduction in the number of meetings from monthly to quarterly (Sulick and Price);
- Possible restriction in items for discussion by Community Services Advisory Board (CSAB) (Taylor); and
- Clarification as to authority to receive legal opinions from City Attorney (Taylor).

During discussion of Celebration Community Church, Council Member Price noted that an exclusive right had not been granted to use Cambier Park. Council Member Sulick also noted that prior thinking in granting the use had been that it would indeed be temporary and did not convey an entitlement. Mayor Barnett stated that the CSAB should honor Council's direction that the Celebration Community Church use agreement not be discussed until the fall.

Council Member Heitmann expressed appreciation to the Blue Ribbon Financial Planning Committee members for their time and efforts. Mrs. Heitmann also questioned the installation of

a lighted fountain in Spring Lake, requesting that the funding source be ascertained. Council Member Price requested future discussion of the prohibition of charter boat captains picking up clients at locations other than the City Dock (such as private homes) and expressed concern about restriction to public access when street closures are authorized for events. He also noted the lack of clean-up by the sponsor of the prior weekend auto show and said that he intended to read the entire letter referenced under public comment of Item 6 (see above) at that week's regular meeting. Mayor Barnett noted that staff would indeed respond to the aforementioned letter provided by Jim Boula (a copy of which is contained in the file for this meeting in the City Clerk's Office). Council Member Sulick expressed concern that barricades had blocked public access to the Bank of America ATM (automatic teller machine) during the above referenced car show and that areas blocked during such events by sponsors should be restricted and monitored; Council Member Willkomm agreed. Mrs. Sulick concluded by saying that parking violations should be cited in light of the parking now available in the new parking facility on Eighth Street South and Sixth Avenue and Mr. Willkomm commended the construction process and design of the garage.

**ADJOURN**.....  
3:20 p.m.

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Bill Barnett, Mayor

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Tara A. Norman, City Clerk

Minutes prepared by:

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Vicki L. Smith, Technical Writing Specialist

Minutes Approved: 03/18/09

Administrative Charge Backs  
Workshop  
February 17, 2009

**What is an Administrative Chargeback?**

An attempt to recover direct and indirect costs of services performed by the General Fund for other City funds, so that full costs are reflected in the other funds' operating expenses.

For example, the Human Resources Department provides contract negotiation, grievance mediation, pay plan design, and recruitment/retention services to all City Departments and Funds.

**Three of the most common methods of cost allocation are:**

- ◆ Direct Allocation Method
- ◆ Step-Down Allocation Method
- ◆ Reciprocal Allocation Method

Direct Allocation Method

- ◆ Allocates support department costs directly to operating departments
- ◆ Simple to use
- ◆ Doesn't collect the non-direct costs
- ◆ (example... advertising for Customer Service Manager would be paid by Finance, not Human Resources)

Step-Down Allocation Method

- ◆ Allocates some services rendered by support departments to other support departments
- ◆ More complex & accurate than direct method
- ◆ A sequence must be chosen for which support department costs are allocated to the other support departments

Reciprocal Allocation Method

- ◆ Most comprehensive & complex cost allocation method
- ◆ Incorporates all interdepartmental relationships
- ◆ Best used where reciprocal relationships exist, such as Finance writes checks for HR; HR recruits for Finance)

**Which method does Naples use?**

- ◆ A combination. Where possible charges are made directly to a fund. For example, legal fees specific to a case in the Building and Zoning fund would be paid directly from that fund.

- ◆ Because not all costs are directly allocable to the user, the City uses a modified Step Down Allocation method to charge indirect costs to other funds.
- ◆ This method was chosen because of its ease of use and general accuracy.

#### Modified Step Down Allocation

This method takes the costs of administrative functions in the City and first allocates them to other General Fund functions. Each subsequent administrative function is then allocated to other departments.

- ◆ For example, one General Fund expense is "Insurance". Primarily it is attributable to higher risk departments like Police and Fire.
- ◆ However, Human Resources, Finance and the City Manager also have insurance risks such as workers compensation, blanket theft, vehicles
- ◆ Therefore, administrative costs, such as Insurance, are allocated first to departments in the General Fund.
- ◆ In this manner, full costs of each of the General Fund Departments are shown.
- ◆ Then, the costs of service departments in the General Fund are allocated to the users of the services.
- ◆ To allocate costs, there must be assumptions upon which the allocation is based. In the first example, the number of employees was used as the basis for allocating insurance expenditures.
- ◆ Attempts are made to keep the allocation basis objective. However sometimes, the basis is subjective.
- ◆ For example, Postage and Copiers were grouped together as a single allocated line item. Neither have been counted as to who is using
- ◆ Therefore, this allocation takes an educated guess.

Because of the large number of allocations, any individual change, either in allocation basis or in the actual allocation percentage, has minimal effect to any individual charge.

#### History

- ◆ Until 2002-03, the City had a base percentage that was charged to each fund. This allocation method was hard to defend.
- ◆ The Water and Sewer fund, which was paying over \$2 million for General Fund Services, was the harshest critic of this allocation-wanted a "basis" for the charge.



- ◆ In 2002-03, the Finance Department initiated the use of the step allocation method. Comparing the 01-02 budget figures to FY02-03, the new allocation method showed a decrease in revenues to the General Fund in excess of \$1,000,000
- ◆ In the first year only minor changes were made to each fund's allocation. Changes were limited to no greater than a 20% change in the right direction, or to split the difference in costs between the old method and the new method
- ◆ Changes continue to be restricted
- ◆ The allocation method has been presented to and reviewed by the City's auditing firms, KPMG Peat Marwick and CPA Associates as part of its annual audit.

Growth

- ◆ Recalculated every two years.
- ◆ In the odd years, departments may have submitted a 5% increase, which was accepted, but otherwise, it stayed the same.

Where and how the process starts

How the process starts (see chart Page 4)

About the allocation

- The actual spreadsheet allocates costs of 17 areas of the General fund to 36 different areas of the city.
- To print it out takes a about 12 pages, which need to be taped together to make any sense of the "steps".

History of the allocation (see chart Page 5)

Alternative to this report

- ◆ **Hire outside firm to calculate fees**

# How the process starts

	001-1417 Non-Dept Facilities	001-1480 Self Insurance	001-1480 Postage/ Allocation	001-1480 Sys GF Allocation	001-0201 Legal	001-0101 Mayor & City Council	001-0301 City Clerk's Office	001-0401 City Manager's Office	001-0708 Purchasing
Budget Estimate 2008-09									
Net Budget before Allocation	\$ 1,118,936	1,490,101	\$ 80,700	\$ 1,027,391	\$ 688,756	\$ 292,038	\$ 640,758	\$ 592,384	\$ 259,448
<b>Service Provided by Facility</b>									
Square Footage	-	-	-	-	750	3,500	3,000	3,000	6,000
proportion	0.0%	0.0%	0.0%	0.0%	0.8%	3.7%	3.1%	3.1%	6.3%
Allocation of Facility Maint	\$ (1,118,936)	\$ -	\$ -	\$ -	\$ 8,754	\$ 40,852	\$ 35,016	\$ 35,016	\$ 70,033
sub-total		1,490,101	80,700	1,027,391	697,510	332,890	675,774	627,400	329,481
<b>Service Provided by GF-Self Insurance</b>									
# of Employees					1.0	1.0	8.0	4.0	4.0
proportion			0%	0%	0%	0%	2%	1%	1%
Allocation of GF Self Insurance		\$ (1,490,101)	\$ -	\$ -	\$ 2,901	\$ 2,901	\$ 23,210	\$ 11,605	\$ 11,605
sub-total			80,700	1,027,391	700,411	335,792	698,985	639,006	341,086
<b>Service Provided by Postage/Copiers</b>									
Postage Use					611	-	560	764	500
proportion				0%	1%	0%	1%	2%	1%
Allocation of Postage Copiers			\$ (80,700)	\$ -	\$ 1,052	\$ 0	\$ 964	\$ 1,315	\$ 861
sub-total				1,027,391	701,463	335,792	699,949	640,321	341,947
<b>Service Provided by GF IS Charge</b>									
PCs Use					2	5	8	5	4
proportion					1%	2%	3%	2%	1%
Allocation of GF IS charge			-	-	\$ 6,715	\$ 16,787	\$ 26,860	\$ 16,787	\$ 13,430
sub-total					708,178	352,579	726,809	657,108	355,377

This is the beginning of the spreadsheet.



# History of the allocation

	FY00-01	FY01-02	FY 02-03	FY 03-04	FY04/05	FY05/06	FY06/07	FY07/08	FY 08/09
110 Building Permit	102,800	113,100	218,100	225,000	279,140	287,500	311,699	301,874	301,874
200 Debt Service	76,800	92,900	91,900	64,000	64,000	64,000	67,070	70,424	70,424
340 Capital Imp	212,500	167,900	237,500	125,000	125,000	125,000	125,000	131,250	131,250
380 CRA	42,600	75,900	94,900	106,000	120,000	124,800	197,000	206,850	206,850
390 Streets	365,500	375,000	386,200	140,000	120,000	120,000	130,000	137,000	137,000
420 Water/Sewer	2,034,800	2,199,700	2,130,700	1,900,000	1,818,720	1,832,720	1,799,000	1,888,950	1,888,950
430 Beach Fund	258,600	283,200	277,700	201,000	201,000	201,000	197,000	207,000	207,000
450 Solid Waste	351,800	345,700	335,500	289,000	289,000	303,500	275,000	289,000	289,000
City Dock Fund	92,300	98,000	132,700	112,000	125,000	131,000	137,550	144,428	144,428
Stormwater Fund	175,100	164,100	177,900	135,000	125,000	125,000	125,000	131,000	131,000
Tennis Fund		-	22,050	24,000	28,000	28,000	30,000	32,000	32,000
Risk Mgt	53,800	55,800	83,100	65,500	65,500	68,775	65,500	68,775	68,775
Health Benefits	89,100	-	19,600	31,000	32,500	32,500	35,500	37,275	37,275
Technology Svc	117,000	-	90,000	85,000	85,000	85,000	89,750	94,238	94,238
Equipment Svcs		124,900	131,100	139,000	139,000	139,000	132,500	139,125	139,125
Construction Mgt			-	41,000	98,000	103,000	71,500	75,075	-
Pension Funds	29,200	29,500	31,000	31,000	34,020	35,720	49,500	51,975	51,975
<b>Total</b>	<b>4,001,900</b>	<b>4,125,700</b>	<b>4,459,950</b>	<b>3,713,500</b>	<b>3,748,880</b>	<b>3,806,515</b>	<b>3,838,569</b>	<b>4,006,239</b>	<b>3,931,164</b>



<b>CITY DOCK FUND</b>					
REVENUE/EXPENDITURE ANALYSIS (CASH BASIS)					
as of September 30, 2008					
	Actual 2007 12 Months	Actual 2008 12 Months	Percentage Increase/ Decrease	2008 Amended Budget	Percentage of Annual Budget
<b>REVENUES:</b>					
Dock Rentals	515,146	486,007	(5.7%)	605,000	80.3%
Fuel Sales	1,296,734	1,112,223	(14.2%)	1,500,000	74.1%
Bait Sales	56,710	46,435	(18.1%)	55,000	84.4%
Naples Landings	94,449	92,767	(1.8%)	85,000	109.1%
City Fines	400	428	7.0%	3,500	12.2%
Interest Income	26,809	12,043	(55.1%)	28,000	43.0%
Dock Misc. Revenue	43,474	34,921	(19.7%)	37,000	94.4%
Beginning Cash	-	-	-	180,638	0.0%
<b>TOTALS</b>	<u>2,033,722</u>	<u>1,784,824</u>	(12.2%)	<u>2,494,138</u>	71.6%
<b>EXPENDITURES:</b>					
Personal Services	296,414	285,163	(3.8%)	282,222	101.0%
Resale Supplies	54,759	39,829	(27.3%)	55,000	72.4%
Gasoline Purchases	1,039,888	973,315	(6.4%)	1,200,000	81.1%
Operating Expense	293,801	217,422	(26.0%)	360,212	60.4%
Transfer - Admin	378,285	417,516	10.4%	417,516	100.0%
Capital Expense	40,126	52,136	29.9%	179,188	29.1%
<b>TOTAL</b>	<u>2,103,273</u>	<u>1,985,381</u>	(5.6%)	<u>2,494,138</u>	79.6%
<b>Gain/Loss</b>	<u>(69,551)</u>	<u>(200,557)</u>		<u>0</u>	





# Memo

## Human Resources

Benefits • Labor Relations • Recruitment • Risk Management • Training

**TO:** A. William Moss, City Manager  
**THROUGH:** Denise K. Perez, Human Resources Director  
**FROM:** Lori P. Parsons, Risk Manager  
**DATE:** February 9, 2009  
**SUBJECT:** Risk Management Fund (Fund 500) Cost Allocation

The City's self-insurance Risk Management Fund provides professional risk management service claims funding, and excess property, liability and workers' compensation insurance to all City departments/divisions. The Risk Management Fund is an Internal Service Fund wherein all costs (personnel and operating) are allocated to City departments/divisions based on their percentage of a 50/50 weighted average of:

- **Exposures**

- Workers' Compensation = Number of employees with a low, medium and high risk factor applied. Low, medium, and high risk designation is determined by using National Council on Compensation Insurance (NCCI) codes and their related cost.
- Automobile Liability = Number of vehicles with a low, medium and high risk factor applied. Low, medium, and high risk designation is determined from standard insurance industry underwriting/rating criteria based on vehicle size and use.
- General Liability = Number of employees.
- Property = Property values (building and contents).

**AND**

- **Experience**

- Loss experience is based upon a four-year average of the most recent four-year period. For example, the FY08/09 allocation was based on losses for the period October 1, 2003 through September 30, 2007; valued as of September 30, 2007.

To ensure compliance with Governmental Accounting Standards Board (GASB) 10, an annual actuarial analysis is performed on the risk management fund which provides management with reasonable claim funding and reserve levels. Information contained in the actuarial analysis is used in the cost allocation program to determine current year and prior year claim funding.

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

Page 2  
February 9, 2009

**City Dock Fund**

The FY08/09 self-insurance allocation to the City Dock totaled \$165,987 and was primarily based upon the Dock's liability claims experience for the period October 1, 2003 through September 30, 2007 associated with the Allen Walburn and A&B Charters lawsuits. The City's litigation costs have exceeded \$200,000. For experience purposes, claims are capped at \$100,000 per occurrence since the City is self-insured up to \$100,000. Amounts paid over and above \$100,000 per claim are assumed recoverable from excess insurance and are not charged back to departments.

In addition to the Dock's claim experience associated with the Walburn and A&B Charters lawsuits, another dock tenant (Jeffrey Player) filed a lawsuit against the City in 2006 alleging bodily injury as a result of negligence/failure to maintain at the City Dock. Litigation costs associated with the City's defense in this matter totaled \$68,458 on September 30, 2007. All litigation costs associated with these three liability claims have impacted the City Dock's self-insurance allocation since FY05/06.

I hope this information has been helpful. Should you have any questions or need additional information, please do not hesitate to contact me.

cc: Ann Marie Ricardi, Finance Director

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



City of Naples



**NAPLES CITY COUNCIL AGENDA MEMORANDUM**

**Workshop Meeting Date:** February 17, 2009

Agenda Item:	7	Prepared By: Russ Adams, Director
		Date: February 2, 2009 Department: Community Redevelopment Agency
<b>SUBJECT:</b> 5 <sup>th</sup> Avenue South Lighting Project		
<b>BACKGROUND:</b> On December 1, 2008, City Council reviewed the proposed 5 <sup>th</sup> Avenue South Lighting Project and directed that the construction documents be completed in preparation for issuing an Invitation To Bid.  The project will replace/upgrade all street lighting and the special events power system along 5 <sup>th</sup> Avenue South, 4 <sup>th</sup> Avenue South and 6 <sup>th</sup> Avenue South from 9 <sup>th</sup> Street South to 3 <sup>rd</sup> Street South. It will also provide street lighting for all cross streets for one block north and south of 5 <sup>th</sup> Avenue South.  During the course of discussions with City Council, the Community Redevelopment Agency (CRA), the Community Redevelopment Agency Advisory Board (CRAAB), the Fifth Avenue South Action Committee (FASAC) and City residents, there were many ideas discussed beyond just the lighting and power systems. Although not all of these ideas could be included in the project scope, the bid documents are structured to obtain additional bids that may be included in the project depending on the costs received through the competitive bidding process. Attached is a table summarizing how this will work. There are three columns in the table: <ul style="list-style-type: none"> <li>• Base Design (Represents the scope used to estimate the cost of the project).</li> <li>• Add Alternate (Items which could be added depending on the bid results).</li> <li>• Not included in the scope of work.</li> </ul> On December 1 <sup>st</sup> , City Council also directed staff to clarify: <ul style="list-style-type: none"> <li>• What "branding" items were in the project cost estimate. (Signs, markers, entrance tower, etc.)</li> <li>• How the restoration of the landscaping would be accomplished to accommodate the new street lights and accommodate future modifications of the plant beds as might be required by expanding root balls of trees and larger plants.</li> </ul> <u>Branding</u> As shown in the attached table the only "branding" items included in the Base Design are the 5 <sup>th</sup> Avenue South circular medallions which will be mounted only on the 73 street light poles along 5 <sup>th</sup> Avenue South.  <u>Landscape Restoration</u> The route of the new wiring conduit will run as close to the curb as possible to minimize plant replacement. Also the new street light bases will be elevated above corrosive soil and mulch as well as designed to accommodate possible future modifications to the planting beds by re-contouring of the bed. (See attached Drawing A). \$200,000 of the project cost estimate has been allocated to cover all landscaping and irrigation repairs and modifications. This work will be done by Parks and Parkways. As an Add Alternate, the contouring would be finished with pavers around the base of the street light as shown in Drawing B.		

City of Naples

**NAPLES CITY COUNCIL AGENDA MEMORANDUM**Workshop Meeting Date: **February 17, 2009**

Page Two

Agenda Item:

7

**BACKGROUND (cont.):**Project Schedule

The scope of work provides for a continuous project with two distinct phases:

- 5<sup>th</sup> Avenue South Phase – Construction will start in June, 2009 and be substantially completed by December.
- Cross streets, 4<sup>th</sup> Avenue South, and 6<sup>th</sup> Avenue South Phase – Construction initiated after the 5<sup>th</sup> Avenue South Phase and will extend into the 2009-2010 season. However, there should be minimal disruption to pedestrian and vehicular traffic.

Estimated Project Cost

The project cost estimate is \$1,800,000 including:

- \$1,500,000 for Construction (Estimate Completed September 2008).
- \$200,000 for Landscape Repairs and Modifications (Parks and Parkways).
- \$100,000 for Construction Management.

When the bids are evaluated, staff will present the results to City Council with recommendations concerning what Add Alternates, if any, might be added to the project.

Project Funding

For this project to proceed on a continuous schedule, financing is necessary to maintain a CRA fund balance. The projected Fund Balance for the end of the current fiscal year is \$1.8 million. The Finance Director has recommended an internal City loan for 4 years at 3%. If the loan were for as much as \$1.8 million, the repayment schedule is shown below.

2009	2010	2011	2012	2013
\$242,125	\$484,250	\$484,250	\$484,250	\$242,125

This project may qualify as "shovel ready" and be eligible for the new Federal Stimulus Package funding. However, since the federal bid requirements for the program are not yet known the Invitation to Bid will be issued as scheduled in March 2009. As more becomes known about the federal program, the project could be re-bid if necessary to qualify for federal funds.

Staff Guidance

Staff requests Council's guidance concerning:

- Project Scope with Add Alternates.
- Continuous two-phase schedule.
- Internal financing contingent on additional information concerning the Federal Stimulus Program.

Reviewed by Department Director  
A. William Moss

Reviewed by Finance  
Ann Marie Ricardi

Reviewed by City Manager  
Ann Marie Ricardi

City Council Action:

FOR REVIEW – NOT FOR CONSTRUCTION



## BID ITEMS

## AREA 1: 5th Ave S. Section

Quantity	Descriptions	Base Design	Add Alternate	Not Included in Contract
73	5th Ave S. - • Pole & Lamp • Logo & Power Distribution • Holiday Lights	X		
	• Pole Base /w Landscape (see detail)	X		
	• Pole Base /w Paver Pad (see detail)		X	
5	5th Ave S. - • Downlight for Public Sculpture		X	
3	5th Ave S. - • Bollard (South end of 6th St.)	X		
	5th Ave S. (between 8th St. & 3rd St.) - • Conduit for Future Fiber Optics Run		X	
4	Area 1 - • Revamping Power Distribution Center with new Cabinets • Remote controller devices	X		
	Area 1 - • Relocation of Power Center # 4 (from Park St. to the Alley behind Commercial buildings.)		X	
10	Area 1 - • Receptacles (for holiday lighting on large canopy trees along 5th Ave.)		X	
1	Area 1 - • Entry Monument			X

FOR REVIEW – NOT FOR CONSTRUCTION

AREA 2: North/South Streets & 4th Ave S. and 6th Ave S				
81	6th Ave S., 4th Ave S., & Streets Intersecting 5th Ave S. - • Pole & Lamp • Holiday Lighting	X		
5	Replace Public Parking Garage Fixtures (6th Ave S. & 8th St.) - • Pole & Lamp • Holiday Lighting		X	
21	3rd St. & 8th St. - • Pole & Lamp • Holiday Lighting & Logo	X		
	Area 2 - • Signage			X
1	Area 2 - • Secondary Monument			X
4	Area 2 - • Moonlight Fixtures (6th St. S.)		X	
1	Area 2 - • New Power Distribution Center • Remote controller devices	X		
AREA 3: Alley				
21	Alleys - • Pole & Lamp		X	
6	Replace Public Parking Garage Fixtures in Alley (6th Ave S. & 8th St.) - • Pole & Lamp		X	
15	Area 3 - • Pedestrian pathway markers			X



TINDELL - HANDOUT

1. It is the intent of the project to have a minimum impact on the landscape plants within the scope of the work. Generally the landscape will remain intact other than areas adjacent to new or existing lamp locations and where abandoned junction boxes and distribution points are removed.
2. With the exception of replacement of ornamental landscape plants, all other site related work is part of the scope of this work, such as, protection, demolition, salvage of living materials (for reuse by the city if directed), grading, re-sodding, irrigation and other improvement repairs and the like damaged through the project installation.
3. Under a separate agreement, landscape materials removed as part of the scope of the work shall be replaced with selected salvage and new plantings of similar species and sizes as directed by the City Horticulturist and Project Manager to create a finished appearance including mulch.



#7 TINDALL

FOR REVIEW -- NOT FOR CONSTRUCTION



## BID ITEMS

## AREA 1: 5th Ave S. Section

Quantity	Descriptions	Base Design	Add Alternate	Not Included in Contract
73	5th Ave S. - • Pole & Lamp • Logo & Power Distribution • Holiday Lights	\$656,350.00		
	• Pole Base w/ Landscape (see detail A)	Included in Landscape		
	• Break away- Banner Arms		\$19,400.00	
	• Pole Base w/Paver Pad (see detail B)		\$10,600.00	
5	5th Ave S. - Downlight for Public Sculpture		\$5,000.00	
3	5th Ave S. - Bollard (South end of 6th St.)	\$4,200.00		
1	5th Ave S. (between 8th St. & 3rd St.) - • Conduit for Future Fiber Optics Run		\$41,400.00	
4	Area 1 - Revamping Power Distribution Center with new Cabinets	\$12,500.00		
	• Remote controller devices		\$4,000.00	
1	Area 1 - Relocation of Power Center # 4 (from Park St. to the Alley behind Commercial buildings.)		\$9,000.00	
10	Area 1 - Receptacles (for holiday lighting on large canopy trees along 5th Ave.)		\$2,500.00	
1	Area 1 - Entry Monument			N.I.C.
1	Area 1 - Demolition	\$20,000.00		
1	Area 1 - Repair & Landscape	\$180,000.00		

## AREA 1 SUBTOTAL:

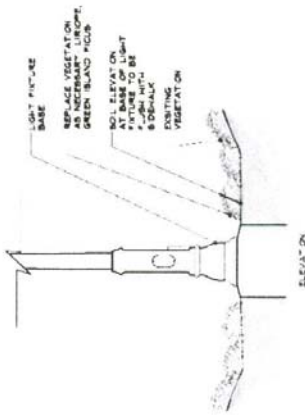
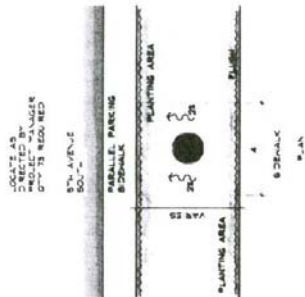
\$873,050.00  
42% D.P.

\$91,900.00

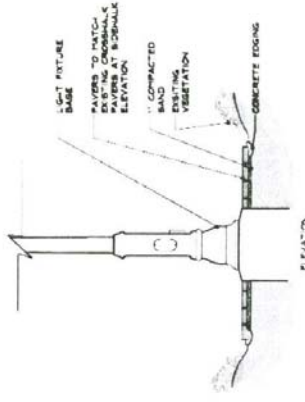
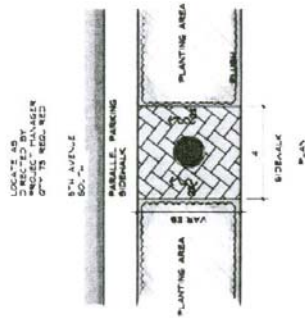
FOR REVIEW -- NOT FOR CONSTRUCTION

AREA 2: North/South Streets & 4th Ave S. and 6th Ave S.				
Quantity	Descriptions	Base Design	Add Alternate	Not Included in Contract
81	6th Ave S., 4th Ave S., & Streets intersecting 5th Ave S. - • Pole & Lamp • Holiday Lighting	\$493,950.00	\$14,580.00	
5	Replace Public Parking Garage Fixtures (6th Ave S. & 8th St.) • Pole & Lamp • Holiday Lighting	\$18,750.00**	\$900.00	
21	3rd St. & 8th St. - • Pole & Lamp • Holiday Lighting & Logo	\$114,450.00	\$24,780.00	
1	Area 2 - Signage			N.I.C.
4	Area 2 - Secondary Monument (6th St. & 4th Ave)			N.I.C.
1	Area 2 - • Moonlight Fixtures (6th St. S.)	\$8,000.00	\$10,000.00	
1	Area 2 - • New Power Distribution Center • Remote controller devices	\$6,000.00	\$1,000.00	
1	Area 2 - Demolition	\$15,000.00		
1	Area 2 - Repair & Landscape			
AREA 2 SUBTOTAL:		\$656,150.00 56% D.P.	\$51,260.00	
AREA 3: Alley				
21	Alleys - Pole & Lamp	\$136,950.00		
21	Alleys- Pole Upgrade Sheperds Hook		\$8,400.00	
6	Replace Public Parking Garage Fixtures in Alley (6th Ave S. & 8th St.) - Pole & Lamp	\$22,500.00**		
15	Area 3 - Pedestrian pathway markers			N.I.C.
1	Area 3 - Demolition	\$3,000.00		
1	Area 3 - Repair & Landscape	\$5,000.00		
AREA 3 SUBTOTAL:		\$167,450.00 50% D.P.	\$8,400.00	
TOTAL ESTIMATE:		\$1,696,650.00	\$151,560.00	

5th Avenue Lighting



A  
Alternative  
fixture landscape solution  
111



B  
Alternative  
fixture landscape solution  
111

2008-09 CIP & CRA Update Projects																	
	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	Total
Revenue																	
Tax	2,990,388	3,110,004	3,234,404	3,363,780	3,498,331	3,638,264	3,783,796	3,935,147	4,092,853	4,262,285	4,436,505	4,603,965	4,787,708	4,973,216	5,178,385	5,385,520	65,263,819
Investment/Other	199,039	64,300	64,300	64,300	64,300	64,300	64,300	64,300	64,300	64,300	64,300	64,300	64,300	64,300	64,300	64,300	1,123,530
Total Revenue	3,149,418	3,174,304	3,298,704	3,428,080	3,562,631	3,702,564	3,848,095	3,999,447	4,156,853	4,326,585	4,490,805	4,667,865	4,852,008	5,043,516	5,242,685	5,449,820	66,387,349
Expenses																	
Personnel	722,506	751,822	781,895	813,171	845,638	879,526	914,707	951,285	989,347	1,028,921	1,070,077	1,112,881	1,157,396	1,203,692	1,251,839	1,301,913	15,777,085
Operating Expenses	692,143	719,829	748,622	778,567	809,709	842,098	875,782	910,813	947,245	985,135	1,024,541	1,065,522	1,108,143	1,152,469	1,199,548	1,246,510	15,105,695
Total	1,414,649	1,471,651	1,530,517	1,591,738	1,655,347	1,721,623	1,790,488	1,862,108	1,936,592	2,014,056	2,094,618	2,178,403	2,265,539	2,356,161	2,450,407	2,548,423	30,882,781
Non-Op. Expenses																	
Interfund Debt Repayment	359,674	359,674	159,750	159,750													1,038,828
Debt Service																	
First Garage 8th & 4th	430,000	430,357	445,013	439,581	443,054	446,349	448,089	446,629	440,329	439,900	436,107	432,034	427,434	422,552	0	0	6,136,503
New Garage 8th & 3rd	623,000	623,000	623,000	623,000	623,000	623,000	623,000	623,000	623,000	623,000	623,000	623,000	623,000	623,000	623,000	0	9,345,000
Total	1,412,739	1,418,031	1,227,803	1,222,371	1,066,054	1,069,349	1,072,099	1,069,629	1,066,329	1,062,900	1,059,107	1,055,034	1,050,434	1,045,552	623,000	0	16,520,431
Available for Capital/Debt	321,830	284,622	540,384	613,971	844,170	911,592	985,508	1,067,710	1,153,931	1,243,589	1,337,680	1,434,428	1,536,835	1,641,803	2,169,278	2,901,397	18,984,137
2008-2009 Capital Budget																	
Sugden Plaza	40,000																40,000
River Park	150,000	200,000	250,000	250,000	150,000												1,000,000
5th Ave Lighting	220,000	567,000	710,000	220,000													1,717,000
5th Ave N. Improvements	95,000																95,000
Lake Marlin			235,000														235,000
8th Ave N. Lighting			109,000														109,000
Park ST Project			500,000	250,000													750,000
D-Downtown Garage/Land			3,500,000		10,000,000												13,500,000
3rd Avenue S. Improvements			150,000	750,000	750,000												1,650,000
Goodlette-Frank Streetscaping			150,000	1,500,000	1,500,000												3,150,000
Central Avenue Improvements			150,000	800,000	800,000												1,750,000
5th Avenue S. Parking Facility				5,000,000													5,000,000
Four Corners Land Use Plan		35,000															35,000
Four Corners Zoning Code		10,000															10,000
Four Corners Intersection																	200,000
Special Features Gateways							1,000,000										1,000,000
Spec. Features Cultural Plaza							2,000,000										2,000,000
US 41 Boulevard							7,000,000										7,000,000
6th Ave S. Promenade									2,000,000								2,000,000
Waterfront Connection																	4,000,000
Protestant Bridge									2,000,000		4,000,000						6,000,000
Total Capital	503,000	812,000	5,954,000	8,770,000	13,200,000	0	10,000,000	0	2,000,000	0	4,000,000	0	5,000,000	0	0	0	50,241,000
Net Cashflow	-183,370	-527,378	-5,413,616	(8,156,029)	-12,358,830	911,592	-9,014,482	1,067,710	-846,069	1,243,589	-2,663,920	1,434,428	-3,463,965	1,641,803	2,169,278	2,901,397	-31,256,863

City of Naples



**NAPLES CITY COUNCIL AGENDA MEMORANDUM**

**Workshop Meeting Date: February 17, 2009**

Agenda Item: 10	Prepared By: Ann Marie S. Ricardi, Director Date: February 5, 2009 Department: Finance
<b>SUBJECT:</b> Presentation of the status of the current year's Capital Improvement Projects	
<p><b>BACKGROUND:</b> At the February 4, 2009 City Council Workshop, Council Member Heitmann requested that staff bring forth a Workshop item for current year capital projects.</p> <p>On February 5, 2009, City staff reviewed (most) current year capital projects to establish which are underway, complete or could be deferred. The reason for considering deferring or delaying projects that were already approved is related to fiscal and economic concerns for 2008-09 and beyond.</p> <ul style="list-style-type: none"> <li>• Deferral could provide needed funding for current year 2008-09</li> <li>• Deferral could provide funding opportunities for 2009-10</li> <li>• Delays may enable use of potential federal funding</li> <li>• Deferral may increase funding availability for future sustainability of current infrastructure</li> <li>• There will be less capital money in 2009-10</li> </ul> <p>This presentation reflects the status of the 2008-09 capital projects and staff's recommendations as to which can be deferred. The attached list of projects includes all funds. However, not all will be addressed at this meeting either because the fund has no impact on general operations, the projects are underway or the projects are in the competitive bidding phase.</p>	
<p><i>Ann Marie S. Ricardi</i></p>	
Reviewed by Department Director Ann Marie Ricardi	Reviewed by Finance N/A
Reviewed by City Manager A. William Moss	
City Council Action:	



## Public Service Tax Fund Police and Fire

PROJ ID	PROJECT DESCRIPTION	ORIGINAL BUDGET FY 08-09	AMENDED BUDGET FY 08-09	ENC or EXP FY 08-09	YTD BALANCE FY 08-09
07Y01	AIR CONDITIONING-	500,000	528,034	46,378	481,657
09E03	MOBILE RADIOS	11,000	11,000	9,257	1,743
09E04	VEHICLE EXTRICATION EQUIPMENT	28,500	28,500	28,500	-
09E07	LAUNDRY EXTRACTORS	13,000	13,000	-	13,000
09E09	FIRE BOAT REPLACEMENT	290,000	290,000	-	290,000
09E14	PHYSICAL TRAINING EQUIP-GRANT	25,000	25,000	14,752	10,248
09E15	FIREFIGHTING EQUIPMENT	37,100	37,100	2,850	34,250
09H01	POLICE VEHICLES REPLACEMENT	300,000	300,000	130,869	169,131
09H02	PORTABLE RADIOS	47,000	47,000	-	47,000
09H05	POLICE NOTEBOOKS	71,025	71,025	38,426	32,599
09H08	POLICE IN CAR CAMERA	71,400	71,400	-	71,400
	FIRE STATION 1	-	-	-	500,000
09H12	CID VEHICLES	25,000	25,000	-	25,000
	<b>SUBTOTAL POLICE &amp; FIRE SERVICES</b>	<b>1,419,025</b>	<b>1,447,059</b>	<b>271,032</b>	<b>1,676,027</b>

## Police and Fire

	<u>BALANCE</u>	
AIR CONDITIONING-	481,657	CAN BE DEFERRED TO 09-10, BUT NOT RECOMMENDED
MOBILE RADIOS	1,743	COMPLETED
VEHICLE EXTRICATION EQUIPMENT	-	COMPLETED
LAUNDRY EXTRACTORS	13,000	UNDERWAY
FIRE BOAT REPLACEMENT	290,000	OUT Savings will be \$29,000
PHYSICAL TRAINING EQUIP-GRANT	10,248	OUT Savings will be \$2,500
FIREFIGHTING EQUIPMENT	34,250	UNDERWAY
POLICE VEHICLES REPLACEMENT	169,131	UNDERWAY
PORTABLE RADIOS	47,000	UNDERWAY
POLICE NOTEBOOKS	32,599	UNDERWAY
POLICE IN CAR CAMERA	71,400	UNDERWAY
FIRE STATION 1	500,000	UNDERWAY NEEDS TO BE DISCUSSED
CID VEHICLES	25,000	OUT Savings will be \$25,000
	<b>1,676,027</b>	<b>Total Savings \$56,500</b>

## Public Service Tax Fund C.S. Admin and Parks/Pkwy

PROJ ID	PROJECT DESCRIPTION	ORIGINAL BUDGET FY 08-09	AMENDED BUDGET FY 08-09	ENC or EXP FY 08-09	YTD BALANCE FY 08-09
<b>COMMUNITY SERVICES</b>					
<b>ADMINISTRATION</b>					
09G11	FACILITY UPGRADES	60,000	60,000	16,612	43,388
<b>PARKS &amp; PARKWAYS</b>					
08F02	3RD ST S. STREETSCAPE IMP	50,000	50,000	-	50,000
09F01	MOWER AND SPRAYER	62,000	62,000	25,873	36,127
09F03	IRRIGATION SYSTEM	38,000	38,000	-	38,000
09F26	TREES	15,000	15,000	-	15,000

## C.S. Admin and Parks/Pkwy

COMMUNITY SERVICES	BALANCE				
<b>ADMINISTRATION</b>					
09G11 FACILITY UPGRADES	43,388	UNDERWAY			
<b>PARKS &amp; PARKWAYS</b>					
08F02 3RD ST S. STREETSCAPE IMP	50,000	CAN BE DEFERRED TO 09-10, BUT NOT RECOMMENDED			
09F01 MOWER AND SPRAYER	36,127	UNDERWAY			
09F03 IRRIGATION SYSTEM	38,000	UNDERWAY			
09F26 TREES	15,000	CAN BE DEFERRED TO 09-10, BUT NOT RECOMMENDED			
		No Savings in these			

## Public Service Tax Fund C.S. Recreation

PROJ ID	PROJECT DESCRIPTION	ORIGINAL BUDGET FY 08-09	AMENDED BUDGET FY 08-09	ENC or EXP FY 08-09	YTD BALANCE FY 08-09
<b>RECREATION</b>					
08G16	FLEISCHMANN PK C.C. EXT	100,000	214,736	163,011	51,725
09G01	NORRIS CTR ENHANCEMENTS	50,000	50,000	29,513	20,487
09G02	RP/ANTHONY PARK INTERIOR	50,000	50,000	37,289	12,711
09G04	CITYWIDE PLAYGROUND IMPROVEMENT	50,000	50,000	8,167	41,833
09G05	RIVER PARK POOL	25,000	25,000	5,000	20,000
09G15	RIVER PARK COMPUTER LAB	5,000	5,000	3,830	1,170
<b>SUB TOTAL RECREATION</b>		<b>280,000</b>	<b>394,736</b>	<b>246,809</b>	<b>147,927</b>

## C.S. Recreation

<b>RECREATION</b>			
08G16	FLEISCHMANN PK C.C. EXT	51,725	COMPLETED
09G01	NORRIS CTR ENHANCEMENTS	20,487	CAN BE DEFERRED
09G02	RP/ANTHONY PARK INTERIOR	12,711	CAN BE DEFERRED
09G04	CITYWIDE PLAYGROUND IMPROVEMENT	41,833	UNDERWAY
09G05	RIVER PARK POOL	20,000	CAN BE DEFERRED
09G15	RIVER PARK COMPUTER LAB	1,170	COMPLETED
<b>SUB TOTAL RECREATION</b>		<b>147,927</b>	\$ 106,094 Can be Deferred



## Public Service Tax Fund C.S. Facilities

PROJ ID	PROJECT DESCRIPTION	ORIGINAL BUDGET FY 08-09	AMENDED BUDGET FY 08-09	ENC or EXP FY 08-09	YTD BALANCE FY 08-09
<b>FACILITIES MAINTENANCE</b>					
09101	HVAC REPLACEMENT	20,000	20,000	3,000	17,000
09102	FP FIELDHOUSE RESTROOMS	160,000	160,000	5,000	155,000
09103	RP POOL ROOF	10,000	10,000	4,450	5,550
09110	SIGN REPLACEMENT	10,000	10,000	9,530	470
<b>SUBTOTAL FACILITIES MAINTENANCE</b>		<b>200,000</b>	<b>200,000</b>	<b>21,980</b>	<b>178,020</b>

## C.S. Facilities

<b>FACILITIES MAINTENANCE</b>	<b>Balance</b>		
09101 HVAC REPLACEMENT	17,000	D	UNDERWAY
09102 FP FIELDHOUSE RESTROOMS	155,000	A	CAN BE DEFERRED TO 09-10, BUT NO
09103 RP POOL ROOF	5,550	C	COMPLETED
09110 SIGN REPLACEMENT	470	C	COMPLETED
<b>SUBTOTAL FACILITIES MAINTENANCE</b>	<b>178,020</b>		Savings of \$6,020

## Public Service Tax Fund/Streets

PROJ ID	PROJECT DESCRIPTION	ORIGINAL BUDGET FY 08-09	AMENDED BUDGET FY 08-09	ENC or EXP FY 08-09	YTD BALANCE FY 08-09
<b>STREETS DEPARTMENT</b>					<b>BALANCE</b>
09U14	SANDPIPER STREET IMPROVEMENT	100,000	100,000	-	100,000
<b>SUBTOTAL STREET DEPARTMENT</b>		<b>100,000</b>	<b>100,000</b>	-	<b>100,000</b>

<b>STREETS DEPARTMENT</b>		<b>BALANCE</b>		
09U14	SANDPIPER STREET IMPROVEMENT	100,000	Can Be Deferred	
<b>SUBTOTAL STREET DEPARTMENT</b>		<b>100,000</b>	Savings \$100,000	

## Streets/Traffic Fund

PROJ ID	PROJECT DESCRIPTION	ORIGINAL BUDGET FY 08-09	AMENDED BUDGET FY 08-09	ENC or EXP FY 08-09	YTD BALANCE FY 08-09
<b>STREETS &amp; TRAFFIC</b>					
08U18	STREET IMPROVEMENT PROGRAM	-	51,763	94,014	(42,251)
09U04	MOORINGLINE BRIDGE REPAIR	150,000	150,000	-	150,000
09U05	PARK SHORE BRIDGE REPAIRS	100,000	100,000	-	100,000
09U06	BIKE PATH MASTER PLAN IMPLEMENT/	50,000	50,000		50,000
09U18	ANNUAL STREET IMPROVEMENT PROG	100,000	100,000	38,259	61,741
09U29	SIDEWALK MASTER PLAN IMPLEMENT/	250,000	250,000	100,000	150,000
09U31	ANNUAL ALLEY IMPROVEMENT PROGR	60,000	60,000	50,000	10,000
09U28	ANNUAL ROAD REPAVING	500,000	500,000	116,728	383,272
<b>TOTAL STREETS &amp; TRAFFIC</b>		<b>1,210,000</b>	<b>1,261,763</b>	<b>399,001</b>	<b>862,762</b>

Streets/Traffic Fund			
STREET IMPROVEMENT PROGRAM	(42,251)	NA	
MOORINGLINE BRIDGE REPAIR	150,000	-	CAN BE DEFERRED TO 09-10, BUT NOT RECOMMENDED
PARK SHORE BRIDGE REPAIRS	100,000	100,000	CAN BE DEFERRED TO 09-10, BUT NOT RECOMMENDED
BIKE PATH MASTER PLAN IMPLEMENTATION	50,000	50,000	CAN BE DEFERRED
ANNUAL STREET IMPROVEMENT PROGRAM	61,741	-	CAN BE DEFERRED TO 09-10, BUT NOT RECOMMENDED
SIDEWALK MASTER PLAN IMPLEMENTATION	150,000	100,000	CAN BE DEFERRED
ANNUAL ALLEY IMPROVEMENT PROGRAM	10,000	-	CAN BE DEFERRED TO 09-10, BUT NOT RECOMMENDED
ANNUAL ROAD REPAVING	383,272	100,000	CAN BE DEFERRED
	<b>862,762</b>	<b>350,000</b>	<b>\$350,000 can be deferred</b>

**This fund has an impact on the General Fund, via the Public Service Tax Fund.**

Streets/Traffic Fund			
STREET IMPROVEMENT PROGRAM	(42,251)	NA	
MOORINGLINE BRIDGE REPAIR	150,000	-	CAN BE DEFERRED TO 09-10, BUT NOT RECOMMENDED
PARK SHORE BRIDGE REPAIRS	100,000	100,000	CAN BE DEFERRED TO 09-10, BUT NOT RECOMMENDED
BIKE PATH MASTER PLAN IMPLEMENTATION	50,000	50,000	CAN BE DEFERRED
ANNUAL STREET IMPROVEMENT PROGRAM	61,741	-	CAN BE DEFERRED TO 09-10, BUT NOT RECOMMENDED
SIDEWALK MASTER PLAN IMPLEMENTATION	150,000	100,000	CAN BE DEFERRED
ANNUAL ALLEY IMPROVEMENT PROGRAM	10,000	-	CAN BE DEFERRED TO 09-10, BUT NOT RECOMMENDED
ANNUAL ROAD REPAVING	383,272	100,000	CAN BE DEFERRED
	<b>862,762</b>	<b>350,000</b>	<b>\$350,000 can be deferred</b>

City of Naples



**NAPLES CITY COUNCIL AGENDA MEMORANDUM**

**Workshop Meeting Date:** February 17, 2009

Agenda Item:	Prepared By: Robin Singer, Director	
9	Date: February 2, 2009	Department: Planning
<b>SUBJECT:</b>		
Discussion of proposed meeting topics between the Planning Advisory Board and the Collier County Planning Commission.		
<b>BACKGROUND:</b>		
<p>At the joint meeting between the City Council and the City's boards and committees the concept of a joint meeting between the Planning Advisory Board (PAB) and the Collier County Planning Commission (CCPC) was proposed. The City Council indicated that they would like to review any topics of discussion before the meeting is arranged. The PAB has reached consensus on the following topics.</p> <ul style="list-style-type: none"> <li>• Naples Bay</li> <li>• Transition of roads and the number of lanes at the City/County border</li> <li>• Utilities, sewer and water supply</li> <li>• Development along U.S. 41</li> <li>• Sign regulations and consistency along U.S. 41</li> <li>• Commercial/residential transitions</li> <li>• Concurrency exception areas</li> <li>• County growth impacts</li> </ul> <p>If the City Council approves these topics, staff will arrange a joint meeting between the PAB and the CCPC.</p>		
Reviewed by Department Director	Reviewed by Finance	Reviewed by City Manager
Robin Singer	N/A	A. William Moss
City Council Action:		



City of Naples

**NAPLES CITY COUNCIL AGENDA MEMORANDUM****Workshop Meeting Date: February 17, 2009**

Agenda Item:	Prepared By: Robin Singer, Director	
11	Date: February 10, 2009 Department: Planning	
<b>SUBJECT:</b>		
Side Yard Encroachments		
<b>BACKGROUND:</b>		
<p>The subject of side yard encroachments of roof overhangs was discussed during the Workshop meeting of February 2, 2009. City Council requested information from the City Attorney and information regarding impacts on storm drainage. The City Attorney and the Site Plan Review Engineer have each provided opinions regarding the effect of eliminating roof overhangs from the list of allowable side yard encroachments. Should the City wish to amend the code to include this change, it could be done as follows:</p>		
<p><b>Sec. 56-54. Yards.</b></p>		
<p>(a) <i>Encroachments into required yards.</i> Structures less than 30 inches in height, other than swimming pools, are not considered encroachments upon minimum required yards. Every part of every required yard shall be open and unobstructed from 30 inches above the ground, as measured from the general ground level of the graded lot upward, except as provided in this section or section 56-45, Pools.</p>		
<p>(1) Cornices, overhangs, decorative awnings with no ground support installed over windows and at entrances, eaves and gutters, chimneys, bay windows, balconies and means of egress may project at maximum of 36 inches into <u>front and rear</u> required yards, except as limited in the R1-15A zoning district. <u>Unroofed steps and stoops under 30 inches above grade and railings for same may extend a maximum of 36 inches into required side yards.</u> Larger awnings, such as porte cocheres, requiring pole supports to be placed in a setback area, or those without pole supports which encroach more than 36 inches into required yards, may be approved at the discretion of the city manager. These encroachments are permitted in all zoning districts except single-family districts, and such awnings must function as decorative architectural elements as opposed to garage, carport or other similar storage facilities. Air conditioning and pool equipment permitted and installed prior to the effective date of this ordinance may be maintained and replaced provided the new equipment does not encroach more than 36 inches into any required yard.</p>		
<p>This change would also exclude other encroachments into side yards. Since awnings, bay windows, and balconies would likely have similar impacts regarding run-off, it would be consistent to also exclude those encroachments from side yards. Excluding chimneys and roofed means of egress would insure a clear side setback.</p>		
Reviewed by Department Director	Reviewed by Finance	Reviewed by City Manager
Robin Singer	N/A	A. William Moss
City Council Action:		



# Memo

## Community Development

Building and Zoning • Planning • Code Enforcement • GIS

**TO:** A. William Moss, City Manager  
**FROM:** Sandeep Dasari, Site Plans Review Engineer  
**DATE:** February 9, 2009  
**SUBJECT:** Effects on Stormwater Design With Regard To Building Overhang

The overhang of structures into the setback area does not directly affect stormwater design requirements. The water quality and conveyance requirements of the City of Naples stormwater ordinance are calculated based on the lot size, not the building or the roof footprint. However, the ordinance does require gutters on roofs if the overhang is less than ten (10) feet from the property line. (Typically this would be a side yard). The gutters will capture and convey the water from the roof system and direct it down to the retention or detention systems on site. This prevents roof water from flowing off the roof during unusually heavy rain events and onto adjacent properties.

The above ground and below ground stormwater structures will not be affected due to any overhanging structures. Accordingly, the building overhang should not impact the stormwater design and/or installation.

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# Memo

## Office of the City Attorney

**TO:** Bill Barnett, Mayor, and Members of Council  
**FROM:** Robert D. Pritt, City Attorney *RDP*  
**DATE:** February 2, 2009  
**SUBJECT:** Eaves and Overhangs – Potential Bert Harris Act Claims

At the Council Workshop of 2/2/09, Council requested that the undersigned provide legal guidance on the following questions:

Will restriction or elimination of the exception to the setback requirements for eaves and overhangs affect property values to the extent of triggering a Bert Harris Act claim?

Answer: It is unlikely that such a regulation would, of itself, trigger a valid Bert Harris cause of action.

Analysis: The Bert J. Harris Jr., Private Property Rights Protection Act (Act) is contained in Section 70.001, Florida Statutes. In summary, it creates a separate cause of action for damages for a property owner who is permanently unable to attain the reasonable investment-backed expectation for the existing use of the property or a vested right to a specific use of the property. This relates to the property as a whole. It also provides for a cause of action where the property is left with existing or vested uses that are unreasonable.<sup>1</sup>

There is an extensive pre-litigation procedure set out in the remainder of the Act to determine first, whether an inordinate burden has been permanently imposed upon the property and secondly, the amount of damages should an inordinate burden be determined to exist.

The Bert Harris Act claim is often referred to as a "mini taking" because it does not require a loss of substantially all value of the property for recovery of damages (as do normal takings).

Notably, the definition of "inordinate burden" deals primarily with the restriction or limitation of the use of the property as opposed to the size of structures upon the property.

There is no clear bright line to determine whether and to what extent a restriction upon the size of structures upon a property would trigger an inordinate burden. However, the restriction of eaves or overhangs, in my opinion, by itself would be unlikely to trigger such a cause of action.

The City of Naples is no stranger to Bert Harris litigation. In fact, it had some of the largest Bert Harris claims in the state. Attached are two City Attorney opinions dealing with cases that went to litigation (Warm Weather Investments - Result: City won, and Hamilton Harbor-Result: case settled).

There are only a handful of reported appeal level state cases (excluding First Amendment-based cases) interpreting the Act. The deprivation related to a denial of a particular use of the property rather than the size of a structure upon the property. This is not to say that a setback could never be so unreasonable as to trigger a Bert Harris claim. It merely is intended to

<sup>1</sup> See §70.001(3)(e), Fla. Stat.

*Et tuas ab eis... Servis to others before self... Quality in all that we do.*



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indicate that the restriction of an eave or overhang area in and of itself is unlikely to create such claim.

As to existing structures that would not meet a proposed eave or overhang requirement, those structures, if permitted, have a vested right to remain as nonconforming structures. Therefore, there is no Bert Harris likelihood as to them. Also, all ordinances unless specifically excepted, are subject to relief by way of variance. The variance criteria are sufficiently broad to vitiate any Bert Harris claim.

Apart from Bert Harris, is the general regulation requirement contained in the substantive due process clause of the federal and state constitutions. Every regulation must have a rational connection between the regulation and a legitimate government interest, and no regulation may be arbitrary, capricious or unreasonable.

Substantial leeway is given to the governing body to make such determinations.

RDP/plr

Enclosures

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# Memo

Office of the City Manager

**TO:** Honorable Mayor and City Council  
**FROM:** A. William Moss, City Manager *7*  
**DATE:** February 11, 2009  
**SUBJECT:** City Manager's Report – Item 12

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Water Quality Report

Attached is a memo from Utilities Director Bob Middleton, which provides an update on the number of residents requesting connection to the irrigation water system, along with the current level of chlorides.

Monthly Financial Report

Attached is the monthly financial report for the period ending January 31, 2009.

Uniform Crime Report

Attached is the January 2009 Uniform Crime Report, which shows a 21.35% reduction versus the same period last year.

Economic Stimulus Package

Attached is a summary comparison of House and Senate versions of the Economic Stimulus Package. A conference committee will likely resolve differences soon. A summary of the final version will be provided to City Council. As yet, there is no clarity as to how funds will be distributed to state and local governments.

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