



City Council Chamber
735 Eighth Street South
Naples, Florida 34102

City Council Regular Meeting – June 3, 2009 – 8:30 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 (arrived 8:32 a.m.)
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
Paul Bollenback, Building Services Director
Robert Middleton, Utilities Director
Denise Perez, Human Resources Director
Robin Dennis, Sr. Admin. Specialist
Mireidy Fernandez, Planner
Ron Wallace, Streets & Stormwater Director
David Lykins, Community Services Director
Thomas Weschler, Chief of NPFD
James McEvoy, Deputy Chief of NPFD
Adam Benigni, Planner
Christa Carrera, Floodplain Coordinator
Ann Marie Ricardi, Finance Director
Michael Leslie, Asst. Community Services Director
Debbie Hummel-Marconi
Beth Crosley
Patricia Canfield
Marion Haley
Kathy French
Margaret Kirkpatrick
Nina Kirker

Annabelle Johnson
Ruth Taylor
Lois Selfon
Charles Kirker
Beth Ressler
Heidi Saletko
Oliver Schnoor

Gene Scott
Jack O'Brien
J. Earl Wivell
Tony Ridgway
Maillard Astrid
Peter Pfeifer
Robert Foreman
Marvin Easton
Mike Watkins
Frank Rothman
Sue Smith
Barbara Burgeson
Kelsey Ward
Charlotte Burnett
Marilyn Nelson
Arne Nelson
Barbara Groenteman
Gloria Kovacs
Ron Berry
Teri Clemente
Debbie Henderson
Cathy Jo Harlow

Fernando Zabala
Paul Doggett
Ruth James
Corky Ditzkof
Beth Crawford
Dianne Magoone
Brian Leiding
Marlena Brackenbusch
Phyllis Pransky
Shari Doggett
Andrew Woodcock
Matt Taylor
Patrick Utter

Media:

Jenna Buzzacco, Naples Daily News
Other interested citizens and visitors

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

Pastor Gene Scott, Celebration Community Church.

ANNOUNCEMENTSITEM 3

- Employee Service Awards – presented by various department directors. (It is noted for the record that a listing of employees honored is contained in the file for this meeting in the City Clerk’s Office.)
- City of Naples Firefighter Appreciation Week Proclamation – was read by Mayor Barnett designating the week of June 15.
- *Naples High School Golden Eagles 2009 Class 4A State High School Baseball Championship Proclamation (Added Item)* – read by Mayor Barnett (see related Item 6-c below).

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

MOTION by Taylor to ***SET THE AGENDA*** adding ***Item 6-c*** (*Naples High School special event*) and withdrawing ***Item 10*** (*PD Planned Development one year extension under Ordinance 06-11242*). *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).*

PUBLIC COMMENT.....ITEM 5

(9:11 a.m.) **Jack O’Brien, representing the Public Art Advisory Committee (PAAC)**, provided a brief update as to PAAC’s ongoing projects. **J. Earl Wivell, 830 Third Street South**, expressed concern with regard to the methodology utilized in the recent special assessment to residents of Aqualane Shores for canal dredging, citing concerns regarding equity. In particular, he cited Anhinga Canal wherein residents of Aqualane Manor had been assessed for 28% of the cost while occupying only 9% of the canal frontage. City Manager William Moss indicated this would be researched.

CONSENT AGENDA

APPROVAL OF MINUTESITEM 6-a

May 6, 2009 Regular; as submitted.

PUBLIC HEARING REQUEST ITEM 6-b

REQUEST TO ALLOW NONCONFORMITY PETITION 09-N4 TO BE HEARD ON JUNE 17, 2009 FOLLOWING THE JUNE 10, 2009 PLANNING ADVISORY BOARD (PAB) MEETING IN ORDER TO ALLOW A PUBLIC HEARING ON THE PETITION PRIOR TO SUMMER RECESS.

SPECIAL EVENT (Added Item – see Item 4 above)ITEM 6-c

1) Naples High School Golden Eagles parade and ceremony at Cambier Park Bandshell - 6/05/09.

MOTION by Price to ***APPROVE CONSENT AGENDA*** 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).*

END CONSENT AGENDA

RESOLUTION 09-12447.....ITEM 7
A RESOLUTION DETERMINING VARIANCE PETITION 09-V3 FROM SECTION 50-104(15) OF THE CODE OF ORDINANCES, CITY OF NAPLES, WHICH REQUIRES THAT RESTAURANTS PROVIDE 1 PARKING SPACE PER 100 SQUARE FEET OF GROSS FLOOR AREA, IN ORDER TO ALLOW THE EXPANSION OF LE LAFAYETTE FRENCH RESTAURANT LOCATED AT 375 13TH AVENUE SOUTH, MORE FULLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.
Title read by City Attorney Robert Pritt (9:16 a.m.). This being a quasi-judicial proceeding, Notary Public Vicki Smith administered an oath to those intending to offer testimony; all responded in the affirmative. City Council Members then made the following ex parte disclosures: Sulick and Barnett/familiar with the site and spoke with many nearby residents; Price/visited the site and spoke with nearby residents; Taylor/familiar with the site and received correspondence from residents; Heitmann/familiar with the site, spoke with nearby residents and reviewed the May 13 Planning Advisory Board (PAB) consideration of the petition; Sorey/familiar with the site, met with petitioner's agent and also reviewed PAB meeting; and Willkomm/familiar with the site, spoke with nearby residents and indicated that his son is engaged to adjacent property owner's daughter. Planning Director Robin Singer provided a brief overview of the petition and noted staff's recommendation for denial as detailed in Planner Mireidy Fernandez' memorandum dated May 15 (Attachment 1).

Architect Fernando Zabala, agent for the petitioner, utilized an electronic presentation (a printed copy of which is contained in the file for this meeting in the City Clerk's Office) to support his position that required parking should be based upon dining area only, not the square footage of the establishments. In response to Council Member Price, Ms. Singer clarified that the expanded dining area for 20 additional customers would in this instance result in an actual deficit of 37 parking spaces since a shared parking agreement with the adjacent Aragon building had not been factored in that all spaces in the Aragon lot are required to serve that building. Mr. Price indicated that he would not support the petition due to failure to meet the variance criteria.

Mr. Zabala also explained for Council Member Sorey that employees ride bicycles and scooters, or carpool to work, and that designated parking for them had been assigned in the proposed parking plan (Attachment 2). Additionally, he confirmed that valet parking would be considered should the variance petition be denied.

Planning Director Singer reiterated that staff's calculations, based on gross square footage of the establishment, had been mandated by Code. In response to Vice Mayor Taylor, she pointed out that should off-site parking become available, then a conditional use petition would become necessary.

Public Comment: (9:28 a.m.) **Tony Ridgway, representing Third Street South Merchants Association,** (sworn separately), urged denial due to existing parking issues in the area; spaces are however available for lease or purchase should the petitioner wish to pursue an alternative, he said. **Maillard Astrid, petitioner,** cited ongoing parking issues in the area of her establishment and asserted that only with the proposed expansion could she achieve adequate indoor dining space to allow her to remain open year round. She also linked the expansion to her ability to acquire additional parking. **Peter Pfeifer, 445 13th Avenue South,** as a nearby homeowner, also urged denial due to lack of parking in the area, stating that altering the size of the spaces in

the existing parking lot would still not achieve the number of spaces mandated by the Code. **Robert Foreman, 416 12th Avenue South**, representing nearby condominium associations totally 70 homeowners, utilized photographs to support his position that there is a lack of parking and how this impacts residents; he requested that Council deny the petition. (It is noted for the record that copies of the aforementioned photographs are contained in the file for this meeting in the City Clerk's Office.)

While expressing agreement with staff's parking calculation, Council Member Sorey nevertheless expressed a desire to in some way accommodate the petitioner in renovations to her business. While noting that the current petition must be resolved, Ms. Singer however stated that a conditional use process to deal with off-site parking could commence starting with Planning Advisory Board (PAB) review. Petitioner Astrid stated that should her request be denied, she would not go forward with the expansion.

In further discussion of off-site parking, Ms. Singer stated that the number of spaces allowed as valet and/or off-site is not restricted. Council Member Sulick cautioned that she believed such actions only encroach further upon the quality of life for residents.

MOTION by Willkomm to DENY RESOLUTION 09-12447 based upon criteria as listed in Section 2; seconded by Sorey and unanimously carried, all members present and voting (Taylor-yes, Willkomm-yes, Sorey-yes, Sulick-yes, Heitmann-yes, Price-yes, Barnett-yes).

PROPOSED IRRIGATION WATER RATESITEM 8
DISCUSSION REGARDING SELECTION OF A PROPOSED IRRIGATION RATE OPTION AND AUTHORIZING THE CITY MANAGER TO ISSUE A NOTICE TO ALL CITY OF NAPLES WATER CUSTOMERS OF A PUBLIC HEARING TO CONSIDER AN ORDINANCE TO AMEND THE IRRIGATION WATER RATES. (9:51 a.m.) City Manager William Moss provided a brief history of the ongoing proposed irrigation (reclaimed, reuse or alternative) water rate discussions, noting that the results of the additional rate study had met with neither staff's nor the consultant's perception of Council's intent. In response to Vice Mayor Taylor, he explained that the study had resulted in a figure that represented a marked increase to residential users, in fact, higher than potable water; therefore, rate alternatives had been developed for Council's consideration.

Recess: (9:55 a.m. to 10:08 a.m.) It is noted for the record that the same Council Members were present when the meeting reconvened and consideration of Item 8 continued.

Consultant Andy Woodcock, Tetra Tech, Inc., utilized an electronic presentation (a printed copy of which is contained in the file for this meeting in the City Clerk's Office and portions appended hereto as Attachment 3) during which he explained that Council's direction had been to develop rates based upon the following:

- Five-year historical flows for the bulk, general and institutional rate classes;
- Utilization of 70% of the potable water flow (five-year average) for Phase 1 and 1A irrigation project;
- Discounting bulk user determinants by 22% to account for changes in flow due to recent rate increases; and
- Allocation of debt across all customer classes based on flow;
- Adjustment of the allocation factors for wastewater treatment, maintenance other, and maintenance personnel due to low peak demands; and

- Development of separate rate classes for bulk users with and without storage capabilities.

He then reviewed the following (see Attachment 3):

- Changes in flows;
- Adjustment to allocation factors;
- Comparison of budget allocations;
- New rates with full cost recovery;
- Rate Alternative 1 with debt service removed;
- Rate Alternative 2 with 70% cost recovery;
- Rate Alternative 3 with Phase 1 & 1A additional personnel removed; and
- Rate Alternative 4 with bulk flows unadjusted.

In conclusion, he recommended that one of the rate alternatives be adopted with the increase in rates gradually applied over the next three years. In response to Council Member Price, Mr. Woodcock confirmed that should the three year phased increases be approved, a shortfall would indeed occur during the first two years. Council Member Sulick pointed out that with continued use of potable water for irrigation in some areas, the customers paying the higher cost for that potable water negates the impact of the aforementioned deficit.

Public Comment: 10:26 a.m.) **Marvin Easton, 944 Spyglass Lane,** reviewed his comments as contained in Attachment 4, during which he concluded that the calculation should be based on yearly revenue which is currently \$1.25-million, and the total gallons of flow into the distribution system; this would result in a rate in the high \$0.40 per-thousand-gallon which is fair and equitable for all users and also eliminate the classifications, he added. In response, Consultant Woodcock explained that separate and distinct levels of service exist within the customer classifications, this being the reasoning for differing classifications, that both his opinion and industry standards dictate that this methodology provides equity to the larger classifications. The issue with basing rates on flow leaving the plant is the fact that revenue is received only by the water flowing through meters so that gallons billed will always be less than that produced, he cautioned. Mr. Easton responded by noting that the report generated by staff is for the amount of water actually entering the distribution system and does not include that discharged into the Gordon River and that leakage is miniscule. Furthermore, the amount of metered water is known, he pointed out. Utilities Director Robert Middleton stated that the only way in which Mr. Easton's concept could be utilized would be to bill once a year. In response to Council Member Sulick, Mr. Woodcock explained that with Alternative 2, he had applied a 30% discount to all users and with Alternative 3, he had deducted \$150,000 for additional personnel from the general users only (as the personnel had been for Phase 1 and 1A which are general users), the remaining classifications' rates remained the same as for full cost recovery (see Attachment 3). Mr. Middleton also established for Vice Mayor Taylor that should an alternative be chosen which results in a revenue shortfall, an allocation from the Water & Sewer Fund would be made to meet that deficit. Mr. Easton confirmed for Council Member Sorey that he however believed that Council had erred in its direction with regard to the 22% discount to the bulk customer to account for changes in flow due to the recent rate increases. City Manager Moss pointed out that Alternative 4 is without the 22% discount factored. Mr. Woodcock clarified for Council Member Sorey that the rates proposed in the 2008 study had been full cost recovery but with differing flow calculations. Mr. Moss agreed with Mr. Sorey in that in the short term, the impact of any of the alternatives with regard to shortfall would be minimal due to the current offsetting potable water rates. Mr. Sorey also cautioned against encouraging bulk customers to utilize alternative water sources since the majority of these sources would also extract potable water

from the underground aquifers. **Michael Watkins, representing bulk users,** recommended one bulk classification be restored and pointing out that golf courses project three to five years in their budgeting. In response to Council Member Sorey, Mr. Watkins confirmed that current economic conditions are delaying course renovations and that Royal Poinciana Golf Club (RPGC) is considering an aquifer storage and recovery (ASR) well as an alternative water supply. Bulk users support Alternative 2, he added.

In response to Council Member Sulick, Mr. Woodcock explained that the \$96,400 in administrative costs is that remaining from the original study, which had encompassed water, sewer, and the irrigation rates; only the water and sewer administrative costs had been addressed prior. He also confirmed for Council Member Price that due to the voluntary nature of the City's connection process, it would be difficult to factor the impact of additional phases coming on-line with their accompanying debt. City Manager Moss noted that a new rate study would be due in four years and that should Alternative 2 be adopted, 70%, not full, cost recovery should occur within that timeframe.

Council Member Sorey proffered a motion for approval of Alternative 2 which Mayor Barnett seconded. Council Member Price suggested inclusion of an annual Public Service Index increase which is determined by the Public Service Commission for utilities; the motion was therefore amended as reflected below. Mr. Price also questioned whether a 25% surcharge to bulk users located outside the city limit should be considered and Mr. Sorey reiterated his concern that those customers would then turn to alternative water sources with unintended consequences. Mr. Moss recommended that the irrigation rates be adopted and that this discussion be tabled until staff could provide other possibilities such as a 15% incentive for connecting to the irrigation system (increasing potable water rates to customers 15% with irrigation water available but not connected). Mr. Price also agreed with Mr. Watkins' above comments regarding one bulk customer classification, but Mr. Sorey disagreed explaining that those with storage capability were providing a benefit to the City and should therefore receive a lower rate, otherwise, the water they store would be emptied into the Gordon River and this must be avoided, he added. Mr. Middleton explained that during the dry season when it is necessary that service to bulk customers be curtailed, preference is given to those without storage through night time hours. Dick Naccarato, Naples Beach Hotel (formerly Beach Club Hotel), clarified that during the dry season his facility, which does not have storage, is shut-off also if necessary. Matt Taylor, representing Royal Poinciana Golf Club (RPGC), explained that while his course had storage lakes, they are not capable of pumping the water for use on the grounds.

MOTION by Sorey to APPROVE RATE ALTERNATIVE 2 with annual Public Service Index increases; seconded by Barnett and carried 5-2, all members present and voting(Heitmann-yes, Taylor-no, Price-yes, Sorey-yes, Sulick-yes, Willkomm-no, Barnett-yes).

City Manager Moss further noted that the City currently levies a 25% surcharge to Collier County customers connected to the potable water and wastewater system and questioned whether Council wished to pursue a similar surcharge for irrigation water users. Council Member Sorey recommended that a decision be delayed until those bulk users could be contacted to ascertain the possibility of their amending their systems to alternative water supplies; Mr. Moss stated that while he could do so, he would recommend against such a surcharge.

Consensus that no surcharge be levied to Collier County bulk users of City irrigation water system at this time.

Discussion following during which City Manager Moss questioned Council's interest in levying a 15% surcharge to tiers 3 and 4 potable water users who have irrigation water available but who have not connected. Council Member Sulick recommended against this due to the fact that some of the tier 3 and 4 users fall into that range of use without employing potable water for irrigation. Council Member Sorey noted that while environmentally he could support such an action, financially those paying for potable water which is used for irrigation unfortunately aids in funding the irrigation water system and that the difference in the cost (tier 4 is charged \$3.57 per 1,000 gallons potable versus \$.87 per 1,000 gallons for irrigation water) currently should be a sufficient incentive without additional charges.

In response to City Manager Moss, Council Member Sorey clarified that the rates adopted above were to be implemented immediately with the Public Service Index added annually. Mr. Moss indicated that the rates would be advertised and final adoption would occur in August.

**ORDINANCE (First Reading).....ITEM 9
AN ORDINANCE AMENDING SUBSECTION (12) OF SECTION 50-104, NUMBER OF
PARKING SPACES, SECTIONS 58-269, 58-299, 58-329, 58-359, 58-389, 58-419, 58-449
AND 58-479, MINIMUM OFF-STREET PARKING, OF THE CODE OF ORDINANCES,
CITY OF NAPLES, FOR THE PURPOSE OF AMENDING THE PARKING
REQUIREMENTS FOR MULTIFAMILY DWELLING UNITS; PROVIDING A
SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.**

Title read by City Attorney Robert Pritt (11:30 a.m.). Planner Adam Benigni provided a brief overview of the ordinance as contained in his memorandum dated May 18 (Attachment 5), noting that staff recommended approval. In response to Council Member Price, he confirmed that the ordinance would not affect smaller properties in the Old Naples area, thereby possibly hindering their redevelopment.

Council Member Sorey commended Franklin Starks for his commitment to the community and aid in the development of the criteria noted in the proposed amendment; Council agreed.

Public Comment: (11:34 a.m.) **Frank Rothman, representing the Gulf Shore Property Owners Association,** waived comment and submitted a written statement from Association President Hans Gruenberg (Attachment 6) supporting the ordinance.

MOTION by Taylor to APPROVE THIS ORDINANCE on First Reading 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).

**RESOLUTION (Withdrawn – see Item 4 above)ITEM 10
A RESOLUTION GRANTING A ONE YEAR EXTENSION FOR A PD PLANNED
DEVELOPMENT APPROVED UNDER ORDINANCE 06-11242 APPROVED ON JUNE
7, 2006 FOR PROPERTIES LOCATED AT 300, 340 AND 350 FIFTH AVENUE SOUTH
AND A PORTION OF THE 300 BLOCK OF SIXTH AVENUE SOUTH, MORE FULLY
DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title not read.**

DISCUSSIONITEM 11

LEVEL OF SERVICE (LOS) STANDARDS FOR COMMUNITY SERVICES FACILITIES. (11:36 a.m.) Planning Director Robin Singer explained that staff was requesting authorization to move forward over the summer recess with drafting level of service (LOS) standards for community facilities that are based on actual use for all facilities, other than the community beaches, and to prepare a report on density at build-out based on current zoning and land use. Due to the fluctuation in population of the City, staff strongly recommends against a population-based methodology except the linear miles of beachfront which appears more related to growth and density limitations. Furthermore, grouping of amenities would also allow Council additional flexibility with regard to setting LOS standards for areas with less intense use, she added.

Vice Mayor Taylor indicated support for staff's recommendations so as to allow more control in setting the levels of service. Especially with regard to beachfront use, Council Member Sorey noted that the greatest influx of users had been East Coast visitors over the past year and that as Collier County reaches build-out, the impact to the City's resources will become even greater, creating the need to further address setting and maintaining LOS standards. He suggested that staff contact similar beachfront communities with comparable issues. In response to Mr. Sorey, Ms. Singer explained that the LOS standards are a method of insuring that infrastructure improvements remain concurrent with growth; however, the City is not responsible for maintaining concurrency with County growth. Noting a suggestion by Ms. Singer that fees be reviewed to offset County use, Mr. Sorey pointed out that FEMA (Federal Emergency Management Agency) prohibits the City from distinguishing fees for various user groups if it is to receive funding for beach renourishment. In her experience, Ms. Singer said that Naples is unlike most other beachfront communities since its fluctuating population precludes this as a basis for LOS, therefore staff's recommendation is to establish build-out in terms of the number of units and thereby gaining more control of growth. She stated that staff would nevertheless contact all coastal communities in the State to ascertain whether a similar situation exists and how issues had been addressed.

Council Member Sulick disagreed with staff's assertions regarding FEMA funding restrictions, requesting that an opinion regarding this issue be obtained from FEMA since other coastal communities throughout the country continue to receive FEMA funding while limiting beach access and implementing tiered parking fees. She also took issue with build-out calculations based on current zoning and land use, noting "D" Downtown density which could be as much as 30 units per acre. Additionally, she expressed concern regarding basing the level of service standards on user calculations, when County users might in some way also be factored in for determining improvements. However, Ms. Singer stressed that only City users would be considered.

Vice Mayor Taylor stated that she believed that the user-based study would provide more accurate information and would actually result in fewer improvements being needed because City user statistics would then be known. Ms. Singer explained that the study would occur during the peak visitor season for three to five days to ascertain an average; most probably beach access areas would involve the actual parking space use, she added

Public Comment: (11:57 a.m.) **Sue Smith, 11th Avenue South**, cautioned that Collier County growth will indeed impact the City, that stimulus funding is being allocated to allow already permitted development projects currently on hold in the County to move forward, some with very high density counts.

Council Member Price recommended that the level of service standards be review to determine whether they reflect preservation of the character of the City, pointing out that he remains unconvinced that this is currently the case. He noted that State elements should also be examined to determine their appropriateness for the City.

Recess: 12:02 p.m. to 1:30 p.m. It is noted for the record that the same Council Members were present when the meeting reconvened except Vice Mayor Taylor and Council Member Heitmann who returned at 1:31 p.m., and Council Member Willkomm who returned at 1:32 p.m.; consideration of Item 11 continued.

Discussion continued from aboveITEM 11
(1:30 p.m.) Council Member Price also indicated that he would not support altering the methodology of measurement by population but would nevertheless appreciate a user-based analysis. Council Member Sorey agreed with the establishment of proper elements for the City but maintained that LOS standards should be based upon usage, noting that each element could be determined on a case-by-case basis, the key factor being that City resident usage is minimal in most cases, he said. Mr. Sorey then suggested that staff research other coastal communities, perform the user-based analysis and then provide a comparison of the LOS standard for each current element based upon the results of the analysis and the current population methodology; he suggested a workshop discussion of the elements to be scheduled following summer recess and Mr. Price agreed.

It was noted that over the summer months a survey would be mailed to City residents; Vice Mayor Taylor said that she believed that user analysis would also facilitate dialog with the County regarding County resident impact upon City facilities. City Attorney Robert Pritt clarified that the City of Sanibel had encountered issues with regard to traffic and its beach ends and cautioned that should LOS standards be entered into the City's Comprehensive Plan, once those standards are met for any element, no further development permits may be issued.

In response to Council Member Heitmann, Ms. Singer provided a brief review on the Department of Community Affairs (DCA) requirements. She stressed that although LOS standards are not specified, parks and recreation, water, sewer, and other utilities must in some manner be addressed, as well as stormwater which is measured on a site-by-site basis. At this time, however, parks and recreation is the only area in which the City has critical capacity issues, Ms. Singer said. Mrs. Heitmann stated that she concurred with the sentiments expressed by Council Member Sulick and her concerns with the user-based methodology remained. Mrs. Sulick additionally requested that staff provide a census of privately owned recreational facilities within the City which could be utilized by the public.

Consensus to direct staff as follows: 1) Define criteria / elements for formulating current LOS (Level of Service); 2-a) Calculate population with build-out zoning and 2-b) Calculate impact of “D” Downtown density factored at 12 units and build-out zoning maximum; 3) User based analysis of all facilities; and 4) Comparison with communities with similar circumstances / issues / 7-0.

ORDINANCE 09-12448.....ITEM 12
AN ORDINANCE PERTAINING TO PARKING PENALTIES; AMENDING SECTION 36-61 OF THE CODE OF ORDINANCES, CITY OF NAPLES, FOR PARKING FINES; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (2:04 p.m.).

Public Comment: (2:04 p.m.) None.

MOTION by Price to ADOPT ORDINANCE 09-12448 as submitted; 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).

RESOLUTION 09-12449.....ITEM 13
A RESOLUTION DETERMINING A COASTAL CONSTRUCTION SETBACK LINE VARIANCE TO CONSTRUCT A SINGLE FAMILY RESIDENCE, SWIMMING POOL, SPA, DRIVEWAY, CHICKEE HUT, AND GUEST HOUSE AT 1680 GULF SHORE BOULEVARD SOUTH; PROVIDING FINDINGS; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (2:04 p.m.). This being a quasi-judicial proceeding, Notary Public Vicki Smith administered an oath to those intending to offer testimony but who had not previously been sworn; all responded in the affirmative. City Council Members then made the following ex parte disclosures: Willkomm and Heitmann/familiar with the site and spoke with the petitioner; Sulick, Price and Sorey/visited the site and spoke with the petitioner; and Barnett and Taylor/familiar with the site but no contact. Floodplain Coordinator Christa Carrera provided a brief overview of the petition, noting staff’s recommendation of approval.

Public Comment: (2:06 p.m.) None.

MOTION by Willkomm to APPROVE RESOLUTION 09-12449 as submitted; 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).

RESOLUTION 09-12450.....ITEM 14
A RESOLUTION APPOINTING ONE MEMBER TO AN AT-LARGE SEAT OF THE CITIZENS POLICE REVIEW BOARD FOR A THREE-YEAR TERM COMMENCING JUNE 3, 2009, AND EXPIRING JUNE 2, 2012; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (2:07 p.m.).

Public Comment: (2:07 p.m.) None.

MOTION by Barnett APPROVING RESOLUTION 09-12450 NOMINATING MARTIN KLINGENBERG which unanimously carried, all members present and voting (Heitmann-yes, Price-yes, Sorey-yes, Sulick-yes, Taylor-yes, Willkomm-yes, Barnett-yes).

RESOLUTION 09-12451.....ITEM 15

A RESOLUTION APPROVING A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF NAPLES AND JOHNSON ENGINEERING, INC., FOR PROFESSIONAL ENGINEERING SERVICES FOR STORMWATER IMPROVEMENTS WITHIN BASIN III; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (2:07 p.m.). In response to Council Member Price, Streets & Stormwater Director Ron Wallace confirmed that while \$400,000 had been budgeted for the project, the contracted cost reflected \$220,000. This phase would aid in control of flooding along the southernmost portion of Gulf Shore Boulevard and Gordon Drive, he added.

Public Comment: (2:07 p.m.) None.

MOTION by Sorey to APPROVE RESOLUTION 09-12451 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).

RESOLUTION 09-12452.....ITEM 16

A RESOLUTION APPROVING A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF NAPLES AND HAZEN AND SAWYER, P.C., FOR PROFESSIONAL ENGINEERING SERVICES TO PROVIDE AQUIFER STORAGE AND RECOVERY TEST WELL CONSTRUCTION ADMINISTRATION AT THE CITY'S WASTEWATER TREATMENT PLANT; AUTHORIZING THE CITY MANAGER TO EXECUTE THE PROFESSIONAL SERVICES AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (2:09 p.m.). City Manager William Moss explained that this resolution was a result of prior discussion by Council of a test ASR (aquifer storage and recovery) well at the Wastewater Treatment Plant.

Public Comment: (2:09 p.m.) None.

MOTION by Price to APPROVE RESOLUTION 09-12452 as submitted; seconded by Sulick and unanimously carried, all members present and voting (Heitmann-yes, Price-yes, Sorey-yes, Sulick-yes, Taylor-yes, Willkomm-yes, Barnett-yes).

ORDINANCE 09-12453.....ITEM 17

AN ORDINANCE RELATING TO THE COMMUNICATIONS SERVICES TAX SIMPLIFICATION LAW; ADDING ARTICLE VI, COMMUNICATIONS SERVICES TAX, TO CHAPTER 34, ADOPTING THE LOCAL COMMUNICATIONS SERVICE TAX CONVERSION RATE TO MINIMIZE FISCAL IMPACT TO THE CITY DUE TO PASSAGE OF COMMUNICATIONS SERVICES TAX SIMPLIFICATION LAW; ELECTING TO ADOPT AN ADDITIONAL RATE FOR THE LOCAL COMMUNICATIONS SERVICES TAX OF 0.12 PERCENT IN LIEU OF IMPOSING PERMIT FEES ON COMMUNICATIONS SERVICE PROVIDERS DESIRING TO OCCUPY CITY RIGHTS-OF-WAY; REPEALING SECTIONS 12-80, 12-81, 12-82, 12-83 AND 34-116 REGARDING THE CITY'S TELECOMMUNICATIONS PERMIT FEES; REPEALING SECTION 12-83, TELECOMMUNICATIONS RIGHTS-OF-WAY FEES OF APPENDIX "A" FEES AND CHARGES SCHEDULE OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES; DIRECTING THE CITY CLERK TO PROVIDE A COPY OF THIS ORDINANCE TO THE STATE OF FLORIDA DEPARTMENT OF REVENUE; PROVIDING A SEVERABILITY CLAUSE, A

REPEALER PROVISION AND AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (2:09 p.m.). In response to Council Member Heitmann, City Manager William Moss clarified that allocation of the funds would be outlined in a resolution to be brought forward by staff at a later date.

Public Comment: (2:11 p.m.) None.

MOTION by Taylor to ADOPT ORDINANCE 09-12453 as submitted; seconded by Sulick 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 Items 18, 19, 20 and 21 were read and considered concurrently.

**REVIEW AND DISCUSSION OF CITY DOCK FUNDITEM 18
RESOLUTION 09-12454.....ITEM 19**

A RESOLUTION APPROVING A REVISED COMMERCIAL USE AGREEMENT FORM AND A RECREATIONAL USE AGREEMENT FORM FOR USE AT THE CITY OF NAPLES, MUNICIPAL DOCK; AUTHORIZING AND DIRECTING USE OF SAME; REPEALING RESOLUTIONS 08-12269 AND 08-12232; AND PROVIDING AN EFFECTIVE DATE.

**RESOLUTION 09-12455.....ITEM 20
A RESOLUTION AMENDING THE 2008-09 BUDGET IN THE DOCK FUND FOR THE DEFICIT CAUSED BY ECONOMIC CONDITIONS; PROVIDING A SEVERABILITY CLAUSE AND PROVIDING AN EFFECTIVE DATE.**

**ORDINANCE (First Reading).....ITEM 21
AN ORDINANCE AMENDING SECTION 36-103(b) OF THE CODE OF ORDINANCES, CITY OF NAPLES, TO MAKE AVAILABLE FOR SALE PERMITS FOR LAUNCHING OF VESSELS AND LOADING AND OFF-LOADING OF CONSTRUCTION MATERIAL AT NAPLES LANDING PARK; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.** Titles read by City Attorney Robert Pritt (2:11 p.m.). City Manager William Moss explained that Item 18 involved continued discussion as to the management of the City Dock facility as well as its finances; the other three were action items to implement recommendations should Council concur with staff. With regard to Item 18, Council Member Price referenced Exhibit A (Attachment 7) questioning the PILOT (Payment in Lieu of Taxes) line item and saying that he believed a direct correlation existed between PILOT assessments and the deficit, especially in 2005-06. Mr. Moss noted that this would be a discussion during Council's next workshop meeting of June 15.

Public Comment Item 18: (2:14 p.m.) **Brian Leiding, 235 Bahia Pointe**, waived comment.

In response to Council Member Heitmann, who expressed concern with regard to a business plan for the City Dock, City Manager Moss confirmed that one would indeed be brought forward in August. Council Member Willkomm took issue with the overall operation of the facility and requested that should Council not be satisfied with the aforementioned plan, a special audit of the Dock Fund be undertaken; Mrs. Heitmann agreed.

Consensus that staff submit business plan for City Dock management in August.

Council Member Sorey proffered a motion for approval of Item 19 which Vice Mayor Taylor seconded.

Public Comment Item 19: (2:22 p.m.) **Captain Marlena Brackenbusch, 900 Broad Avenue South**, supported this item as well as commending Council Member Price for his recent suggestion regarding cooperative advertising for the City Dock and charter businesses at the facility. In response to Council Member Sulick, City Attorney Pritt confirmed that the amended agreements do lessen the City's protection with regard to liability issues, although sovereign immunity limitations exist.

MOTION by Sorey to APPROVE RESOLUTION 09-12454 as submitted; seconded by Taylor and carried 6-1, all members present and voting (Heitmann-yes, Price-yes, Sorey-yes, Sulick-no, Taylor-yes, Willkomm-yes, Barnett-yes).

City Manager Moss explained that Item 20 would approve a budget amendment transferring 50% of the Waterfront Operations Manager's salary to the General Fund (Community Services), provide a \$185,176 subsidy to the Dock Fund from the General Fund, and direct the Dock Fund to make additional reductions in the amount of \$229,140. Council Member Sorey proffered a motion for approval which was seconded by Vice Mayor Taylor; however, Council Member Price indicated that he could not support the amendment in that he did not believe additional subsidies would correct the ongoing issues at the facility. In response to Mr. Sorey, he suggested that the City stop operation of the City Dock and lease it for 100 years at \$1.00 per year thereby realizing no further deficit from that fund.

MOTION by Sorey to APPROVE RESOLUTION 09-12455 as submitted; seconded by Taylor and FAILED 3-4 (Heitmann-no, Price-no, Sorey-yes, Sulick-no, Taylor-yes, Willkomm-no, Barnett-yes).

Discussion followed during which City Manager Moss indicated that action was needed to continue operation of the facility until the August presentation of the aforementioned business plan; if not approved, the deficit would become greater than currently projected.

MOTION by Sulick to RECONSIDER RESOLUTION 09-12455; seconded by Price and carried 6-1, all members present and voting (Heitmann-no, Price-yes, Sorey-yes, Sulick-yes, Taylor-yes, Willkomm-yes, Barnett-yes).

Council Member Sulick then proffered a motion for approval of the resolution with the caveat that City Manager Moss be allowed latitude to adjust management of the City Dock facility, especially with regard to staffing and lessening the Dock Fund deficit as much as possible. Mayor Barnett seconded. Council Member Willkomm questioned whether a Request for Proposals (RFP) could be pursued with regard to a management firm operating the City Dock and City Attorney Pritt recommended that this not be included within the motion but instead conveyed as staff direction; Mrs. Sulick agreed. Council Member Price indicated that he could support the resolution so long as the actual ledger transfer did not occur until following the August presentation of the business plan; Ms. Ricardi indicated that such a requirement would be acceptable.

Public Comment Item 20: (2:42 p.m.) **Sue Smith, 11th Avenue South**, cautioned that Council must have a clear understanding of why the deficit occurred and took issue with termination of staff as the first strategy to be applied when budgetary issues arise.

MOTION by Sulick to APPROVE RESOLUTION 09-12455 as submitted with the understanding City Manager will make adjustments as to diminish Dock Fund deficit; seconded by Barnett and carried 5-2, all members present and voting (Taylor-yes, Heitmann-no, Willkomm-yes, Sorey-yes, Price-no, Sulick-yes, Barnett-yes).

In response to Council Member Willkomm's request for the aforementioned RFP for City Dock management, Mayor Barnett recommended that copies of the previous RFP for City Dock privatization be provided to Council for review in conjunction with the business plan proposal. City Manager Moss cautioned against moving forward with the RFP until staff's recommended business plan is reviewed since it might indeed prove to be the privatization of the City Dock; many issues such as transferring leases, maintenance of the facility, and fuel spill liability must be discussed, he added. Council Member Sulick agreed, recommending researching Charleston, South Carolina, which privatized its city dock following Hurricane Hugo.

Vice Mayor Taylor proffered a motion for approval of Item 21 which Council Member Sorey seconded. Community Services Director David Lykins clarified that commercial launches had always been permitted at Naples Landing although restrictions as to days and timeframes had been imposed. In response to Council Member Price, City Manager Moss explained that the fee schedule would be brought forward by resolution at a later date, and Mr. Lykins added that the subject ordinance allows the method by which permits are issued. Mr. Lykins also reviewed the proposed fee changes as discussed during a prior workshop meeting. A brief discussion regarding Collier County's Bayview Park launch site followed, and Mr. Lykins predicted that a fee increase alone would not deter the public from the City's facilities which offer additional amenities. Mr. Price, however, noted that he had received the opposite reaction from members of the public.

Public Comment Item 21: (2:58 p.m.) None.

MOTION by Sorey to APPROVE THIS ORDINANCE on First Reading 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).

Recess: 2:59 p.m. to 3:10 p.m. It is noted for the record that the same Council Members were present when the meeting reconvened.

RESOLUTION 09-12456.....ITEM 22
A RESOLUTION APPROVING A POLICY ESTABLISHING REVIEW AND APPROVAL CRITERIA FOR SPECIAL EVENTS CONDUCTED WITHIN THE CITY; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (3:10 p.m.). (It is noted for the record that a copy of the proposed policy is contained in the file for this meeting in the City Clerk's Office.) Community Services Director David Lykins briefly introduced the item, commenting on the degree of feedback received from both the public and from vendors during the five months while the Community Services Advisory Board (CSAB) evaluated special event policies, including scheduling and parking impacts and fees for special events. Staff recommends approval, he said.

Public Comment: (3:13 p.m.) **Beth Ressler, Wind in the Willows, 793 Fifth Avenue South,** stated that while she understood the issues with regard to street closures, a compromise for three instead of five closures on Fifth Avenue South might be reached thereby allowing businesses the increased patronage which the shows provide, while lessening impacts to residents. **Phyllis Pransky, 595 Gold Coast Court, Marco Island,** cautioned that as a local artist supported by local patrons, should the booth fees be increased, many of her fellow artists will move their work to art shows outside the City and the local patrons will follow. The free shows in Cambier Park are part of the City's character, she said, and internationally recognized; the local artists do contribute to the community, she noted. **Shari Doggett, 591 Lambton Lane,** a member of the Naples Artcrafters,

stated that the artists are actually ambassadors for the City and promote its charm and friendliness. She urged that the booth fees not be increased. **Heidi Saletko, Frond Zoo; Oliver Schnoor, Naples Artcrafters; Paul Doggett, Naples Artcrafters; Ruth James, Naples Artcrafters; Corky Ditzkof, 256 Candycane Lane #2,** agreed with the prior speaker and waived comment. **Beth Crawford, 4482 Lorraine Avenue,** urged that support for the Artcrafters be demonstrated by not increasing the fees. The art shows attract tourists and visitors from outside the City who spend their money not only at the shows but in local businesses, she said. **Dianne Magrone, 400 Foxhaven Drive and Ron Berry, no address given,** agreed with the prior speaker. **Teri Clemente, 630 Tenth Avenue NW, and Vice President of the Naples Artcrafters,** stated that, if approved, the proposed booth fee increase will result in the loss of members; she therefore asked that a compromise be considered. **Debbie Henderson, 5930 Paradise Circle and Cathy Jo Harlow,** agreed with the prior speaker. **Beth Crosley, 1227 Tenth Avenue North,** stated that as a new member of the Artcrafters, and a mother, the art shows in Cambier Park offer free entertainment for many local residents and cautioned against increasing the booth fees. **Debbie Hummel-Marconi, PO Box 989, Bonita Springs,** reiterated the fact that the artists are goodwill ambassadors for the City to the many visitors who attend the art shows. With current economics, many people are not purchasing artwork, she said, and the additional booth fee will prohibit many local artists from continuing their activity in the City. In conclusion, she took issue with recent comments which labeled the Artcrafters as carnival artists and whiners, noting many contributions had been made to the community by the group. **Patricia Canfield, 224 Old Tamiami Trail; Marion Haley, 20831 Gleneagles Links Drive; Kathy French, 127 Plantation Circle; and Margaret Kirkpatrick,** agreed with the prior speaker. **Nina Kirker, 148 Estelle Drive,** stated that with the increased booth fees, the Artcrafters would be paying \$542 per hour for its shows which leave no footprint, do not involve street closures, and include parking offsite. Because the Artcrafters organization and its Cambier Park shows are indeed part of the character of the City, she said, it would be an unfortunate loss should the increase in fees force the group to curtail its local shows. **Charles Kirker, 148 Estelle Drive,** agreed with the prior speaker. **Annabelle Johnson, 3765 Weymouth Circle and President of the Naples Artcrafters,** took issue with figures provided by staff which reflected that the hourly cost to the City for an art show would be \$206.26 (Attachment 8), approximately \$1200 per show as compared to the \$3250 to be received with the proposed fee structure; therefore, she recommended that a daily fee of \$1200 be instituted rather than individual booth fees. The 42-year history of art shows by local artists should be supported through their continuation, she concluded. **Ruth Taylor, 161 Seven Seas Way,** indicated that she is a professional artist who travels to shows nationwide and noted that the Naples art shows are indeed nationally known and cautioned against the fee increase which may force their cessation. **Charlotte Burnett, 4971 Sycamore; Marilyn Nelson, 137 Fox Den Circle; Arne Nelson, 137 Fox Den Circle; and Barbara Groenteman,** agreed with the prior speakers. **Gloria Kovacs, 677 Banyan Boulevard,** stated that following her review of the proposal, she would caution that Council do no harm with its decision-making with regard to residents as well as the business and art communities. In response to Council Member Price, she confirmed that the art shows in the park do increase visibility and therefore patronage to Fifth Avenue South businesses. Numerous businesses have recently been lost and those remaining must be supported in any way possible. **Lois Selfon, Community Services Advisory Board (CSAB) Chair,** first apologized to the Artcrafters for her recent comments referenced by a prior speaker and said that she had personally pursued avenues of support of which the group may not be aware, such as undertaking a possible indoor farmers market on Fifth Avenue South which had not met with success due to a lack of cooperation from a property owner who had declined rent

concessions. With regard to the CSAB recommendations, she explained that the Board had sought to bring forward a single fee equitable to all, that instead of the needed \$75 per booth to preclude the City from subsidizing the shows, the \$35 fee had in fact been recommended due to concern for the Artcrafters. She urged approval of the policies as submitted, noting that when the City is asked to subsidize events, it is the taxpayer who provides that funding. **Sue Smith, 11th Avenue South**, voiced support of the Naples Artcrafters and the organization's shows, thanking the group for its financial support to the community and urging that the fees not be increased. **Barbara Burgeson, 3295 66th Street SW**, having left the meeting, submitted a statement for the record opposing the booth fee increase (Attachment 9).

While commending the CSAB for its effort in formulating the proposed policy, Council Member Sorey stated that he believed subsidizing such groups as the Naples Artcrafters with regard to their use of the City's parks should continue, that they are a vital part of the character and quality of life of the community and should be supported. He proffered a motion to approve the resolution amending #5 of the policy to maintain the \$10 booth fee; this motion did not receive a second.

Council Member Sulick said she supported the conclusions of the CSAB, noting that the fees had not been increased in the past five years; she proffered a motion for approval, as submitted, which Council Member Willkomm seconded. With current economic conditions, Mrs. Sulick continued, the City can no longer subsidize groups as in the past. Vice Mayor Taylor also supported the resolution, noting that groups could find other venues within Collier County should City booth fees be deemed too costly. Additionally, Mr. Willkomm pointed out that staff and the CSAB had indeed followed Council direction to review the fees with the intent of recovering some, but not all, of the incremental costs to the City realized from special events.

Council Member Price referenced Exhibit 1 of the resolution (see Attachment 8), which cites \$474,400 as the overall estimated cost to City taxpayers for special events, and proposed further review of this figure prior to increasing booth fees. The financial commitment to special events is sizable, he acknowledged, but also pointed out that special events are a vital element of the City and should therefore continue. He said he could not support the booth fee increase at that time. Vice Mayor Taylor stated that the event count of 331 is inclusive of such small functions as birthday parties, weddings, private parties and the like; nevertheless, it would prove difficult to quantify the benefit of special events to the City, she stated. Council Member Sorey encouraged the public to review staff's analysis provided in the aforementioned Exhibit 1. Staff confirmed for Council Member Heitmann that the Naples National Art Show had been a City-sponsored event for five years. This policy should be considered a first step in the much needed review of City-sponsored activities, Council Member Sulick stated, that with current economic conditions, all expenditures must be critically reviewed which is Council's responsibility. Mayor Barnett thanked the members of the Naples Artcrafters for their comments, explaining that their organization would not be the only one affected by the increase in charges but that the City's economic condition must be addressed and the fee increase is merely one of the actions which Council must move forward with.

MOTION by Sulick to APPROVE RESOLUTION 09-12456 as submitted; seconded by Willkomm and carried 5-2, all members present and voting (Sulick-yes, Sorey-no, Taylor-yes, Heitmann-yes, Willkomm-yes, Price-no, Barnett-yes).

.....**ITEM 23**
REVIEW OF THE CITY'S AFTER SCHOOL PROGRAM OFFERED AT FLEISCHMANN PARK. (See also Correspondence and Communications, Page 19)

Community Services Director David Lykins provided a brief overview of staff's recommendation that this program be discontinued due to the fact that it is a duplication of service; PAT's Kids Club Program is offered at nearby Lake Park Elementary School. Utilizing an electronic presentation (a printed copy of which is contained in the file for this meeting in the City Clerk's Office), he compared the two programs, noting that a survey of the after school program parents had also indicated the respondents' willingness to continue use of the program should the fees be increased. Mr. Lykins also explained that Collier County School District is considering outsourcing its after school program to a single entity (three currently service the system, one of which is PAT's Kids Club) and had issued an RFP (request for proposals). Therefore, he said, it is possible that PAT's Kids Club would actually not be the provider at Lake Park in the fall.

In response to Council Member Willkomm, Mr. Lykins confirmed that adequate vacancies exist at Lake Park for the Fleischmann children should Council follow staff's recommendation. Mr. Lykins also clarified for Council Member Sorey that should the Fleischmann program continue, the fees would be based upon the number of children actually enrolled and the amount of revenue needed to continue that level of service; the program should continue at least through the school Christmas recess, he added, and that staff would be terminated should the program be curtailed. Mr. Lykins pointed out that grants had not been pursued for the program.

Public Comment: (4:22 p.m.) **Kelsey Ward, PO Box 9706, Naples,** reviewed her comparative financial analysis as contained in the June 1 memorandum by Mr. Lykins (Attachment 10) wherein she took issue with staff's figures of a \$20,000 program deficit (expense/\$60,000 and revenue/\$40,000). She explained that she believed the program to be under utilized and this could be addressed with minimal advertising. Ms. Ward further suggested that by allocating staff salary and benefits at 30% of their total, which more closely reflects time spent administering the program; she asserted that the deficit in a worse case scenario would be \$162. Should her recommendations be adopted, i.e. increase the number of children to not to exceed 50, a \$29,000 profit could be realized, she stated. She explained this difference as due to no direct cost allocation being made for the after school program and therefore the expenses included supplies (\$12,000 or \$1,000 per month) for the entire Fleischmann Park facility. She also said she believed that the after school program supplies consisted of limited snacks and craft supplies for the 29 children enrolled; her calculations reflected half that amount, she added. Also the staff time allocation for the supervisor had been 4 hours per day in staff's analysis while her determination had been 2 hours per day. She said this was based on her daily visits to the program which her child attends. This decreases the expense from \$24,435 to \$12,217, she said. Also included in staff's analysis had been the Park Manager's salary which staff had allotted at 1 hour per day (totaling \$8,988), although she said she believed it to be approximately half an hour per day (\$4,494 rather than \$8,988), as well as electricity which showed \$8,000 in the staff analysis versus her estimate of \$2,666 (1/3 of the total). Financial issues aside, she said, the children's welfare is her primary concern and she urged that the program continue. Vice Mayor Taylor, who disclosed that she is also at the facility daily, agreed with Ms. Ward's observations and analysis.

Council Member Price said that the speaker's recommendation regarding advertising should be considered as he agrees that children are the City's most valuable resource; the program should continue and therefore he proffered a motion for approval. Council Member Heitmann seconded. Council Member Willkomm stated that although he agreed with the importance of the children, he could not support the motion due to the duplication of services issue brought forward by staff; Council Member Sulick agreed, reiterating her concern with regard to economic conditions and the importance of the allocation of taxpayer's money as well as prioritizing the City's needs. Vice Mayor Taylor however reiterated her support of the program, suggesting that it be approved for one year with staff documenting expenditures.

Mr. Lykins noted that the current attendance could be broken down to 50% City residents and 50% County children.

MOTION by Price to APPROVE CONTINUATION OF PROGRAM FOR ONE YEAR; seconded by Heitmann and carried 4-3, all members present and voting (Sorey-no, Price-yes, Heitmann-yes, Willkomm-no, Taylor-yes, Sulick-no, Barnett-yes).

Council Member Price recommended that a financial review of the program be brought to Council in November; Council concurred.

RESOLUTION (Continued – see motion below)ITEM 24
A RESOLUTION ACCEPTING A WARRANTY DEED FOR 108 ACRES OF MANGROVE WETLANDS ALONG THE SOUTHEAST BOUNDARY OF THE CITY AS A CONDITION OF SETTLEMENT SET FORTH IN THE CONDITIONAL SETTLEMENT AGREEMENT BETWEEN HAMILTON HARBOR AND THE CITY OF NAPLES; DIRECTING THE CITY CLERK TO RECORD THE WARRANTY DEED; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (4:42 p.m.). City Manager William Moss provided a brief history of this action, cautioning that although an offsetting benefit to the City could become apparent in the future, a 99-year conservation easement had been granted to the Board of Trustees of the Internal Improvement Trust Fund (TIITF). In response to Council Member Willkomm, City Attorney Pritt confirmed that as the property owner, the City would be responsible for the property once the deed was accepted; he also agreed with Mayor Barnett who stated that the City would in fact garner no benefit from owning the property. Mr. Pritt then cited the October 2005 action wherein the aforementioned conservation easement designation had been unanimously supported by City Council; the original intent had been to prohibit development of the wetlands and to contribute to the City's conservation land trust, which had been a topic of concern at that time, he added. Mayor Barnett proffered a motion for approval which Council Member Price seconded.

Discussion of the June 2 letter from Collier Enterprises Vice President Patrick Utter (Attachment 11) followed. In response to Council, Mr. Utter explained that his firm's commitment stems from the original Florida Department of Environmental Protection (FDEP) permitting requirements, which also required the establishment of the conservation easement. Also mandated had been a five year mitigation plan wherein Collier Enterprises would remove all exotics, conduct restoration with native plants, and continue monitoring for new exotic growth as well as the viability of the newly planted natives. In response to Council Member Sorey, he confirmed that large culverts had also been installed on the property to maintain flushing action. Furthermore, Rookery Bay National Estuarine Research Reserve had indicated interest in

assuming management of the property once the above noted five year period of Collier management expires, Mr. Utter said, adding that the ingress/egress conditions had been required for Collier to continue its mitigation plan as well as cultural and educational purposes (possible construction of board walks and archaeological excavations), although no intention existed at present to utilize the latter.

Council Member Willkomm questioned whether the City would be responsible for continuation of this management plan should it accept ownership and Mayor Barnett recommended that the item be continued to allow Natural Resources Manager Michael Bauer, and Gary Lytton with Rookery Bay, to be in attendance to clarify Council's concerns; he therefore withdrew his motion of approval and Council Member Price his second. Council Member Sorey agreed with Mayor Barnett's suggestion and proffered a motion for continuance.

MOTION by Sorey to CONTINUE THIS ITEM TO JUNE 17 REGULAR MEETING; *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).*

CORRESPONDENCE AND COMMUNICATIONS.....

(4:56 p.m.) Council Member Price requested that the City's discussion regarding visioning for the Community Redevelopment Area (CRA) be renewed due to the fact that the Fifth Avenue South property owners group had indicated that it would in fact not be pursuing advice from Urban Planner Andres Duany. He requested that staff verify this and also noted the need for prioritizing with regard to fiscal decision-making, ranking to maintain the character and values of the City. Vice Mayor Taylor questioned the severity of impacts upon municipalities with regard to recently proposed legislation regarding police and firefighters pension plan issues; City Manager Moss indicated that staff would submit a report when more information became available. She then expressed support for the recommendation brought forward by the Blue Ribbon Financial Planning Committee for a pension review committee. Furthermore, she took issue with earlier comments by Council Member Willkomm regarding the management of the City Dock, commending the oversight of Waterfront Operations Manager Michael Klein; a managerial audit should be undertaken only if Council believes finances of the Dock Fund are being mishandled, she added. In response, Mr. Willkomm pointed out that he believed the managing department to be dysfunctional and that he did not actually know the reason behind the issues at the facility; Mr. Moss added that perhaps an efficiency audit is needed as the Dock Fund, as well as the entire budget, undergoes an annual financial audit. Mr. Moss suggested that this however await the City Dock business plan which is to be brought forward in August. Council Member Heitmann requested the 2010 Council meeting schedule and information regarding maintenance responsibility for the stormwater/drainage ditch along the north side of the municipal airport property. She also requested clarification regarding approval of funding for the light/fountain installed in Spring Lake. Council Member Sorey provided a brief update regarding ongoing Clam Bay/Clam Pass issues and confirmed Council's direction regarding Item 23 (Fleischmann After School Program / see Page 16) in that the program is to be as revenue neutral as possible; during a brief discussion, additional consensus was forthcoming to the effect that the current rates would be applied and that the financial review would occur in November. Council Member Heitmann offered her assistance in pursuing scholarships and grant funding for program attendees. In response to Council Member Sulick, Mr. Sorey clarified that with regard to the Clam Bay/Clam Pass issues, he did not believe that the Seagate community, i.e. the City,

City Council Regular Meeting – June 3, 2009 – 8:30 a.m.

would become involved in any litigation with might arise over the various issues, and Mayor Barnett then referenced the May 26 letter from the US Army Corps of Engineers (ACOE) (Attachment 12) which Mr. Sorey explained had been requested by the Collier County Board of Commissioners to clarify the ACOE position on the 1998 dredging permit.

PUBLIC COMMENT.....

(5:56 p.m.) None.

ADJOURN

5:27 p.m.

Bill Barnett, Mayor

Tara A. Norman, City Clerk

Minutes prepared by:

Vicki L. Smith, Technical Writing Specialist

Minutes Approved: 06/17/09

**NAPLES CITY COUNCIL AGENDA MEMORANDUM****Regular Meeting Date: June 3, 2009**

Agenda Section: Regular	Prepared By: Mireidy Fernandez, Planner II Date: May 15, 2009 Department: Planning
Agenda Item: 7	Legislative <input type="checkbox"/> Quasi-Judicial <input checked="" type="checkbox"/>

SUBJECT:
Resolution determining Variance Petition 09-V3 for the expansion of Le Lafayette French Restaurant located at 375 13th Avenue South.

SUMMARY:
City Council is asked to consider a resolution determining Variance Petition 09-V3 for the expansion of Le Lafayette French Restaurant from 1,000 square feet to 3,975 square feet indoors (in addition to 1,500 square feet for the existing outdoor dining area) for property located at 375 13th Avenue South in the C1 Retail Shopping zoning and the 3rd Street Commercial Area Special Overlay District. In that this is a Quasi-Judicial matter, disclosures and the swearing in of those giving testimony are required.

BACKGROUND:
At the Planning Advisory Board meeting of May 13, 2009, the Board voted 4-3 to approve this variance request. The petitioner wishes to expand the square footage of Le Lafayette French Restaurant, which currently comprises approximately 1,000 square feet indoors and 1,500 square feet of outdoor seating area. The expansion would consist of the restaurant extending to the west and occupying commercial space currently held by the Evelyn & Arthur retail store and thereby encompassing the entire building. The expansion would bring the indoor restaurant space to 3,975 square feet for a total of 5,475 square feet including the outdoor dining.

Per the Code of Ordinances, restaurants must provide 1 parking space per 100 square feet of gross floor area. Therefore, the restaurant would need 55 parking spaces to comply with the Code. There are currently 16 on-site parking spaces for the Pratt building. With restriping, the parking can potentially be increased to 18 spaces. As such, the petitioner is requesting to waive 37 of the required parking spaces. There is a shared parking agreement with the adjacent Aragon building but all spaces in that lot are required to serve that building. Variance criteria are included in the attached Staff Report on Page 3.

There are approximately 15 on-street spaces located in the right-of-way adjacent to the Pratt and Aragon buildings but there is no provision for the allocation of on-street parking in the Third Street Overlay District. The PAB report includes a brief parking use study conducted after the application was received (post-season) and a review of past parking studies and needs analyses.

File Reference: Variance Petition 09-V3
Petitioner: Sebastien Maillard for Le Lafayette French Restaurant
Agent: Fernando Zabala, International Associate, AIA
Location: 375 13th Avenue South
Zoning: C1 Retail Shopping / 3rd Street Commercial Area Special Overlay District
Future Land Use: Limited Commercial

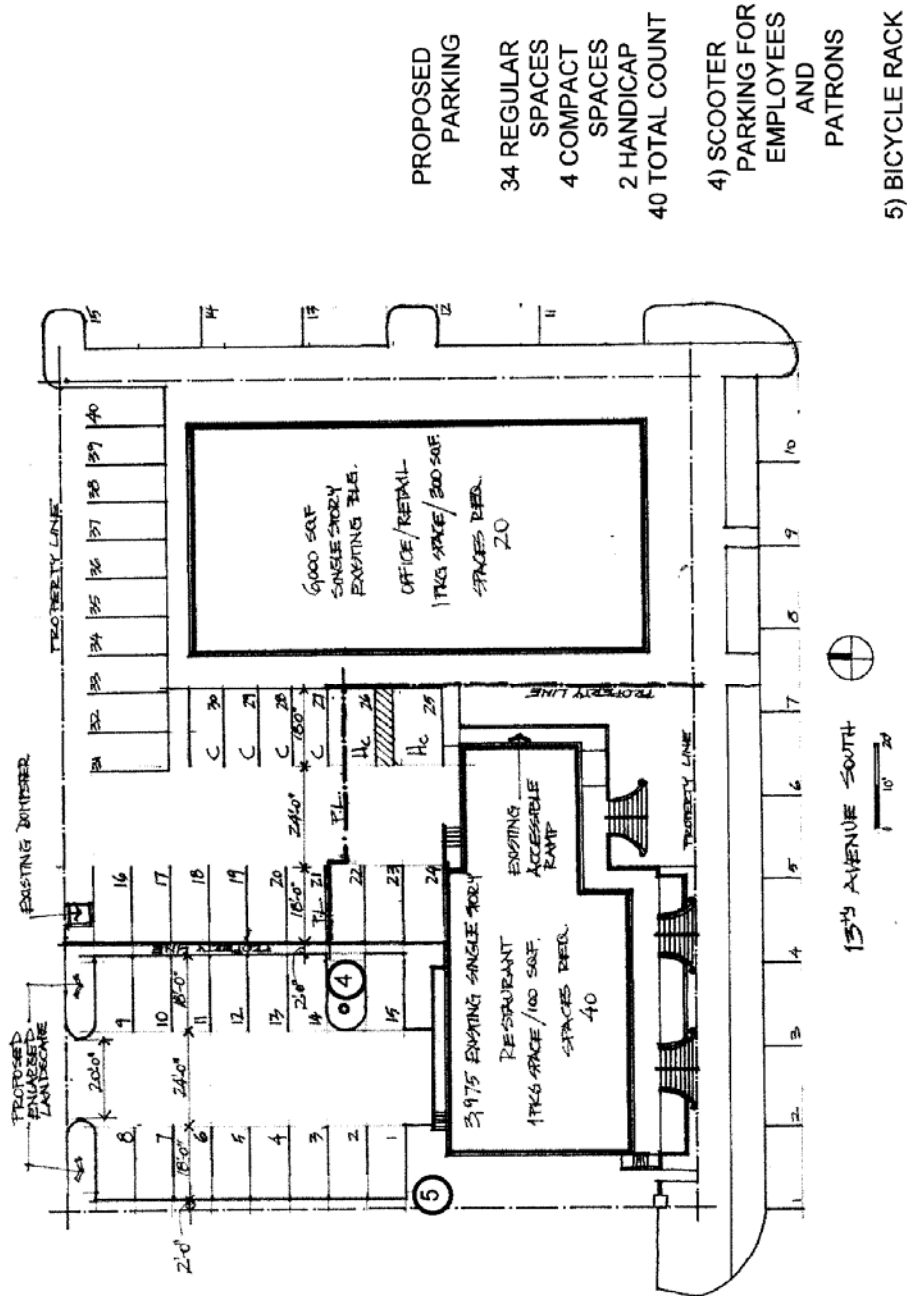


NAPLES CITY COUNCIL AGENDA MEMORANDUM

Regular Meeting Date: June 3, 2009

Page Two

Agenda Item: 7		
PUBLIC NOTICE/COMMENT: On April 22, 2009, a total of 157 letters were mailed to all property owners located within 500 feet of the subject property. As of the date of this report, there have been several responses to the petition all of which are attached to the staff report.		
RECOMMENDED ACTION: Adopt a resolution denying Variance Petition 09-V3 based on the following: the failure to prove hardship, not granting the variance would not deprive the owner of the reasonable use of the property; and granting the variance is not the most practical solution for the request.		
Reviewed by Department Director Robin D. Singer	Reviewed by Finance N/A	Reviewed by City Manager A. William Moss
City Council Action:		



Le Lafayette Restaurant - Parking Variance - 2009

Changes in flows

	2008 Study (gals)	2009 Update (gals)	Change
General	684,567,100	396,241,175	-42%
Institutional	491,193,075	506,503,275	3%
Bulk w/ storage	644,119,000	764,630,718	19%
Bulk w/o storage	N/A	Included Above	N/A
Total	1,819,879,175	1,667,375,168	-8%

Notes:

- General: based on existing five year average billed flow of 143,288,800 gallons and 70% of the potable water five year average for Phases 1 and 1A of 238,809,000 gallons.
- Bulk: Based on the five year average adjusted by 22%.
- Institutional: Based on five year average.

Adjustment to Allocation Factors

- Revised the allocation factors to reflect low peak demands for bulk users from 2 to 1.25.
- Affects the Wastewater Treatment, Wastewater Collection (Other), and Wastewater Collection (Personnel) budget categories.
- Change from Maintenance to Wastewater Collection budget items.

Comparison of Budget Allocations

	2008 Study	2009 Update	Change
General	\$ 639,100	\$ 502,500	-21%
Institutional	304,600	318,200	4%
Bulk w/ storage	314,000	301,100	-4%
Bulk w/o storage	N/A	129,600	N/A
Total	\$ 1,257,700	\$ 1,251,400	-1%

New Rates – Full Cost Recovery

	Existing (\$/1,000 gal)	2008 Study (\$/1,000 gal)	2009 Update (\$/1,000 gal)	Change from Existing
General	\$ 0.82	\$ 0.93	\$ 1.27	55%
Institutional	\$ 0.39	\$ 0.62	\$ 0.63	62%
Bulk w/ storage	\$ 0.33	\$ 0.50	\$ 0.56	70%
Bulk w/o storage	\$ 0.33	\$ 0.50	\$ 0.57	73%

Rate Alternative 1 – Debt Service Removed

	Existing (\$/1,000 gal)	2009 Update (\$/1,000 gal)	Change from Existing
General	\$ 0.82	\$ 0.87	6%
Institutional	\$ 0.39	\$ 0.21	-46%
Bulk w/ storage	\$ 0.33	\$ 0.14	-58%
Bulk w/o storage	\$ 0.33	\$ 0.16	-52%

Annual Revenue Shortfall: \$688,000

Rate Alternative 2 – 70% Cost Recovery

	Existing (\$/1,000 gal)	2009 Update (\$/1,000 gal)	Change from Existing
General	\$ 0.82	\$ 0.89	9%
Institutional	\$ 0.39	\$ 0.44	13%
Bulk w/ storage	\$ 0.33	\$ 0.39	18%
Bulk w/o storage	\$ 0.33	\$ 0.40	21%

Annual Revenue Shortfall: \$377,300

Rate Alternative 3 – Phase 1 & 1A Additional Personnel Removed

	Existing (\$/1,000 gal)	2009 Update (\$/1,000 gal)	Change from Existing
General	\$ 0.82	\$ 0.89	9%
Institutional	\$ 0.39	\$ 0.63	62%
Bulk w/ storage	\$ 0.33	\$ 0.56	70%
Bulk w/o storage	\$ 0.33	\$ 0.57	73%

Annual Revenue Shortfall: \$150,000

Rate Alternative 4 – Bulk Flows Unadjusted

	Existing (\$/1,000 gal)	2009 Update (\$/1,000 gal)	Change from Existing
General	\$ 0.82	\$ 1.21	48%
Institutional	\$ 0.39	\$ 0.57	46%
Bulk w/ storage	\$ 0.33	\$ 0.49	48%
Bulk w/o storage	\$ 0.33	\$ 0.50	52%

Recommendations

- 1. Adopt one of the recommended rate alternatives presented**
- 2. Gradually increase the irrigation rates evenly over the next 3 years.**

▪ **Example**

	Existing	Oct. 2009	Oct. 2010	Oct 2011
General	\$ 0.82	\$0.97	\$1.12	\$1.27
Institutional	\$ 0.39	\$0.47	\$0.55	\$0.63
Bulk w/ storage	\$ 0.33	\$0.41	\$0.48	\$0.56
Bulk w/o storage	\$ 0.33	\$0.41	\$0.49	\$0.57

Rate Alternatives

	Existing	2008 Study	2009 Update	Alt 1	Alt 2	Alt 3	Alt 4
General	\$ 0.82	\$ 0.93	\$ 1.27	\$ 0.87	\$ 0.89	\$ 0.89	\$ 1.21
Institutional	\$ 0.39	\$ 0.62	\$ 0.63	\$ 0.21	\$ 0.44	\$ 0.63	\$ 0.57
Bulk w/ storage	\$ 0.33	\$ 0.50	\$ 0.56	\$ 0.14	\$ 0.39	\$ 0.56	\$ 0.49
Bulk w/o storage	\$ 0.33	\$ 0.50	\$ 0.57	\$ 0.16	\$ 0.40	\$ 0.57	\$ 0.50

Setting Water Rates is not scientifically done - it is Municipal Public Policy
If Scientific everyone would use same formula and plug in their numbers.
Pinellas County - no additional billing fee, Scientific or public policy ?
Tetra Tech \$96,400 Administrative/Billing - double billing - public policy?
Orlando - Orange County - take or pay - scientific or public policy?
Collier County - connection fee - bigger meter = higher fee
Naples potable water - connection fee - bigger meter = high fee plus a higher tier rate based on an increased use of water - to encourage conservation
Tetra Tech has proposed just the opposite - no connection fee and a lower rate per 1000 gallons for those who use the most water - scientific or public policy?
These are just a few examples indicating why Rate setting is not scientific, it is public policy
Previously the city had one category - Bulk users. A few years later a government category was added, a few years later a residential category was added, and last month a bulk user category was added to separate those who can be interrupted and those who should not be interrupted when there is not enough water on any given day.
Tetra Tech has indicated that bulk users, who can be interrupted, and bulk users who should not be interrupted, should pay 1 penny difference in their rate. This would indicate government users who work off the same pressure system and at the exact same times as those 3 non interrupted bulk users should be charged the same rate and also be within 1 penny of the other 8 bulk users. The same case can be made for residential users.
I, and all other consultants, in my previous company are taught from our first training class, (mine in 1962) and all subsequent training classes, and many years of actual experience, that you always let the data and facts determine any assumption or hypotheses. You NEVER, NEVER make an assumption without justification. You must always look beyond the specific area you are working on to see if your assumptions or recommendations have **unintended consequences** in other areas.
There were many incorrect assumptions in the prior report, understated bulk use, understated government use, overstated residential use, mis-allocations of interruptible service credits to city medians, parkways, and office buildings for air conditioning, providing lake related credits to bulk users with no lakes. These were previously pointed out.
The current & most obvious invalid assumption is the unfounded assumption bulk users will reduce consumption by 22% relative to their 5 year unweighted average. Not 20%, not 25%, but 22%. This assumption and recommendation was made to Council prior to any analysis of the 5 year consumption data and prior to any analysis of the trend of that consumption data..
We sent a letter to Mr. Moss and Council that was forwarded to Tetra Tech on April 1, (two months ago), that Tetra Tech could validate their assumption and their 22% reduction recommendation made to council, by comparing the actual dry season consumption with their assumption.
I provided this comparison for the entire dry season of (Dec-Apr) using actual consumption data versus 5 year unweighted average 3 times. First with the Dec.

- Feb. data, then adding the March consumption data (in mid April), then adding the April consumption data (in mid May).

The bulk consumption did not go down 22%, as stated it should by Tetra Tech, but increased 16% or 73 million gallons more.

7 bulk users increased their consumption by 123 million gallons.

4 bulk users reduced their consumption by 50 million gallons.

One of the 4 is the biggest irrigation water user. They reduced consumption by 25 million gallons, possibly by using their alternate consumptive use permit supply that not all bulk users have access to.

Tetra Tech just showed their forecasted total annual consumption flow would = 1.667 billion gallons.

This is AFTER all 793 residential users have hooked up. Currently about 10% are hooked up. What are the unintended consequences of accepting this forecast?

The Waste Water Plant produces 2.5 billion to 2.8 billion gallons a year. The average for the last 5 years was 2.677 billion gallons..

This means, if you believe Tetra Tech's numbers, in 2009, the City will have to DUMP over 1 billion gallons of irrigation water into the river.

The City Dumping Permit is for about 880 million gallons.

The last 2 year average dumping was less than 350 million gallons per year (254 million in 07 and 438 million in 08)

Therefore, the yearly dumping of 1 billion gallons is after all 793 residential units are hooked up, and after they use nearly 400 million gallons in calendar year 2009.

So the amount to be dumped could be as much as 1.3 billion gallons this year.

If you accept the Tetra Tech Flow Data as valid information that drives their rate structure methodology, it would seem prudent for the city to immediately consider a crash program to add Phase 2, and Phase 3, and maybe Phase 4 residential users to the system.

It would appear there is from 1.0 billion gallons, up to as much as 1.3 billion gallons of excess irrigation water at the present time. To keep from dumping in the river, the city has two options. Build 10-13 ASR wells, each holding 100 million gallons, **each year**, just to handle the excess production from the plant, or to add residential users **consuming 3 times** the amount of water the 793 Phase I users are projected to consume.

In addition, to **understating** the bulk users **again**, the City usage is significantly **understated again** since many city customers were added, each year, during the last 5 year period, which makes using unweighted 5 year averages meaningless. This too was pointed out 2 months ago in my April 1 e-mail to the city, that was forwarded to Tetra Tech.

We offered in our April 1 e-mail to the city, to meet with Tetra Tech prior to the formal presentation to City Council to clear up any questions with their new proposal. Unfortunately this offer was not accepted.

I had the pleasure of serving on your Blue Ribbon Finance Committee -

I learned payment to irrigate medians & parks comes from the Parks & Parkways Fund. That fund comes from the General Fund that appears to be \$2 million to \$5 million short. This is funded by Ad Valorem taxes.

Charging a higher city rate versus the bulk user rate means all city property owners are subsidizing the 11 bulk users including the 4 in the county- (who pay no Ad Valorem taxes to the city)

Residential users also are subsidizing both the city rate (beyond their Ad Valorem taxes) and the bulk user rate.

Confirmed by a question Gary Price asked last meeting, the Tetra Tech methodology would require a new rate study as each new Phase of residential customers is added to the system because the consumption and ratio among user categories will change.

Confirmed by a question Bill Willkomm asked Tetra Tech last meeting, all users paying the same rate is a valid methodology.

To do the Rate Study where all users pay the same rate for the same 1000 gallons of water, all that is needed is the yearly dollar revenue amount. This is provided by Ann Marie. This is the numerator. It currently is about \$1.25 million. Next is the total gallons flowing into the distribution system that is provided by Bob Middleton as the denominator. This amount and the trends come from the same reports provided in the Water Department Reports that I have used for my information plus the planned increase of additional users. It makes no difference to which user categories the water is going, only the total number of gallons flowing into the Distribution System.

The result of that fraction is the rate per 1000 gallons of water.

The New Rate Study is done in a few hours, and it is done in house, with City personnel, as often as is required.

Using this methodology now, with the actual total consumption data, would result in a rate in the high 40 cents per 1000 gallons for everyone. Which happens to be lower than any rate proposed by Tetra Tech for any user category.

Using this methodology, there is no additional need to spend tens of thousands of dollars prior to each new Phase of the irrigation implementation or each new capital expenditures for ASR wells, etc. Two City Directors, in less than an hour, can do the New Rate Study.

I believe the city has spent about \$125,000 for various versions of this rate study so far.

By watching Council Meetings & Workshops, I know many people come to you to ask to be subsidized by someone else. The Conservancy for their Filter Marsh, the Tennis Center Fund, the City Dock Fund, the Crafters and the Artist Shows. Everyone has its advocacy group.

The present and future residential users are not asking for a subsidy. We are asking to pay the same price for 1000 gallons of water, that the city pays for the same 1000 gallons of water, and that the bulk users pay for the same 1000 gallons of water.

We are not asking that the operating budget of our homes or the operating budget of our Beach Club to be subsidized by anyone else other than ourselves. In the same manner, we do not think that we, nor the future residential users in

Aqualane Shores, nor Old Naples, nor Gulf Shore Blvd.'s North and South, nor Royal Harbor, nor Oyster Bay, nor all of the other residential neighborhoods in between should be asked to subsidize the operating budgets of others. We don't believe this is good public policy.

In Summary :

If you feel it is good public policy to double bill for the same services, you should probably vote for the Tetra Tech proposal, if not, you probably will vote against.

If you feel it is good public policy that users of more water should pay a lower price per 1000 gallons, than users of less water, you should probably vote for the Tetra Tech proposal, if not, you probably will vote against.

If you feel it is good public policy to make decisions based on assumptions that are contrary to the actual data, you should probably vote for the Tetra Tech proposal, if not, you probably will vote against.

If you feel it is good public policy that all City Ad Valorem tax payers should subsidize bulk users by paying a higher city rate, from the General Fund, than bulk users pay, you should probably vote for the Tetra Tech proposal, if not, you probably will vote against.

If you feel it is good public policy that all residential users should subsidize both the city's usage, beyond the Ad Valorem taxes they already pay, and subsidize the bulk users by paying a higher rate for the same 1000 gallons of water, you should probably vote for the Tetra Tech proposal, if not, you probably will vote against.

If you feel it is good public policy to select a methodology for rate setting, that requires an outside consultant to accomplish the work each time you expand the irrigation system to future neighborhoods or phases, versus using a "valid" and simpler rate setting methodology that can be done in house, you should probably vote for the Tetra Tech proposal, if not, you probably will vote against.

If you agree with the Tetra Tech forecasted annual consumption to be about 1.67 billion gallons, you should probably convene a workshop, as soon as possible, to decide what to do with the 1 billion gallons of current excess production in 2009 and each year beyond. This may be more critical today than deciding on the rates.

In the first Blue Ribbon Committee meeting Dr. Weiss first made the comment that there must be a "Fundamental Reset" as to how the city does business. This was unanimously agreed to by the 10 members of your committee.

We have tried very hard to assist Tetra Tech by providing a different perspective and understanding. We have failed to achieve this.

Based on our perception of good public policy, we suggest that you reject these recommendations and set the rates with the simpler methodology with everyone paying the same rate, for the same 1000 gallons. By doing this, you do NOT have to concern yourself with how much water is used by each of the 4 customers categories. Only with the total amount the city puts into the distribution system. That rate will be in the high 40 cents for all users, and that rate is lower than what Tetra Tech is proposing for all customers including bulk users.

If the rate for irrigation water gets "too high" for bulk users that are outside the city limits (such as adding the 25% premium), such that they go to other sources (maybe the county will provide them water, maybe they will pull from their supplemental permit source like the river or the creeks), would that not make more irrigation water available for sooner expansion to other residential areas in the city, thus reducing the use of potable water in those areas for irrigation, thus not requiring as much capital expenditures to obtain additional supply for that expansion, thus deferring the spending of large amounts of money for some major portions of the \$117 million expansion? Recall that 30% of the bulk user consumption is for the 4 users outside the city who pay no Ad Valorem taxes. Oh, well.
Marvin

NAPLES CITY COUNCIL AGENDA MEMORANDUM**Regular Meeting Date: June 3, 2009**

Agenda Section: Regular	Prepared By: Adam A. Benigni, Planner II Date: May 18, 2009 Department: Planning
Agenda Item: 9	Legislative <input checked="" type="checkbox"/> Quasi-Judicial <input type="checkbox"/>
SUBJECT: First Reading of an ordinance amending Subsection (12) of Section 50-104, Number of Parking Spaces, Sections 58-269, 58-299, 58-329, 58-359, 58-389, 58-419, 58-449 and 58-479, Minimum Off-Street Parking, of the Code of Ordinances, City of Naples, for the purpose of amending the parking requirements for multifamily dwelling units.	
SUMMARY: City Council is asked to consider an ordinance on First Reading amending Subsection (12) of Section 50-104, Number of Parking Spaces, Sections 58-269, 58-299, 58-329, 58-359, 58-389, 58-419, 58-449 and 58-479, Minimum Off-Street Parking, for the purpose of amending the parking requirements for multifamily dwelling units.	
BACKGROUND: In 2006, the Planning Department proposed modifications to the requirements for multifamily parking throughout the City due to the concerns of a number of citizens and City Council. The requirement prior to that specific text amendment (Ord. 06-11328) was 1.5 parking spaces per unit in the R3-6, R3-12 and R3T-12 zoning districts and 2 parking spaces per unit in the R3-15, R3-18 and R3T-18 zoning districts. At the time, there were no Code provisions that required guest parking spaces in addition to the base requirement. In September 2006, City Council approved Ordinance 06-11328 that increased the parking requirement in all multifamily zoning districts to 2 parking spaces per unit plus 1 parking space per 10 units for visitor parking. Since the Code amendment in 2006, some residents have expressed concern that the City's multifamily parking requirements are not adequate and need to be increased. The parking issues that residents have cited originate in the higher-density section of the City (Park Shore PD, R3-15 and R3-18 properties). City Council has directed Planning staff to reexamine the multifamily parking requirements. In order to keep the City's parking requirements simple and direct, staff suggests keeping the current spaces per unit method and only increasing the visitor parking requirement in the R3-15, R3-15 MOR, R3-15 CS, R3-18 and R3T-18 zoning districts. Staff suggests the following revision " <u>Units located in zoning district R3-15, R3-15 MOR, R3-15 CS, R3-18, R3T-18 or PD: Two spaces per dwelling unit plus one visitor parking space per dwelling unit for the first twelve dwelling units and one visitor parking space per two dwelling units thereafter.</u> " Originally, staff suggested that 50% of the guest/visitor parking be accessible from the outside of a gated development. After discussion at the April and May Planning Advisory Board meetings, this provision has been revised to require four contiguous parking spaces outside of the entrance restriction in order to allow for landscaping and delivery vehicle parking. Staff also suggests a clarification that garage spaces and the parking spaces in tandem with garage spaces can be counted as the required spaces for each dwelling unit; however, they will not count towards the visitor parking requirement.	

NAPLES CITY COUNCIL AGENDA MEMORANDUM

Regular Meeting Date: June 3, 2009

Page Two

Agenda Item: 9		
RECOMMENDED ACTION: Approve an ordinance on First Reading amending Subsection (12) of Section 50-104, Number of Parking Spaces, Sections 58-269, 58-299, 58-329, 58-359, 58-389, 58-419, 58-449 and 58-479, Minimum Off-Street Parking, of the Code of Ordinances, City of Naples, for the purpose of amending the parking requirements for multifamily dwelling units.		
Reviewed by Department Director Robin D. Singer	Reviewed by Finance N/A	Reviewed by City Manager A. William Moss
City Council Action:		

PRESENTATION TO CITY COUNCIL

JUNE 13, 2009

**Ordinance amending Subsection (12) of Section 50-104, Number of
Parking Spaces**

My name is Hans Gruenberg. I live at 1717 Gulf Shore Boulevard North and I am the president of the Gulf Shore Property Owners Association.

I am sorry that I am unable to be present at today's council meeting and I bring you greetings from Franklin Starks, our immediate past president, who has done so much to bring about the introduction of today's ordinance. I would like to make the following part of the record:

The Gulf Shore Property Owners Association is wholeheartedly in favor of this ordinance. Together with the City Planning Department, to whom we owe thanks for their continuing cooperation, and the strong support of the Planning Advisory Board, we have worked long and hard to craft an ordinance which we believe will greatly alleviate the parking problems that can be expected to increase as the smaller, older properties on the Bay side of Gulf Shore Boulevard, between the Naples Beach Hotel and Doctors Pass, are redeveloped.

This stretch of Gulf Shore Boulevard is unique in that there is virtually no unrestricted road-side parking. There are no stubs toward the beach as exist below the hotel and the center parking in the Coquina Sands stretch of the Boulevard is largely restricted to beach permit parking. The only road leading east from Gulf Shore Boulevard apart from Banyan Boulevard where there is no parking, is Yucca Road, south of Banyan Boulevard. In addition, this stretch of Gulf Shore Boulevard includes Lowdermilk Park and the Moorings Beach Park.

Because of the height restrictions, the redeveloped properties will never be very large and a minimum amount of visitor parking is extremely important. This is

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why GSPOA recommended and the Planning Advisory Board agreed, that there should be a minimum of one visitor parking space for each unit up to the first twelve units. That will at least make it possible for the residents of the expected smaller up-scale developments to accommodate a single two table bridge party for which they may well need seven visitor parking spaces. Also, because of the lack of road-side parking, this ordinance would require restricted properties to provide outside of the restricted entry parking for service vehicles such as landscaping and other trucks. The manager of the Sancerre Association which was completed, I believe, in 2004 has expressed her concern regarding the lack of adequate parking which was provided on that property.

There is an urgent need for this proposed ordinance and on behalf of the Gulf Shore Property Owners Association I strongly support its adoption.

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Exhibit A

City Dock Fund Trend

	2007-08	2006-07	2005-06	2004-05	2003-04
Revenues					
Rent	486,007	515,666	489,476	511,839	522,473
Investment Income/Loss Gain	14,533	25,156	73,555	14,796	4,521
Fuel Sales	1,111,422	1,295,422	1,214,489	1,171,911	941,966
Naples Landings	92,766	94,449	80,332	60,938	30,015
Fines	428	400	14,925	33,545	21,665
Bait Sales	46,435	56,709	46,277	50,578	54,007
Miscellaneous Sales	30,904	37,984	32,681	41,480	51,161
Other Minor	(18)	3,178	1,973	2,016	1,419
	<u>1,782,477</u>	<u>2,028,964</u>	<u>1,953,708</u>	<u>1,887,103</u>	<u>1,627,227</u>
Expenditures					
Personal Services	284,914	305,363	246,345	235,564	212,230
Supplies/Services	1,352,577	1,506,353	1,262,471	1,238,087	924,645
Utilities	65,293	65,611	73,338	66,316	60,801
PILOT	100,000	100,000	100,000	88,000	12,000
Depreciation	104,517	123,746	134,329	129,755	160,671
General Administration	144,428	137,550	131,000	125,000	112,000
Other	-	24,200	96,325	-	-
	<u>2,051,729</u>	<u>2,262,823</u>	<u>2,043,808</u>	<u>1,882,722</u>	<u>1,482,347</u>
Net Gain/(loss)	(269,252)	(233,859)	(90,100)	4,381	144,880
*** Unrestricted Net Assets	137,631	378,251	523,331	529,703	512,316

ASR 5/20/09

06-07 Included nearly \$50K paid to Oertel Attorney
and a \$100,000 increase in risk management charges.
and about \$45,625 for Tetra Tech/Mooring field engineering

**ESTIMATED EXPENDITURES & REVENUES FOR SPECIAL EVENTS
COMMUNITY SERVICES
DETAILED BY DIVISION**

Exhibit 1

LINE ITEM	FY 2008/2009 BUDGET	PERCENTAGE USED FOR EVENTS	ESTIMATED EVENT LINE ITEM TOTALS
EXPENDITURES:			
ADMINISTRATION - 0901			
Sr. Administrative Specialist w/Benefits	\$ 69,000.00	50%	\$ 34,500.00
Other CS Admn Staff w/Benefits	\$ 300,000.00	10%	\$ 30,000.00
Operating Supplies/Expenditures	\$ 29,200.00	40%	\$ 11,700.00
Risk/Liability	\$ 235,000.00	10%	\$ 23,500.00
PARKS & PARKWAYS - 0913			
Parks & Parkways Supervisor w/Benefits	\$ 76,500.00	10%	\$ 7,650.00
Contract Services Manager w/Benefits	\$ 78,500.00	10%	\$ 7,850.00
Administrative Specialist II w/Benefits	\$ 57,000.00	10%	\$ 5,700.00
Sr Landscape Technician w/Benefits	\$ 97,000.00	10%	\$ 9,700.00
Irrigation Technician w/Benefits	\$ 223,500.00	5%	\$ 11,000.00
Landscape Technician III w/Benefits	\$ 195,000.00	10%	\$ 19,500.00
Landscape Technicians II w/Benefits	\$ 220,500.00	10%	\$ 22,000.00
Overtime	\$ 60,000.00	10%	\$ 6,000.00
Operating Supplies/Expenditures	\$ 487,085.00	20%	\$ 97,000.00
Professional/Contractual Services	\$ 1,450,000.00	3%	\$ 43,500.00
Equip. Services - Fuel & Repairs	\$ 220,000.00	5%	\$ 11,000.00
Electricity	\$ 30,000.00	10%	\$ 3,000.00
Water, Sewer, Garbage	\$ 210,000.00	10%	\$ 21,000.00
Repair and Maintenance	\$ 6,000.00	20%	\$ 1,200.00
FACILITY MAINT - 1017			
Tradesworker w/Benefits	\$ 250,000.00	15%	\$ 37,500.00
Service Worker II-Custodians w/Benefits	\$ 226,000.00	30%	\$ 67,800.00
Overtime	\$ 20,000.00	10%	\$ 2,000.00
Operating Supplies/Expenditures	\$ 110,000.00	40%	\$ 44,000.00
Professional/Contractual Services	\$ 30,000.00	10%	\$ 3,000.00
Equip. Services - Fuel & Repairs	\$ 55,000.00	5%	\$ 2,800.00
Electricity	\$ 103,000.00	10%	\$ 10,300.00
Water, Sewer, Garbage	\$ 37,000.00	10%	\$ 3,700.00
Repair and Maintenance	\$ 177,500.00	20%	\$ 35,500.00
TOTAL ESTIMATED EXPENDITURES	\$ 5,052,785.00	15%	\$ 572,400.00
REVENUES:			
Permit Fees			\$ 12,000.00
Booth Fees			\$ 21,000.00
Rental Fees			\$ 65,000.00
TOTAL ESTIMATED REVENUES			\$ 98,000.00
OVERALL ESTIMATED COST TO CITY TAXPAYER			\$ 474,400.00
Estimated Cost to City Taxpayer per event (divided by 331 events per year)			\$ 1,433.00
Estimated Cost per hour per event (divided by 2,300 total hours per year)			\$ 206.26

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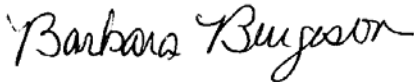
My Name is Barbara Burgeson. I am one of the most recently juried members of the Naples ArtCrafters. I weave baskets and one day hope to be able to sell a few at each show. This is not a livelihood for me and since I don't sell my art at each show, I am at risk of being one of the members who may choose to stop participating in them if the tent fees are raised.

I believe that the shows that are held in Naples not only add to the charm of the city but to its reputation of supporting the arts and its citizens. They are not only an opportunity for the people in the show to sell their art. They are a fun social event for members to meet other people. I attended only three shows this year but I've made contacts with so many people. Some have told me that they used to weave in groups in Naples but they no longer exist and asked if they might join me from time to time to weave with me. I've made contacts with many more people who are vacationing in Naples. Some are a part of weaver's guilds in their home towns of Michigan and Washington State. One woman said she lives on an Island in the Nova Scotia area that has a reputation of having many resident artists and it draws in repeat visitors for just that reason.

What I am asking you today is that you please consider that the people who participate in the shows and events need your help to keep them affordable so that they can continue to do so.

Thank you for your time.

Sincerely,



Barbara Burgeson
3295 66th St. SW
Naples Florida
239-262-2641



Memo

Community Services Department

Parks and Parkways • Recreation • Facilities Maintenance

TO: A. William Moss, City Manager
FROM: David M. Lykins, Community Services Director
DATE: June 1, 2009
SUBJECT: After School Program – Supplemental Information – Item 23

A parent of a child enrolled in the Fleischmann After School Program, Ms. Kelsey Ward, recently met with staff and presented an individually prepared comparative financial analysis of the program. Ms. Ward is concerned about the recommended discontinuation of this program and compared estimated program cost staff presented to City Council on March 2, 2009 with a direct cost analysis she personally prepared.

The City's presentation included the following information.

Expense estimates \$60,000; Revenue estimates \$40,000; Program loss estimate \$20,000.

Ms. Ward prepared two sets of optionally estimated scenarios that included the following information.

(Scenario A includes full employee benefit cost provided by City)

#1 – Expense estimates \$42,461; Revenue estimates \$40,000; Program loss estimate \$2,461

#2 – Expense estimates \$39,461; Revenue estimates \$40,000; Program profit estimate \$539

(Scenario B includes averaged employee benefit cost of 30%)

#1 – Expense estimates \$40,162; Revenue estimates \$40,000; Program loss estimate \$162

#2 – Expense estimates \$31,054; Revenue estimates \$40,000; Program profit estimate \$8,946

Ms. Ward's scenarios included a different allocation of staff time, resources and assignments (based on job descriptions), building use cost from FPL billing and distribution or use of program supplies.

In actuality, recreational programs and building usage is not based on full cost or task accounting methods to determine program price, full cost recovery or profitability. This exercise has demonstrated the challenge in doing so. Programs, supplies and staffing resources or duties overlap and are often combined for budgeting.

Ms. Ward's opinions mirror other parent concerns about the discontinuation of this program based on the following comments provided in her analysis.

- The Fleischmann program is, at worst, operating at a minimal cost that is more than offset by the value to the participants and community.
- Children are properly supervised and mentored; program encourages leadership, sportsmanship, teamwork, cooperation, learning new skills which benefit the community now and in the future.
- The Fleischmann program could be expanded (to 50) with minimum cost to increase revenue.
- The Fleischmann program promotes utilization of other programs and revenue streams.

The basis of staff's continuing recommendation is for identifying and eliminating duplicated services or programs as appropriate to meet budgetary objectives and funding allocations.

Et tu quoque... Service to others before self... Quality in all that we do.

SUPPLEMENT #

Financial Analysis of Fleischmann Park After-School Program – (30% Benefits)

Overview of issue: Potential elimination of Fleischmann Park afterschool program due to budgetary concerns.

- Item was discussed by Naples City Council on March 2, 2009 and Council determined that more fact finding and discussion was needed.
- Subsequent analysis of initial presentation information as well as supplemental information provided by City of Naples staff determined that costs were actually much less than presented.
- Item will be re-considered at a June 2009 meeting.
- The tables below depict both the costs as originally presented, and as updated by staff on 5/27/09 (Column 1) and the result of a more detailed scrutiny (Column 2).
- Both direct and indirect costs were analyzed.
- For Direct Cost Analysis, in Column 2, two scenarios are presented as the result of the analysis. Scenario 1 indicates analysis estimates on the “high” side of expenses/costs and Scenario 2 indicates analysis estimates based on most accurate and realistic assessment of expenses/costs.

I. Direct Cost Analysis

Column 1	Costs	Column 2	Costs
Indicates information presented at the Naples City Council Workshop of March 2, 2009 by David Lykins and updated by staff on 5/27/09		Indicates information based on analysis of information provided by David Lykins and Mike Leslie and updated by staff on 5/27/09	
Supervisor – DCF Credentialed		Supervisor – DCF Credentialed	
Salary : \$51,442		Salary: \$51,442	
Benefits: \$15,432.60*		Benefits: \$15,432.60*	
Total: \$66,874.60 divided by 2080 = \$32.15 per hour		Total: \$66,874.60 divided by 2080 = \$32.15 per hour	
\$32.15/hr x 4 hrs/day = \$128.60/day x 5 days = \$643.02 per week x 38 weeks = \$24,434.95 per year (pro-rata cost)	\$24,435	Scenario 1: \$32.15/hr x 2 hrs/day = \$64.30/day x 5 days = \$321.50 per week x 38 weeks = \$12,217 per year (pro-rata cost)	\$12,217*
*Benefits were calculated as a standard 30% of salary		Scenario 2: \$32.15/hr x 1 hr/day = \$32.15/day x 5 days = \$160.75 per week x 38 weeks = \$6,108.50 per year (pro-rata cost)	\$6,109**

Counselors (Temps)

3 counselors at \$11 per hour x 4 hrs/day = \$132/day x 5 days = \$660 per week x 38 weeks = \$25,000 per year (pro-rata cost)	\$25,000	3 counselors at \$11 per hour x 3.5 hrs/day = \$115.50/day x 5 days = \$577.50 per week x 38 weeks = \$21,945 per year (pro-rata cost) Note: Cost applies to both Scenarios 1 and 2	\$21,945
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Supplies, equipment, snacks, phone, licensing, certifications, staff training, etc

\$12,000 divided by 38 weeks = \$316 per week divided by 29 kids = \$10.89/wk per child	\$12,000***	Scenario 1: \$6,000 divided by 38 weeks = \$158 per week divided by 29 kids = \$5.44/wk per child	\$6,000*
SUPPLEMENT # 1		Scenario 2: \$3000 divided by 38 weeks =	\$3000**

		\$79 per week divided by 29 kids = \$2.72/wk per child	
*** The \$12,000 in costs represents an aggregate of purchases made for Fleischmann Park as identified by staff through P-card records and invoices. Since purchases are not allocated by program, there may be significant discrepancies between actual and perceived expenses directly attributable to the afterschool program alone.		Note: Some costs such as equipment, phone, licensing, certifications and staff training were determined to be indirect costs that should be allocated between all programs as part of overhead expenses. Only craft and art supplies and limited snacks could be directly attributed to the afterschool program	
Total direct costs:	\$61,435	Total direct costs: Scenario 1:	\$40,162 *
		Scenario 2:	\$31,054 **

* **Scenario 1** – Indicates analysis estimates on the “high” side of expenses/costs

****Scenario 2** - Indicates analysis estimates based on most accurate and realistic assessment of expenses/costs

II. Indirect Cost Analysis

Note: Although indirect costs were included as part of the presentation at the workshop, they are not deemed to be relevant to the issue, since these costs would be incurred regardless of whether the afterschool program was eliminated. Net effect on the budget is zero.

Column 1 – As Presented

Column 2 – Analysis

Pro-rated facility use expense (utilities) FPL = \$8000 divided by 38 weeks = \$210.52 per week	\$8,000	Pro-rated facility use expense is deemed to be incorrectly calculated since it is unlikely that the utility costs strictly for the afterschool program amount to \$210.52 per week, or roughly \$842 per month for a 2100 sq foot space. A more accurate figure would be approximately \$2666 which is 1/3 of the \$8000 estimate or roughly \$281 per month. Further, since the classrooms would be used by other programs if the afterschool programs are eliminated, there is no net effect on the facility budget.	(\$2,666)
Total square footage of Fleischmann Park Center = 8400		Total square footage of afterschool program classrooms = 2100	

Park Manager			
Salary: \$75,690		Salary: \$75,690	
Benefits: \$22,707*		Benefits: \$22,707*	
Total: \$98,397 divided by 2080 = \$47.30 per hour		Total: \$98,397 divided by 2080 = \$47.30 per hour	
\$47.30 per hour x 1 hr/day = \$47.30 per day x 5 days = \$236.53 per week x 38 weeks = \$8,988.18	\$8,988	\$47.30 per hour x .5 hr/day = \$23.65 per day x 5 days = \$118.25 per week x 38 weeks = \$4493.50 Since the Park Manager's time would be used by other programs if the afterschool program is eliminated, there is no net effect on the	(\$4,494)

		facility budget.	
Front Counter Staff 1 person at \$11 per hour x 2 hrs/day = \$22/day x 5 days = \$110 per week x 38 weeks = \$4,180	\$4,180	Front Counter Staff 1 person at \$11 per hour x .5 hrs/day = \$6.50/day x 5 days = \$32.50 per week x 38 weeks = \$1,235 Since the Front County Staff time would be used by other programs if the afterschool program is eliminated, there is no net effect on the facility budget.	(\$1,235)
Total Indirect Costs:	\$21,168	Total Indirect Costs:	(\$8,395)
Note: Total figure was incorrectly stated as \$20,641 in original presentation document *Benefits were calculated as a standard 30% of salary		Note: Figures stated are provided for comparison to presentation figures only, there is actually no net effect on the facility budget with or without the afterschool program	

III. Considerations

Column 1 - Direct Costs	\$61,435	Column 2 – Direct Costs	
		Scenario 1 *	\$40,162
		Scenario 2 **	\$31,054
Estimated Revenue (from presentation information)	\$40,000	Estimated Revenue (from presentation information)	\$40,000
Net loss	- \$21,435	Net profit/loss	
		Scenario 1 *	-\$ 162
		Scenario 2 *	+\$8,946

 SUPPLEMENT
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- Column 2 analysis indicates that “worst case”, (Scenario 1), the program is operating at a minimal \$13.50 per month loss, and “best case”, (Scenario 2) generates a profit.
- The overall value to participants and the community would offset the minimal dollar loss.
- With a minimum of expense, program could be promoted and expanded to 50 participants, which would increase revenue by approximately \$29,000 (facility is licensed for 100, but to ensure a quality experience, staff feels that 50 is an optimum number). See table below for revenue projection.
- Although corresponding costs would increase, the increase would be limited to counselors’ salaries (if required, dependent on child to counselor ratio based on additional enrollment), arts and craft supplies and limited snacks.

Revenue Projections

Current revenue = \$40,000 divided by 29 = \$1379 per child	Projected revenue = \$1379 per child x 50 = \$68,965
Difference between current and projected revenue = \$28,965	

IV. Additional Considerations

- School sites were not designed for after-school care, and are in fact, less desirable due Pat’s Kids using cafeteria as the base for most program activities. Cafeteria does not have storage cubicles for each child, safe storage for art and craft supplies and PE and other equipment.

- Since students are at Lake Park Elementary from 8:17 am through 2:45 pm, having Pat's Kids based in the same location has the net effect of extending their school day an additional 3 hours. The Fleischmann Park after school program location gives the children a mental and physical break which is important for emotional and behavioral health.
- The after school program at Fleischmann Park has a mandatory homework/enrichment activity time where children are divided by age and grade level and is quiet and supervised by counselors. Pat's Kids are warehoused in a noisy cafeteria where homework time is optional, and children have difficulty focusing due to numerous distractions. Completing homework assignments in a calm and structured environment promotes educational goals and increased "family time" at home.
- Children are properly supervised and mentored, ensuring the health, safety and well-being of all participants.
- After school program promotes access and utilization of other programs through enrolled participants (children) as well as parents and other caregivers.
- Meeting licensing requirements will no longer be an issue due to recent renovations to the building.

V. Conclusions

- Fleischmann Park after school program is, at worst, operating at a minimal cost that is more than offset by the value to the participants and community.
- Existing after school program could be expanded with minimum cost to increase revenue.
- Program promotes utilization of other programs and revenue streams (room and facility group/event rental, field rentals).
- Program encourages leadership, sportsmanship, teamwork, cooperation, learning new skills which benefit the community now and in the future.
- Program stresses the importance of education through mandatory homework time and family values allowing families to spend more time together at home.

COLLIER
ENTERPRISES



3603 LAMIAHI TRAIL, N.E. #400, NAPLES, FL 34103/PHONE 239/261-4455

June 2, 2009

Mayor and Council
735 Eighth Street South
Naples, FL 34102

Re: Hamilton Harbor's Conveyance of 1.5 Miles of Shoreline to the City of Naples

Dear Mayor Barnett and City Council Members:

Collier Enterprises and Hamilton Harbor Yacht Club are pleased to complete the final condition of the Conditional Settlement Agreement (CSA), the conveyance of more than one and one-half miles of mangrove-lined shoreline to the City of Naples. Adjacent to the Rookery Bay National Estuarine Research Reserve, this shoreline and 103 acres of neighboring wetlands and uplands have been restored and will forever be home to hundreds of wildlife species.

The CSA was executed on October 11, 2002, and required Collier Enterprises to acquire all necessary permits from the Florida Department of Environmental Protection (FDEP), the U.S. Army Corps of Engineers, and any other governmental entity exercising jurisdiction, and the City agreed to support these applications. During the past six years, Collier Enterprises has diligently obtained all required federal, state, and local permits. The construction of the Hamilton Harbor Yacht Club was completed last summer. Our staff worked closely with the City's Natural Resource Managers, Jon Staiger and Mike Bauer, while obtaining these permits and constructing the facilities. Several of our permits also require long-term monitoring obligations to maintain exotics and restore native habitat.

Section VII, (7) (a) of the Hamilton Harbor PD requires Collier Enterprises to record a conservation easement over the 103 acres in favor of the regulating state agency, prior to conveying the land to the City of Naples. We recorded a conservation easement over the 103 acres in favor of the Board of Trustees of the Internal Improvement Trust Fund as required by our FDEP Permit and our City zoning. This easement provides for an additional layer of environmental protection and oversight, by imposing maintenance and management obligations on our company and granting enforcement rights to the Board of Trustees of the Internal Improvement Fund. The recording of this easement is standard practice and was always anticipated as part of the Hamilton Harbor permitting process. Indeed, dedicating a Conservation Easement on lands designated as Conservation in the City's Comprehensive Plan is consistent with provisions of the CSA reserving the landowner's right to make the conservation lands available for third parties for educational or scientific purposes.

Collier Enterprises has been extremely diligent in following the terms of the CSA, and believes the obligations will be concluded with the conveyance of this property. Collier Enterprises appreciates the City of Naples' commitment to improving Naples Bay and for helping to make this public private partnership a success.

Sincerely,



Patrick L. Utter
Vice President of Real Estate

Cc: Mike Bauer, Robin Singer, and Robert Pritt

C. C. BARNETT

2009-06-02 10:34

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REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
1520 ROYAL PALM SQUARE BLVD., SUITE 310
FORT MYERS, FLORIDA, 33919-1036

May 26, 2009

Regulatory Division
South Permits Branch
Fort Myers Section
SAJ-1996-02789(IP-CC)

Mr. Theodore C. Raia, Jr.
Collier County Government
Director, Pelican Bay Services Division
801 Laurel Oak Drive, Suite 605
Naples, Florida 34108

Dear Mr. Raia:

This letter refers to a request on behalf of Pelican Bay Services Division (PBSD) for a modification and clarification of Department of the Army (DA) permit number 1996-02789 issued on August 11, 1998. The permit authorized replacement of Seagate Drive Culverts, dredging of the Clam Pass main channel for Cuts 1, 2, 3, and 4, and excavation and maintenance of interior tidal cracks. The project is located within Clam Bay and the Gulf of Mexico, in Sections 4, 5, 8, 9, 32, 33, Township 49 south, Range 25 east, Collier County, Florida. The U.S. Army Corps of Engineers (Corps) has completed an evaluation of your request and the information provided to us by letter dated May 6, 2009.

The Corps has also evaluated a letter dated May 14, 2009 from the Office of the County Attorney stating that the PBSD is a dependent branch of Collier County and as such is not authorized to bind the Collier County Board of County Commissioners with regard to any issues. The purpose of this letter is to inform you that no action will be taken on your request and the many forms of Collier County are encourage to work together to resolve any disputes. The proposal to add navigational signs and markers is authorized by a nationwide permit.

2009-06-02 10:34

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-2-

Nationwide permits are an integral part of the Corps' regulatory program and deal with minor activities. In accordance with the information provided in the decision document for Nationwide permit 1, "Aids to Navigation", the Corps will not be accommodating your request to modify permit SAJ-1996-02789(IP-CC).

Nationwide permits (NWP) are designed to relieve some of the administrative burdens associated with permit processing for both the applicant and the Federal government. The activity described in your request is authorized by NWP 1 and does not require pre-construction notification (PCN) to the District Engineer before commencing with the work.

In addition to the NWP general conditions, regional conditions are added as an important mechanism to ensure that impacts to the aquatic environment authorized by the NWP are minimal, both individually and cumulatively. The following regional conditions apply.

Regional Conditions:

1. In Florida, prior to installation of aids to navigation and other water dependent informational signs must have the appropriate authorization required from the U.S. Coast Guard and the FWC (CZM-FL)
2. Aids to navigation may not be located on tribal lands or in tribal waters without prior written approval from the Seminole Tribe of Florida. (WQC-STF)
3. Excluded from all navigable waters within the boundaries of the Florida Keys National Marine Sanctuary, except when NWP 1 is used by the Sanctuary in carrying out its mandate. (COS)
4. For projects in WOTUS accessible to manatees, the permittee will utilize the "Standard Manatee Conditions For In-Water Work" (see <http://www.saj.usace.army.mil/regulatory/what/species/endangered.htm>) and/or requirements, as appropriate for the proposed activity.

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The decision document for Nationwide permit 1 for Aids to Navigation can be found at:
http://www.usace.army.mil/CEOW/Documents/ceowo/reg/nwp/NWP_01_20_07.pdf. If you have any questions regarding this letter, please contact Susan Blass at the letterhead address.

Sincerely,

Susan Blass

Susan Blass
Chief, Fort Myers Section

Enclosure(s)

Copies Furnished:

Collier County

James Mudd, County Manager,
Gary McAlpin, Director, Coastal Zone Management

Office of the County Attorney

Jeffrey A. Klatzkow, County Attorney
Leo Ochs, Jr., Deputy County Manager
Colleen M. Greene, Assistant County Attorney

Regulatory Division, USACE

Tunis McElwain, Chief, South Permits Branch
Deborah Wegmann, Chief, Special Projects and Enforcement Branch
Donnie Kinard, Deputy Chief, Regulatory Division