



City Council Chamber
735 Eighth Street South
Naples, Florida 34102

City Council Regular Meeting – April 1, 2009 – 8:29 a.m.

Mayor Barnett called the meeting to order and presided.

ROLL CALLITEM 1

Present:

Bill Barnett, Mayor
Penny Taylor, Vice Mayor

Council Members:

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

Also Present:

William Moss, City Manager
Robert Pritt, City Attorney
Tara Norman, City Clerk
Roger Reinke, Assistant City Manager
Vicki Smith, Technical Writing Specialist
Robin Singer, Planning Director
Joe Boscaglia, Parks & Parkways Superintendent
David Lykins, Community Services Director
Greg Givens, Grants Coordinator
Mireidy Fernandez, Planner
Robert Middleton, Utilities Director

Alejandro Castillo
Gianluca Corso
Stephen Farrington
Tony Ridgway
Jeff Mobias
Lisa Swirda
Daniel Linehan
John Passidomo

Media:

Tara McLaughlin, Naples Daily News
Other interested citizens and visitors

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

Captain Alejandro Castillo, Salvation Army Church.

ANNOUNCEMENTSITEM 3

- “National Start! Walking Day” Proclamation – presented by Mayor Barnett.
- Autism Awareness Proclamation – read by Council Member Price.

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

MOTION by Taylor to **SET THE AGENDA** removing from the Consent Agenda for separate discussion **Item 6-e** (forestry grant program application for watering truck) and **Item 6-f** (budget amendment for grant coordinator position); withdrawing **Item 12** (Hole-in-the-Wall lake permit) and adding **Item 12** (authorize expenditure with Tetra Tech regarding irrigation (reclaimed, reuse or alternative) water rate study) and **Item 13** (budget amendment for

Building Department). This motion was seconded by Willkomm and unanimously carried, all members present and voting (Heitmann-yes, Price-yes, Sorey-yes, Sulick-yes, Taylor-yes, Willkomm-yes, Barnett-yes). (It is noted for the record that an item regarding Hole-in-the-Wall lake permit, added during that week's workshop, was withdrawn and had not appeared on the printed agenda.)

PUBLIC COMMENT.....**ITEM 5**
(8:40 a.m.) None.

CONSENT AGENDA

APPROVAL OF MINUTES**ITEM 6-a**
March 2, 2009, Workshop and March 4, 2009, Regular meeting; as submitted.

RESOLUTION 09-12393..... **ITEM 6-b**
A RESOLUTION APPROVING A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF NAPLES AND MADER ELECTRIC MOTORS TO PROVIDE ELECTRIC MOTOR REWINDS AND REPAIRS AT THE WATER AND WASTEWATER PLANTS AND REMOTE PUMPING FACILITIES; AUTHORIZING THE CITY MANAGER TO EXECUTE THE PROFESSIONAL SERVICES AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 09-12394..... **ITEM 6-c(1)**
A RESOLUTION ACKNOWLEDGING THE ELECTION OF PETER DIMARIA AND MICHAEL NICHOLS TO THE BOARD OF TRUSTEES OF THE FIREFIGHTERS RETIREMENT TRUST FUND, EACH FOR A TWO-YEAR TERM EXPIRING MARCH 31, 2011; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 09-12395..... **ITEM 6-c(2)**
A RESOLUTION ACKNOWLEDGING THE ELECTION OF SETH FINMAN AND JOSEPH WHITEHEAD TO THE BOARD OF TRUSTEES OF THE POLICE OFFICERS RETIREMENT TRUST FUND, EACH FOR A TWO-YEAR TERM EXPIRING MARCH 31, 2011; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 09-12396..... **ITEM 6-d**
A RESOLUTION AMENDING THE 2008-09 BUDGET ADOPTED BY ORDINANCE 08-12197; APPROVING AN ADDITIONAL INSURANCE PREMIUM PAYMENT TO THE PUBLIC RISK INSURANCE AGENCY FOR PROPERTY INSURANCE ON THE SIXTH AVENUE SOUTH AND EIGHTH STREET SOUTH PARKING GARAGE; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 09-12397..... **ITEM 6-g**
A RESOLUTION APPROVING A USE AGREEMENT BETWEEN THE CITY OF NAPLES AND THE NAPLES CONCERT BAND FOR THE USE OF SPACE IN THE CAMBIER BANDSHELL FOR A FIVE-YEAR PERIOD; AUTHORIZING THE MAYOR TO EXECUTE THE USE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.
Title not read.

MOTION by Sorey to APPROVE CONSENT AGENDA except Items 6-e and 6-f; 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).

END CONSENT AGENDA

RESOLUTION 09-12398.....ITEM 6-e

A RESOLUTION AUTHORIZING THE CITY MANAGER TO A SUBMIT FISCAL YEAR 2009 GRANT APPLICATION TO THE FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES UNDER THE URBAN AND COMMUNITY FORESTRY GRANT PROGRAM FOR THE PURCHASE OF A TREE/PALM WATERING TANK TRUCK; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Robert Pritt (8:40 a.m.). Council Member Price indicated that he could not support an expenditure of \$68,000 in light of current economic conditions, regardless of whether a \$20,000 grant was included in the package. He noted that, although repair costs may increase for the existing nine-year-old vehicle, repair costs had been just over \$11,000 to date. City Manager William Moss pointed out that submitting the grant application did not however commit the City to a purchase. Council Member Willkomm stated that while he agreed with Mr. Price's position, he would nevertheless support the item and await future developments. Council Member Sorey suggested that the existing truck might have a resale value and that another pre-owned vehicle might be acquired which would be less costly.

Public Comment: (8:44 a.m.) None.

MOTION by Sorey to APPROVE RESOLUTION 09-12398 as submitted; seconded by Taylor and carried 6-1, all members present and voting (Heitmann-yes, Price-no, Sorey-yes, Sulick-yes, Taylor-yes, Willkomm-yes, Barnett-yes).

RESOLUTION 09-12399.....ITEM 6-f

A RESOLUTION AMENDING THE 2008-09 BUDGET ADOPTED BY ORDINANCE 08-12197 FOR THE PURPOSE OF APPROPRIATING FUNDS FROM GENERAL FUND CONTINGENCY TO THE CITY MANAGER DEPARTMENT FOR RETENTION OF THE GRANT COORDINATOR POSITION; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Robert Pritt (8:44 a.m.) In response to Council Member Price, City Manager William Moss explained that this position had originally been transferred from the Community Services Department to the City Manager, even though both departments are contained within the General Fund. Following a brief history of the position's salary and incentives provided by Mr. Moss, Mr. Price stated that he would not support expenditure for this type of staff position. Council Member Sorey cautioned, however, that available funding might be lost, especially in light of the federal stimulus; Council Member Willkomm agreed. Mr. Moss further clarified that the current grant coordinator had been closely tracking the stimulus funding as it becomes available for various allocations and that department directors had also voiced support of continuing the position. Council Member Heitmann however also questioned the need for the position, and Assistant City Manager Roger Reinke briefly reviewed the grant application status document provided (contained in the file for this meeting in the City Clerk's Office) which reflected details of all grants applied for since June, 2007.

Public Comment: (8:55 a.m.) None.

MOTION by Sorey to APPROVE RESOLUTION 09-12399 as submitted; seconded by Taylor and carried 6-1, all members present and voting (Heitmann-yes, Price-no, Sorey-yes, Sulick-yes, Taylor-yes, Willkomm-yes, Barnett-yes).

Following the above vote, Council Member Price reiterated his position that spending practices must be altered with current budgetary issues, but Vice Mayor Taylor said she believed that the City Manager carefully examines all proposed expenditures which is evidenced by a lack of denial on the part of Council.

It is noted for the record that Items 7-a and 7-b were read and considered concurrently.

ORDINANCE 09-12400.....ITEM 7-a
AN ORDINANCE RELATING TO HAMILTON HARBOR MARINA; DETERMINING
REZONE PETITION 09-R1 REZONING HAMILTON HARBOR MARINA FROM A
PLANNED DEVELOPMENT TO A NEW PLANNED DEVELOPMENT, CHANGING
THE MAXIMUM SEATING CAPACITY FOR BOTH INDOORS AND OUTDOORS AT
THE CLUBHOUSE FROM 100 TO 150, CORRECTING CLERICAL ERRORS AND
CHANGING THE LIVE ENTERTAINMENT DESIGNATION FROM A
CONDITIONAL USE TO A PERMITTED USE, SAID PROPERTY CONTAINING
APPROXIMATELY 175.44 ACRES LOCATED AT 7077 HAMILTON AVENUE, MORE
FULLY DESCRIBED HEREIN; PROVIDING A SEVERABILITY CLAUSE, A
REPEALER PROVISION AND AN EFFECTIVE DATE.

RESOLUTION 09-12401..... ITEM 7-b
A RESOLUTION DETERMINING A RESIDENTIAL IMPACT STATEMENT FOR
PETITION 09-RIS3 FOR HAMILTON HARBOR MARINA FROM A PLANNED
DEVELOPMENT TO A NEW PLANNED DEVELOPMENT, CHANGING THE
MAXIMUM SEATING CAPACITY FOR BOTH INDOORS AND OUTDOORS AT THE
CLUBHOUSE FROM 100 TO 150, CORRECTING CLERICAL ERRORS AND
CHANGING THE LIVE ENTERTAINMENT DESIGNATION FROM A
CONDITIONAL USE TO A PERMITTED USE, SAID PROPERTY CONTAINING
APPROXIMATELY 175.44 ACRES LOCATED AT 7077 HAMILTON AVENUE, MORE
FULLY DESCRIBED HEREIN; PROVIDING A SEVERABILITY CLAUSE, A
REPEALER PROVISION AND AN EFFECTIVE DATE. Titles read by City Attorney Robert Pritt (8:56 a.m.). This being a quasi-judicial proceeding, Notary Public Vicki Smith administered an oath to those intending to offer testimony; all responded in the affirmative. City Council Members then made the following ex parte disclosures: Willkomm/received a telephone call in support of this item; Sulick and Heitmann/familiar with the site but no additional contact since the prior consideration; Price/spoke with the petitioner's agent and another representative of the petitioner; Barnett/spoke with the petitioner; and Sorey and Taylor/no contact since the prior consideration. Council Member Sulick requested removal of live entertainment as a permitted use due to her belief that this would otherwise allow outdoor entertainment without consent of Council. Planning Director Robin Singer clarified that the live entertainment permit approval process would still be required of the petitioner, further noting that this process had not been in place when the original rezoning had provided that live entertainment be a conditional use. In further discussion, City Attorney Pritt confirmed that while the ordinance being considered would categorize live entertainment as a permitted use, the City's noise ordinance would still allow City control should those limits be violated.

Ms. Singer further noted that live entertainment is a permitted use within commercial districts but permits are still necessary. By amending the Hamilton Harbor PD Planned Development document as discussed, control is transferred to the live entertainment permit, Ms. Singer added, noting that Council is however not obligated to grant a live entertainment permit if criteria have not been met. City Attorney Pritt agreed, noting that a PD is treated as any other zoning district wherein live entertainment is permitted. In response to Council Member Price, Ms. Singer indicated that, unlike a permitted use, the Planning Advisory Board (PAB) would be involved with any amendment of live entertainment under a conditional use requirement, but this would not be the case with a permitted use designation. Attorney John Passidomo, agent for the

petitioner, further elaborated that this had been the motivating factor in pursuing a PD amendment to make it similar to other zoning districts which allow live entertainment. Mr. Pritt also cited Section III(II)(H) (Page 16) of the PD document, wherein the live entertainment is indicated as being subject to the live entertainment requirements as set forth in the City of Naples Land Development Code. (It is noted for the record that a copy of the aforementioned PD document is contained in the file for this meeting in the City Clerk's Office.)

Prior to action on this item, it was further clarified that neither had live entertainment been discussed during the original PD approval, nor had the live entertainment permitting process been in existence. Ms. Singer also confirmed for Council Member Sulick that should there be complaints regarding excessive noise associated with live entertainment, the permit could be revoked or it could subsequently be amended during the renewal process. City Manager William Moss stressed that Council has complete discretion with regard to granting of live entertainment permits and/or their renewal.

(It is noted for the record that the amendment reflected in the motion below had been recommended by City Attorney Pritt.)

Public Comment: 9:15 a.m.) None.

MOTION by Sorey to ADOPT ORDINANCE 09-12400 amending as follow:
“Comprehensive Land Development Code” throughout the PD Planned Development document. This motion was seconded by Price and carried 6-1, all members present and voting (Heitmann-yes, Price-yes, Sorey-yes, Sulick-no, Taylor-yes, Willkomm-yes, Barnett-yes).

MOTION by Sorey to APPROVE RESOLUTION 09-12401 as submitted;
seconded by Price and carried 6-1, all members present and voting (Heitmann-yes, Price-yes, Sorey-yes, Sulick-no, Taylor-yes, Willkomm-yes, Barnett-yes).

RESOLUTION 09-12402.....ITEM 8
A RESOLUTION DETERMINING ALLOCATION OF ON-STREET PARKING IN THE D-DOWNTOWN AREA FOR PETITION 09-PKAL1 IN ORDER TO ALLOCATE THREE (3) ON-STREET PARKING SPACES FOR PROPERTY LOCATED AT 506-536 NINTH STREET NORTH FOR THE EXPANSION OF THE CURRENT OUTDOOR DINING AREA ON THE NORTH SIDE OF THE PROPERTY, MORE FULLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (9:17 a.m.). This being a quasi-judicial proceeding, Notary Public Vicki Smith administered an oath to those intending to offer testimony; all responded in the affirmative. City Council Members then made the following ex parte disclosures: Willkomm/no contact; Sulick, Price and Sorey/visited the site but no contact; Taylor and Heitmann/familiar with the site but no contact; and Barnett/visited the site and spoke with the petitioner. Planning Director Robin Singer provided a brief overview of the request, noting that staff recommended the allocation of the required three parking spaces. She also noted that although the Community Redevelopment Agency Advisory Board (CRAAB) had also discussed the need for three spaces, it had been presented with an erroneous staff recommendation of two parking spaces. Due to the additional square footage to be realized with the expansion of the current outdoor dining area, staff interpreted this as meeting the requirement for redevelopment, Ms. Singer indicated. Council Member Sorey stated that while he supported this request, a more defined threshold

regarding redevelopment in the “D” Downtown District was needed; Council Member Price agreed, noting that this should be included within the visioning for the area. Mr. Sorey said that greenspace and parking allocations should also be considered during visioning.

Petitioner Stephen Farrington explained that with current economic circumstances, if a tenant requests additional space it would be advisable to provide the opportunity; Council Member Willkomm agreed and proffered a motion of approval, which Vice Mayor Taylor seconded.

Council Member Sulick expressed concern that no fee for the parking spaces was to be charged, but Planner Mireidy Fernandez explained that parking spaces are attached to a particular structure and would be returned to the City’s parking space pool for reallocation should the structure be demolished. It is noted for the record that staff recommended that the resolution be adjusted so that Section 2 reflects all items in the preamble (see below).

Ms. Singer confirmed for Council Member Price that the parking spaces under consideration would not be reserved and no signage to that effect could be installed.

Public Comment: (9:37 a.m.) None.

MOTION by Willkomm to **APPROVE RESOLUTION 09-12402** amending as follows: Section 2: “...herein. **If the building is torn down and the property redeveloped, parking spaces approved herein shall be returned to the parking pool.**” This motion was seconded by Taylor and unanimously carried, all members present and voting (Heitmann-yes, Price-yes, Sorey-yes, Sulick-yes, Taylor-yes, Willkomm-yes, Barnett-yes).

RESOLUTION 09-12405.....ITEM 9
A RESOLUTION DETERMINING RESIDENTIAL IMPACT STATEMENT PETITION 09-RIS7 FOR SIX DEGREES EXHIBITIONS, LLC, TO OBTAIN AN EXTENDED HOURS OF OPERATION PERMIT TO OPERATE AN ART GALLERY WITH ALCOHOLIC BEVERAGE SERVICE UNTIL 11:30 P.M. NIGHTLY WEDNESDAY THROUGH SUNDAY IN THE C2-A WATERFRONT COMMERCIAL DISTRICT, LOCATED AT 1100 SIXTH AVENUE SOUTH, UNITS 2 AND 3, MORE FULLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (9:39 a.m.). This being a quasi-judicial proceeding, Notary Public Vicki Smith administered an oath to those intending to offer testimony; all responded in the affirmative. City Council Members then made the following ex parte disclosures: Willkomm and Barnett/no additional contact since consideration of the prior petition; Sulick/familiar with the site but no additional contact; Price, Heitmann and Sorey/visited the site but no additional contact; and Taylor/spoke with petitioner although on an unrelated matter. Planning Director Robin Singer provided a brief overview of the request for extending the establishment’s hours of operation from 9:00 p.m. to 11:30 p.m. A live entertainment permit had been recently approved, with entertainment allowed until 10:00 p.m., as well as a residential impact statement regarding an alcoholic beverage license. The petitioner had however indicated at that time that the intent was to extend the hours of operation, but since this was not advertised, the current petition had been necessary. Council Member Willkomm proffered a motion for approval, which Mayor Barnett seconded.

Petitioner Daniel Linehan further clarified that the original request had been to remain open until 11:00 p.m., but since he had understood that the City had been considering allowing all non-amplified live entertainment to continue until 11:30 p.m., he wished to have his establishment also remain open to that hour; staff denied that such a provision was under consideration. While reiterating his support for this business, Mr. Price expressed reservations about extending hours of operation and Council Member Sorey stated similar concerns.

Council Member Sulick observed that each request brought forward by this petitioner appeared to mutate the establishment from an art gallery to a bar, which was of concern. Ms. Singer pointed out that each request should be considered on a case-by-case basis with regard to the appropriateness of location of a business and whether that business meets the criteria for approval of a particular use. Mr. Linehan added that it was not his intent to remain open every night until the approved time, but only when scheduled events, such as a film viewing, required later hours.

In response to Council Member Sorey, Ms. Singer indicated that it was unknown whether other nearby businesses remained open until 11:30 p.m. Council Member Price indicated that he could support the subject request should those other businesses be open until a similar time. Therefore, Council Member Willkomm (maker) and Mayor Barnett (seconder) withdrew the above motion of approval and Vice Mayor Taylor proffered the motion reflected below to allow staff the opportunity to research hours of operation in the subject area. (Please see also Page 9.)

Public Comment: (9:57 a.m.) None.

MOTION by Taylor to CONTINUE THIS ITEM TO END OF MEETING;
seconded by Willkomm and unanimously carried, all members present and
voting (Heitmann-yes, Price-yes, Sorey-yes, Sulick-yes, Taylor-yes, Willkomm-
yes, Barnett-yes).

RESOLUTION 09-12403.....ITEM 10
A RESOLUTION PERTAINING TO DISHONORED CHECKS FOR UTILITY BILLS;
AMENDING APPENDIX “A” FEES AND CHARGES SCHEDULE, OF THE CODE OF
ORDINANCES, CITY OF NAPLES, FOR DISHONORED CHECKS; AND PROVIDING
AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (9:57 a.m.). City Manager William Moss indicated that the proposed fee schedule was in accordance with that allowable per state mandate and recommended approval.

Public Comment: (9:58 a.m.) None.

MOTION by Price to APPROVE RESOLUTION 09-12403 as submitted;
seconded by Taylor and unanimously carried, all members present and voting
(Heitmann-yes, Price-yes, Sorey-yes, Sulick-yes, Taylor-yes, Willkomm-yes,
Barnett-yes).

In response to Council Member Sulick, City Manager Moss explained that payment of utility bills by credit card payment had not been implemented due to fees, although automatic withdrawals from customer checking accounts had been encouraged.

.....ITEM 11
REQUEST TO RECONSIDER A BUDGET AMENDMENT FOR THE FY 2008-09
CAPITAL IMPROVEMENT PROGRAM APPROVED BY CITY COUNCIL ON
MARCH 18, 2009 (RESOLUTION 09-12384) AND TO SCHEDULE THE
RECONSIDERATION, IF APPROVED, FOR THE APRIL 15, 2009 REGULAR CITY

COUNCIL MEETING. Title read by City Attorney Robert Pritt (9:59 a.m.), who then briefly explained the reconsideration process. Mayor Barnett stated that he had requested the reconsideration since Tony Ridgway, representing the Third Street merchants had not been afforded an opportunity to speak during the original consideration (March 18th).

Public Comment: (10:02 a.m.) None.

MOTION by Barnett to RECONSIDER RESOLUTION 09-12384; seconded by Price and carried 6-1 (Heitmann-yes, Price-yes, Sorey-yes, Sulick-yes, Taylor-yes, Willkomm-no, Barnett-yes).

(Added Item).....**ITEM 12 AUTHORIZATION FOR SERVICES BY TETRA TECH, INC., FOR IRRIGATION (RECLAIMED, REUSE OR ALTERNATIVE) WATER RATE STUDY.** City Manager William Moss briefly reviewed his memorandum dated March 30 (Attachment 1), noting the methodology recommended by the Irrigation Rate Committee for an additional water rate study to be undertaken at a cost not to exceed \$12,460. Council Member Sorey proffered a motion for approval, which was seconded by Vice Mayor Taylor.

Council Member Sulick requested that in addition to recommendation #2 (see Attachment 1), the debt also be calculated so as to disperse it equally among the customer classifications of the irrigation (reclaimed, reuse or alternative) water system. Vice Mayor Taylor and Council Member Sorey however cited possible confusion resulting from amending any of the four recommendations to incorporated Mrs. Sulick's request. Council Member Price however pointed out that by adding this calculation, he believed it would avoid future disagreement; this method had been a topic of past discussion and should be brought forward for final decision-making, he noted. Council Member Willkomm agreed with Mr. Price stating that this would merely provided an additional option for consideration.

Council Member Sorey withdrew his above referenced motion and Vice Mayor Taylor her second. In the discussion that subsequently ensued, City Manager Moss confirmed that the above calculation could be added to the methodology without incurring additional consultant fees.

Public Comment: (10:19 a.m.) None.

MOTION by Barnett to AUTHORIZE THE WATER RATE STUDY BY TETRA TECH UTILIZING METHODOLOGY AS FOLLOWS: "1) Average last five-years of billable irrigation flow data; discount bulk customers 22% due to anticipated consumption reduction due to higher rates; institutional based on historical irrigation water flow data; and consumption for general users in Phase 1 will be based on 70% of potable water use. 2-a) Spread debt across all irrigation customer classes based on flow as determined in #1 above; and 2-b) Distribute debt equally to all user classifications. 3) Divide bulk customer class between storage and non-storage. 4) Revise peaking factor allocation between wastewater treatment, maintenance personnel and maintenance other line items in Table 1." This motion was 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).

RESOLUTION 09-12404.....ITEM 13

A RESOLUTION AMENDING THE 2008-09 BUDGET TO APPROPRIATE ADDITIONAL FUND BALANCE IN THE BUILDING FUND TO OFFSET THE INCREASING DEFICIT CAUSED BY ECONOMIC CONDITIONS; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (10:19 a.m.). City Manager William Moss indicated that this item was to formalize that week's workshop discussion of the Building Fund deficit. Referencing his email dated March 31, which advised of the immediate termination of seven Building Permit Department employees and on Fire Inspector, he recommended approval.

Public Comment: (10:20 a.m.) None.

MOTION by Sorey to APPROVE RESOLUTION 09-12404 as submitted; seconded by Barnett and carried 5-2 (Taylor-yes, Willkomm-yes, Sorey-yes, Sulick-yes, Heitmann-no, Price-no, Barnett-yes).

Following staff's indication of readiness, consideration of Item 9 resumed.

RESOLUTION 09-12406 (Continued from above)ITEM 9

(10:21 a.m.) Planner Mireidy Fernandez noted the following hours of operation by establishments in the proximity of Six Degrees Exhibitions, LLC:

- Betty's Décor and Delights / 8:00 a.m. to 9:00 p.m. Monday through Saturday, and until 6:00 p.m. on Sunday;
- Pickled Parrot / 11 a.m. to usually midnight (depending of patronage may close at 10:00 p.m. or 11:00 p.m.) nightly; and
- Riverwalk Restaurant / 11:00 a.m. to 10:00 p.m. nightly.

Planning Director Robin Singer clarified that the Pickle Parrot's live entertainment permit specified 10:00 p.m. as cessation time and said that none of the above establishments had posted their hours. Petitioner Daniel Linehan, indicated that 11:00 p.m. cessation time would be acceptable and the motion reflected below was proffered.

Public Comment: (10:26 a.m.) None.

MOTION by Sorey to APPROVE RESOLUTION 09-12405 amending as follows: Section 2: "The extended hours of operation are approved until ~~11:30~~ 11:00 p.m. nightly Wednesday through Saturday and until 10:00 p.m. on Sunday."; seconded by Barnett and unanimously carried, all members present and voting (Heitmann-yes, Price-yes, Sorey-yes, Sulick-yes, Taylor-yes, Willkomm-yes, Barnett-yes).

PUBLIC COMMENT.....

(10:27 a.m.) None.

CORRESPONDENCE AND COMMUNICATIONS.....

(10:27 a.m.) Vice Mayor Taylor noted the recent withdrawal of the request by Hole-in-the-Wall Golf Course for construction of a 12-acre stormwater retention lake in partnership with the City, but she maintained that there was nevertheless a need for future discussion of water quality credits /compensatory volume and their possible monetary value. Council Member Price added that a standard is also needed for applying a dollar amount to a water quality credit as well as the City determining the quantity of credits that would be needed to move forward with stormwater system retrofitting. With regard to Hole-in-the-Wall, Mr. Price clarified that his concern had been the proposed operating agreement which, he said, should have been a topic of discussion earlier in the process. He however commended the Club for its proposal and efforts to work with the City. Council Member Sulick predicted that future public-private partnerships would be

inhibited due to uncalled-for comments regarding the integrity of some of the Club's members which had been made during the process. Mitigation values from the state will continue to be mandated for future City stormwater projects, she said, but predicted that the needed credits would however not be available. Referencing that week's workshop discussion, Council Member Sorey pointed out that inhibiting issues had arisen, not from the City or the Hole-in-the-Wall, but from the South Florida Water Management District (SFWMD) and its inability to respond in a timely manner regarding key questions regarding water quality credits. Council Member Heitmann requested a meeting with the SFWMD to seek clarification of the process whereby water quality credits are obtained. Mr. Sorey agreed, suggesting that Big Cypress Basin Director Clarence Tears, as well as a representative of the SFWMD permitting group, participate. Council Member Price also requested that discussion of the method used to determine application of stormwater quality credits within the City's system be included.

Vice Mayor Taylor then referred to a recent editorial in *Florida Weekly* and a memorandum by City Attorney Robert Pritt dated February 5 (a copy of which is contained in the file for this meeting in the City Clerk's Office), regarding the use of City parks by religious organizations. She said that she questioned staff's interpretation as well as that of the Community Services Advisory Board (CSAB) that Mr. Pritt had in fact cautioned against discussion of use by Celebration Church of Cambier Park until renewal of the applicable use agreement was eminent. Mr. Pritt clarified his recommendation that the use agreement be discussed by Council during the renewal process and, if Council should deem it necessary, direct the CSAB to discuss and provide recommendations at that time.

Council Member Willkomm noted an event described as the "Naples Tea Party" scheduled for April 15 at Pine Ridge Road and US 41, between noon and 2:00 p.m. He said that this was to be a non-partisan protest regarding principles of conduct of the federal government.

ADJOURN
11:04 a.m.

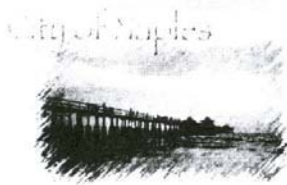
Bill Barnett, Mayor

Tara A. Norman, City Clerk

Minutes prepared by:

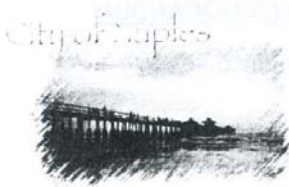
Vicki L. Smith, Technical Writing Specialist

Minutes Approved: 05/06/09

**NAPLES CITY COUNCIL AGENDA MEMORANDUM**Regular Meeting Date: April 1, 2009

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| Agenda Section: Regular | Prepared By: Bob Middleton, Utilities Director Date: March 30, 2009 Department: Utilities Department |
| Agenda Item: To Be Added - 13 | Legislative <input checked="" type="checkbox"/> Quasi-Judicial <input type="checkbox"/> |
| SUBJECT: Authorization to update irrigation rate study. | |
| SUMMARY: City Council is asked to consider and approve by motion items discussed and approved by consensus during the March 20, 2009 Workshop and authorize the City Manager to enter into an agreement with Tetra Tech to provide an update to the Irrigation Water Rate Study in an amount not-to-exceed \$12,460.00. | |
| BACKGROUND: Tetra Tech completed a Comprehensive Water, Wastewater and Reclaimed Water Rate Study for the City of Naples in 2007. The recommended rates were partially adopted by the City and are in effect today. The reclaimed water rates were not adopted due to concerns about variability of reclaimed flows and allocation of alternative water supply capital projects. In 2008, the Consultant prepared an updated irrigation rate study that reflected the updated status of the irrigation water system. As a follow up to that rate study, the City Council requested formation of an Irrigation Rate Committee composed of representatives of the various irrigation customer classes as well as City staff to review key rate making policies and make recommendations to City Council for further consideration in the irrigation rate study. The Committee recommendations were discussed with City Council during the March 30, 2009 Workshop. During the Workshop on March 30, 2009, City Council confirmed by consensus to include the following methodology in an updated rate study: | |
| <ol style="list-style-type: none"> 1. Average last 5-years of billable irrigation flow data. Discount bulk customers 22% due to anticipated consumption reduction due to higher rates. Institutional based on historical irrigation water flow data. Consumption for general users in Phase 1 will be based on 70% of potable water use. 2. Spread debt across all irrigation customer classes based on flow as determined in (1) above. 3. Split bulk customer class between storage and non-storage. 4. Revise peaking factor allocation between wastewater treatment, maintenance personnel and maintenance other line items in table 1. | |
| FUNDING: Funding for these specific professional services was not an anticipated or budgeted expense. Should funds be required for anticipated projects in the future, a budget amendment will be requested for those projects at that time. Currently funds are available in the Water/Sewer Fund; operating account 420.2001.533.3101. | |

 SUPPLEMENT
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NAPLES CITY COUNCIL AGENDA MEMORANDUM

Regular Meeting Date: April 1, 2009

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Agenda Item:

To Be Added - 13

RECOMMENDED ACTION:

Motion to accept the above referenced methodology in an updated rate study and authorize the City Manager to enter into an agreement with Tetra Tech to provide an update to the Irrigation Water Rate Study in an amount not-to-exceed \$12,460.

Reviewed by Department Director
Bob Middleton
City Council Action:

Reviewed by Finance
Ann Marie Ricardi

Reviewed by City Manager
A. William Moss