



City Council Chamber
735 Eighth Street South
Naples, Florida 34102

City Council Regular Meeting – June 17, 2009 – 8:28 a.m.

Mayor Barnett called the meeting to order and presided.

ROLL CALLITEM 1

Present:

Bill Barnett, Mayor
Penny Taylor, Vice Mayor (arrived 8:30 a.m.)

Council Members:

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

Also Present:

William Moss, City Manager
Robert Pritt, City Attorney
Tara Norman, City Clerk
Roger Reinke, Assistant City Manager
Vicki Smith, Technical Writing Specialist
Michael Bauer, Natural Resources Manager
Adam Benigni, Planner
Erica Goodwin, Planner
Robin Singer, Planning Director
Ron Wallace, Streets & Stormwater Director
Joe Boscaglia, Parks & Parkways Superintendent
David Lykins, Community Services Director
Robert Middleton, Utilities Director
Gregg Strakaluse, Engineering Manager
Russell Adams, CRA Executive Director
Gary McAlpin
Cloe Waterfield

James Perman
Jim Boula
Jim Rideoutte
Richard Yovanovich
Sue Smith
Lindy Curran
Willie Anthony
Lisa Swirda
Alan Ryker
Tim Tassin
Teresa Bonness
Lou Vlasho
John Vega

Media:

Jenna Buzzacco-Foerster, Naples Daily News
Eric Staats, Naples Daily News
Other interested citizens and visitors

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

Rabbi James Perman, Temple Shalom.

ANNOUNCEMENTSITEM 3

None.

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

MOTION by Price to SET THE AGENDA adding Item 27 (Fifth Avenue South property owner group's presentation); seconded by Willkomm and unanimously carried, all members present and voting (Heitmann-yes, Price-yes, Sorey-yes, Sulick-yes, Taylor-yes, Willkomm-yes, Barnett-yes).

PUBLIC COMMENT.....ITEM 5

None.

CONSENT AGENDA

APPROVAL OF MINUTESITEM 8-a

May 18, 2009 Workshop, May 20, 2009 Regular, and June 3, 2009 Regular; as submitted.

RESOLUTION 09-12457..... ITEM 8-b

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT A GRANT AWARD FROM THE U.S. DEPARTMENT OF JUSTICE UNDER THE EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT PROGRAM FOR THE UPGRADE OF POLICE RADIOS, THE PURCHASE OF TASERS, AND OBTAINING K-9 UNIT SOFTWARE; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 09-12458.....ITEM 8-c

A RESOLUTION AUTHORIZING THE CITY MANAGER TO SUBMIT A COMMUNITY DEVELOPMENT BLOCK GRANT "RECOVERY" APPLICATION TO COLLIER COUNTY ALLOWING THE COUNTY TO SUBSTANTIALLY AMEND THE ANNUAL PLAN AND FUND PUBLIC FACILITY IMPROVEMENTS IN THE RIVER PARK COMMUNITY; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 09-12459.....ITEM 8-d(1)

A RESOLUTION ACKNOWLEDGING THE ELECTION OF DAVID HARRIS TO THE BOARD OF TRUSTEES OF THE POLICE OFFICERS RETIREMENT TRUST FUND FOR THE BALANCE OF A TWO-YEAR TERM EXPIRING MARCH 31, 2011; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 09-12460.....ITEM 8-d(2)

A RESOLUTION APPOINTING JOSEPH WHITEHEAD TO THE BOARD OF TRUSTEES OF THE POLICE OFFICERS' RETIREMENT TRUST FUND FOR A TWO-YEAR TERM COMMENCING JUNE 17, 2009, AND EXPIRING JUNE 16, 2011; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 09-12461.....ITEM 8-e

A RESOLUTION ACCEPTING A TEMPORARY BEACH RESTORATION EASEMENT FROM COMAX PARTNERS LP FOR THE PLACEMENT OF SAND FROM THE DREDGING OF GORDON PASS BY THE U.S. ARMY CORPS OF ENGINEERS JUST OFFSHORE OF THE NORTH END OF KEEWAYDIN ISLAND; DIRECTING THE CITY CLERK TO RECORD THE TEMPORARY BEACH RESTORATION EASEMENT; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 09-12462..... ITEM 8-f

A RESOLUTION RECOGNIZING THE "BUILDING CITIZENSHIP IN THE COMMUNITY: BACK TO BASICS" INITIATIVE OF THE FLORIDA LEAGUE OF CITIES, INC.; PLEDGING SUPPORT FOR THIS STATEWIDE EFFORT; AND PROVIDING AN EFFECTIVE DATE. Title not read.

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

END CONSENT AGENDA

.....**ITEM 9**

PRESENTATION OF THE ANNUAL REPORT OF THE NAPLES PLAYERS. (It is noted for the record that a copy of the annual report is contained in the file for this meeting in the City Clerk's Office.) James Rideoutte, Executive Director of the Naples Players, provided a brief overview of the report, pointing out the theater's continued success although it had been the first year in which it had not shown a profit; however, an all-time attendance record had been set this season, he added. Council commended Mr. Rideoutte for his contributions to the Naples Players and the community.

Public Comment: (8:38 a.m.) None.

No action.

RESOLUTION 09-12463.....ITEM 11

A RESOLUTION DETERMINING CONDITIONAL USE PETITION 09-CU4 AND RESIDENTIAL IMPACT STATEMENT PETITION 09-RIS11 TO ALLOW FOR A TWO-LANE DRIVE THROUGH BANK WINDOW AT 625 NINTH STREET NORTH, MORE FULLY DESCRIBED HEREIN; AND PROVIDING AN EXPIRATION DATE AND AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (8:38 a.m.). This being a quasi-judicial proceeding, Notary Public Vicki Smith administered an oath to those intending to offer testimony; all responded in the affirmative. City Council Members then made the following ex parte disclosures: Willkomm/no contact; Barnett and Taylor/familiar with the site but no contact; and Sulick, Price, Heitmann and Sorey/visited the site but no contact. Planner Adam Benigni briefly reviewed the petition, noting that in August 2005 the design had met with Council's approval; however, the matter was again being considered since the earlier approval had lapsed, the petitioner having not obtained a building permit. Staff recommended approval, he said.

Public Comment: (8:40 a.m.) None.

MOTION by Willkomm to APPROVE RESOLUTION 09-12463 as submitted; seconded by Sorey and unanimously carried, all members present and voting (Heitmann-yes, Price-yes, Sorey-yes, Sulick-yes, Taylor-yes, Willkomm-yes, Barnett-yes).

.....**ITEM 10**

PRESENTATION AND APPROVAL OF THE ENERGY TASK FORCE REPORT. (It is noted for the record that a copy of the report is contained in the file for this meeting in the City Clerk's Office as well as a printed copy of the electronic presentation utilized by the consultant.) City Manager William Moss explained that staff had over the past year worked closely with Consultant Cloe Waterfield of Twentyfifty in order to develop the report; however, in the interim many of the recommendations had already been implemented. Pointing out that an energy audit had been a requirement of the US Mayor's Climate Protection Agreement (Kyoto Protocol) entered into by the City in 2007, Natural Resources Manager Michael Bauer said that Ms. Waterfield had performed the audit and had been an integral member of the City's Energy Task Force. Ms. Waterfield then briefly reviewed the action plan (text of electronic presentation is appended hereto as Attachment 1) during which she stressed that the intent had been to identify practical, low-cost ways through which to reduce energy use, save money and minimize

greenhouse gas emissions. She noted that an initial mandate to maintain City buildings at between 68 to 76 degrees had resulted in a 43% savings during the first four months of 2009.

Public Comment: (9:04 a.m.) **Sue Smith, 11th Avenue South**, commended the report but cautioned not to take such actions to the extreme.

In response to Council Member Heitmann, Ms. Waterfield explained that as a government-orientated study, her audit had not addressed the possibility of solar power water heating (solar voltaic) and that its cost would be prohibitive; the Energy Task Force had attempted to bring forth low- to no-cost suggestions, she said. Council Member Sorey noted that he and staff continued to pursue a grant for the solar power project proposed at the City's Water Treatment Plant although at that time no federal grants were as yet available. Council Member Sulick commended City Manager Moss for what she characterized as common sense initiatives.

Council Member Price noted his appreciation for the report and recommended that the City's recycling program be revisited in the fall, predicting that substantial savings should be possible if recycling is made simpler for residents. He also said that the City should continue its efforts in making itself a more walkable/bikeable community which would also lessen its greenhouse gas emissions. With regard to recycling, Vice Mayor Taylor pointed out that additional bins should be placed close to refuse containers at Lowdermilk Park. Mayor Barnett commended Dr. Bauer, as well as staff and Ms. Waterfield, for their efforts.

No action.

RESOLUTION 09-12464.....ITEM 12
A RESOLUTION DETERMINING EASEMENT VACATION PETITION 09-EV3 TO
VACATE A PORTION OF AN EAST-WEST ALLEY FOR PROPERTY LOCATED AT
1335 AND 1341 GORDON DRIVE, MORE FULLY DESCRIBED HEREIN; SUBJECT
TO THE CONDITIONS LISTED HEREIN; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Robert Pritt (9:14 a.m.). Planner Erica Goodwin provided a brief overview of the petition noting that staff recommended approval. Attorney Richard Yovanovich, representing the potential buyers of the subject property, explained that the easement vacation is necessary to clear a title issue of the small portion of the structure currently encroaching into an existing alleyway; the petitioner agreed to the conditions as contained in the resolution, he said, and therefore requested approval. Council Member Willkomm proffered a motion for approval which Council Member Price seconded.

In response to concerns expressed by Council Member Sulick, Mr. Yovanovich explained that the existing public alleyway would remain, but Council Member Sorey said that he would have preferred a deed restriction to an easement vacation, stating that he shared Mrs. Sulick's concerns. Mr. Sorey however also noted that in the current real estate market, such a deed restriction could hinder the sale of property. In response to Council Member Price, Attorney Yovanovich indicated that the resolution had been amended to reference the survey as Exhibit A (Section 2(2)) and to clarify measurement origins (Section 2(5)). (It is noted for the record that a copy of the resolution and Exhibit A is contained in the file for this meeting in the City Clerk's Office.) Addressing Council's concern relative to Section 2(4), City Attorney Pritt stated that a vacation should not be conditional in the event of a substantial redevelopment of the property; this petition addresses the current title issue, he said.

Public Comment: (9:24 a.m.) None.

MOTION by Willkomm to **APPROVE RESOLUTION 09-12464** 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 09-12465.....ITEM 13

A RESOLUTION DETERMINING PETITION 09-N4 FOR THE EXPANSION OF A NONCONFORMITY IN ORDER TO ALLOW AN EXISTING HOUSE AND GUEST HOUSE TO BE ELEVATED 3 FEET AND TO ALLOW A POOL DECK AND TRELLIS BETWEEN THE STRUCTURES AND A BEDROOM, BATHROOM AND STORAGE ADDITION ON PROPERTY LOCATED AT 392 AND 394 11TH AVENUE SOUTH, MORE FULLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Robert Pritt (9:24 a.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 Barnett/no contact; Taylor/familiar with the site but no contact; Sulick, Price and Heitmann/visited the site but no contact; and Sorey/visited the site and spoke with the petitioner. Planning Director Robin Singer provided a brief overview of the petition and noted that the Planning Advisory Board (PAB) had recommended approval during its June10 meeting; staff recommended approval also, she said.

Tim Tassin, Design Build of Naples, representing the petitioner, explained that the lot would be virtually unbuildable should the existing home be demolished and that the intent is to maintain the historic flavor of the structure, which dates back to the 1930's. The request is to raise the home, refurbish it and bring it into compliance with the Code of Ordinances.

Public Comment: (9:28 a.m.) None.

MOTION by Sorey to **APPROVE RESOLUTION 09-12465** as submitted; seconded by Willkomm and unanimously carried, all members present and voting (Heitmann-yes, Price-yes, Sorey-yes, Sulick-yes, Taylor-yes, Willkomm-yes, Barnett-yes).

RESOLUTION 09-12466.....ITEM 14

A RESOLUTION APPROVING A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF NAPLES AND B & I CONTRACTORS, INC., TO PROVIDE IMPROVEMENTS TO THE HVAC SYSTEM SERVING THE POLICE AND FIRE DEPARTMENT HEADQUARTERS; AUTHORIZING THE CITY MANAGER TO EXECUTE THE PROFESSIONAL SERVICES AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (9:28 a.m.).

Public Comment: (9:29 a.m.) None.

MOTION by Taylor to **APPROVE RESOLUTION 09-12466** as submitted; seconded by Sorey and unanimously carried, all members present and voting (Heitmann-yes, Price-yes, Sorey-yes, Sulick-yes, Taylor-yes, Willkomm-yes, Barnett-yes).

RESOLUTION 09-12467.....ITEM 15

A RESOLUTION APPROVING AN AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN THE CITY OF NAPLES AND VILA AND SON LANDSCAPING TO PROVIDE STREETScape AND BEAUTIFICATION IMPROVEMENTS ON THIRD STREET SOUTH; AMENDING THE 2008-09 BUDGET TO APPROPRIATE FUND

BALANCE IN THE PUBLIC SERVICE TAX FUND FOR THE PROJECT; AUTHORIZING THE CITY MANAGER TO EXECUTE THE PROFESSIONAL SERVICES AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (9:29 a.m.). Following the motion reflected below, Vice Mayor Taylor indicated her intent to abstain due to her employment by Neopolitan Enterprises. In response to Council Member Sulick, City Manager William Moss pointed out that the agreement does indeed allocate the entire \$50,000 for the project, that the project would go forward in one phase.

Public Comment: (9:31 a.m.) None.

MOTION by Price to APPROVE RESOLUTION 09-12467 as submitted; seconded by Heitmann and carried 6-0-1 (Heitmann-yes, Price-yes, Sorey-yes, Sulick-yes, Taylor-abstain, Willkomm-yes, Barnett-yes). (See Attachment 2, Form 8-B Memorandum of Voting Conflict for County, Municipal, and Other Local Public Officers.)

ORDINANCE 09-12468.....ITEM 16
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 (9:31 a.m.). Council Member Sorey proffered a motion for approval which Council Member Price seconded; Mr. Price also noted that this action had been in response to a need and should aid in the City's effort to maintain its character.

MOTION by Sorey to ADOPT ORDINANCE 09-12468 as submitted; seconded by Price and unanimously carried, all members present and voting (Heitmann-yes, Price-yes, Sorey-yes, Sulick-yes, Taylor-yes, Willkomm-yes, Barnett-yes).

Public Comment Item 16: (9:33 a.m.) Sue Smith, 11th Avenue South, voiced concern regarding a request for the use of church parking on Tenth Street North. Vice Mayor Taylor noted strong opposition to this parking request by the Lake Park community and the resulting withdrawal of the petition although the parking would continue through September thereby allowing time for other parking options to be explored.

RESOLUTION 09-12469.....ITEM 17
A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF NAPLES AND THE CONSERVANCY OF SOUTHWEST FLORIDA TO IMPROVE A STORMWATER OUTFALL AND CONSTRUCT A FILTER MARSH WITHIN BASIN V; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (9:36 a.m.). City Manager William Moss explained that this item was in response to prior Council discussions and that direction had been forthcoming that the City contribute \$150,000 to the Conservancy of Southwest Florida for its filter marsh construction; an agreement regarding same had been prepared, he said.

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

MOTION by Sorey to APPROVE RESOLUTION 09-12469 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).

ORDINANCE 09-12470.....ITEM 18
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. Title read by City Attorney Robert Pritt (9:38 a.m.). City Manager William Moss explained that this ordinance would authorize the establishment of fees at Naples Landing as above described; a resolution establishing the fees follows (see Item 19 below). In response to Council Member Sulick, Community Services Director David Lykins noted that no storage of materials would be allowed at the site, and removal is to occur immediately. Mr. Moss added that the ordinance does not alter current practices whatsoever. In response to Council Member Price, Mr. Lykins clarified that meters are to be removed and therefore Mr. Moss recommended the amendment as reflected below; City Attorney Pritt agreed.

Council Member Sulick noted recent information regarding Collier County’s intent to increase its launch fees and begin charging for its beach parking permits. Mr. Lykins stated that should the County adopt fees as proposed, its launch fees would in fact be \$8.00 higher than those proposed for Naples Landing. Council Member Sorey indicated that Collier County Coastal Zone Management Director Gary McAlpin would be in attendance for Item 23 later in the meeting and suggested that discussion of the beach parking permit charge be deferred until that item was considered: Council agreed.

Council Member Price indicated that while he appreciated staff’s efforts to increase revenue, he could not support such a measure at facilities where increased activity is being sought.

Public Comment: (9:45 a.m.) None.

MOTION by Sulick to ADOPT ORDINANCE 09-12470 amending Section 36-103(b) as follows: “...designated metered spaces...”. This motion was seconded by Taylor and carried 6-1, all members present and voting (Heitmann-yes, Price-no, Sorey-yes, Sulick-yes, Taylor-yes, Willkomm-yes, Barnett-yes).

RESOLUTION 09-12471.....ITEM 19
A RESOLUTION ADDING SECTION 36-103 TO APPENDIX “A”, FEES AND CHARGES SCHEDULE, OF THE CODE OF ORDINANCES, CITY OF NAPLES, ESTABLISHING FEES FOR ANNUAL PARKING PERMITS, LAUNCHING OF RECREATIONAL AND COMMERCIAL VESSELS AND LOADING AND OFF-LOADING OF CONSTRUCTION MATERIAL AT THE NAPLES LANDING PARK; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (9:45 a.m.).

Public Comment: (9:46 a.m.) None.

MOTION by Sorey to APPROVE RESOLUTION 09-12471 as submitted; seconded by Taylor and carried 5-1 (Heitmann-yes, Price-no, Sorey-yes, Sulick-yes, Taylor-yes, Willkomm-absent, Barnett-yes).

.....ITEM 20
POWERPOINT PRESENTATION OF THE CHLORIDE LEVELS IN THE CITY’S IRRIGATION (reclaimed, reuse or alternative) WATER SUPPLY. Utilities Director Robert Middleton utilized an electronic presentation (a printed copy of which is contained in the file for this meeting in the City Clerk's Office) during which he briefly reviewed the plan undertaken to reduce the chloride level of the City’s irrigation (reclaimed, reuse or alternative) water to below

400 mg/l for the short term, and in the long term to maintain the level at or below 250 mg/l. The efforts undertaken were as follows:

- Sealed and lined approximately 84,765 linear feet of pipe that had been identified as “hot spots” since November 2007 which included all coastal areas primarily in Port Royal, Royal Harbor and along Gulf Shore Boulevard;
- Grouted sewer lateral connections (contracted costs to date amount to \$2,904,195);
- Retested “hot spots” and ascertained that chloride reductions have been attained;
- Undertook sectional linear repairs using in-house staff; and
- Sealed manholes via spray application.

With regard to actual chloride levels, Mr. Middleton noted that from March 2008 to May 2009, the average had been 317 mg/l, pointing out that early May had been very dry with above average tidal levels. The average level for the month of May was 290 mg/l and 15 of the 21 water samples taken had been below 300 mg/l. The City’s plan of action will continue as below:

- Monitor and obtain chloride data for the “hot spots” within the collection system;
- Provide repair services via main line repairs, sectional liners, and manhole resealing;
- Budget contracted lining services on an annual basis (for main lines and laterals); and
- Utilize addition of water from the Golden Gate Canal (GGC), with an average chloride level of 70 mg/l to further dilute the City’s irrigation water once it becomes available.

Council Member Sulick expressed concern with connections that occur at property lines and Mr. Middleton explained that he had been in contact with Building Services Director Paul Bollenback and should a complete remodel or demolition occur, testing will be done to detect any leakage via smoke being injected into the system following sections being sealed off. This works for systems relatively close to the surface of the ground, Mr. Middleton added. He also explained to Council Member Heitmann that chemicals are not used to lower the chloride level and that certified data is collected at the irrigation water tank exit points; field testing is also undertaken within the “hot spot” areas, he added.

Council commended Mr. Middleton and his staff for their efforts in lowering the chloride level of the irrigation water; Mr. Middleton additionally praised his staff.

Public Comment: (9:59 a.m.) None.

No action.

**RESOLUTION 09-12472.....ITEM 21-a
A RESOLUTION APPOINTING ONE MEMBER TO THE COMMUNITY SERVICES
ADVISORY BOARD (CSAB) FOR A THREE-YEAR TERM COMMENCING JUNE 18,
2009, AND CONCLUDING JUNE 17, 2012; AND PROVIDING AN EFFECTIVE DATE.**

Title read by City Attorney Robert Pritt (9:59 a.m.). Council Member Willkomm nominated Pamela Stewart; Vice Mayor Taylor nominated Bob Erbstein; and Mayor Barnett nominated Michele McLeod.

Public Comment: (10:01 a.m.) None.

**MOTION by Willkomm to APPROVE RESOLUTION 09-12472 APPOINTING
PAMELA STEWART carried 5-2, all members present and voting (Heitmann-
yes, Taylor-no, Price-yes, Sorey-yes, Sulick-no, Willkomm-yes, Barnett-yes).**

Vice Mayor Taylor indicated that her negative above vote had been due to her belief that a Park Shore resident is needed on the board and nothing personal had been intended with regard to Ms. Stewart.

RESOLUTION 09-12473..... ITEM 21-b
A RESOLUTION APPOINTING ONE CITY RESIDENT TO THE PUBLIC ART ADVISORY COMMITTEE (PAAC) FOR A FOUR-YEAR TERM COMMENCING JUNE 17, 2009, AND CONCLUDING JUNE 16, 2013; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (10:01 a.m.).

Public Comment: (10:01 a.m.) None.

MOTION by Taylor to APPROVE RESOLUTION 09-12473 APPOINTING MICHAEL WILLIAMS unanimously carried, all members present and voting (Heitmann-yes, Price-yes, Sorey-yes, Sulick-yes, Taylor-yes, Willkomm-yes, Barnett-yes).

RESOLUTION 09-12474..... ITEM 21-c
A RESOLUTION APPOINTING ONE ALTERNATE MEMBER TO THE PLANNING ADVISORY BOARD (PAB) FOR THE BALANCE OF A THREE-YEAR TERM CONCLUDING APRIL 30, 2011; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (10:02 a.m.).

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

MOTION by Sulick to APPROVE RESOLUTION 09-12474 APPOINTING JAMES KRALL unanimously carried, all members present and voting (Heitmann-yes, Price-yes, Sorey-yes, Sulick-yes, Taylor-yes, Willkomm-yes, Barnett-yes).

Recess: 10:02 a.m. to 10:17 a.m. It is noted for the record that the same Council Members were present when the meeting reconvened.

RESOLUTION 09-12475..... ITEM 22
A RESOLUTION ACCEPTING A WARRANTY DEED FOR 103 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 (10:17 a.m.) who then pointed out that documents should reflect 106.58 acres of mangrove wetlands according to the deed's grantor. He recommended that Council accept the warranty deed to avoid claims of forfeiture in the future. Council Member Sorey proffered a motion for approval which Vice Mayor Taylor seconded.

Council Member Price expressed concern regarding the management and maintenance of the property being acquired by the City. Natural Resources Manager Michael Bauer explained that the grantor, Collier Enterprises, would continue to be responsible during the coming three years and pointed out that at the end of that time, less than 1% of exotics should remain and the City would assume responsibility. City Attorney Pritt noted the inclusion in the deed of provisions of a guarantee in writing from the Florida Department of Environmental Protection (FDEP) and the US Army Corps of Engineers (ACOE) that the grantor had satisfied its vegetation management obligations pursuant to its permits from these entities, as well as a termination of the grantor's access rights which had been necessary to pursue the aforesaid obligations. Dr. Bauer added

that the City's cost for the first three to five years following assumption of ownership should approximate just \$2,000 and involve possible removal of any reoccurring exotics; he further explained that the flushing infrastructure is working well and in good condition. An agreement with Rookery Bay National Estuarine Research Reserve could be negotiated for such management should Council wish to do so, Dr. Bauer added.

During a brief review of the settlement agreement provisions, of which the warranty deed was a part, City Attorney Pritt explained for Council Member Heitmann that the five year term of the grantor's vegetation management obligations had been a negotiated matter.

Public Comment: (10:26 a.m.) **Sue Smith, 11th Avenue South**, expressed concern regarding liability and future use of the property. City Attorney Pritt noted that potential liability exists with any lands in the City's name, noting as an example a linear park and that the use of the land is intended for its conservation land program; the land is also encumbered by the conservation easement to the Board of Trustees of the Internal Improvement Trust Fund (TIITF / FDEP), he added. City Manager Moss indicated that staff would verify that the land is to remain truly conservation and not developed whatsoever.

MOTION by Sorey to APPROVE RESOLUTION 09-12475 amending title and throughout to reflect 106.58 acres; 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).

.....**ITEM 23**
PRESENTATION ON A PROPOSED DUNE RESTORATION PLAN; COLLIER COUNTY'S FEMA (FEDERAL EMERGENCY MANAGEMENT AGENCY) GRANT FUNDING FOR SPOT BEACH RENOURISHMENT; AND POTENTIAL PLAN TO REMOVE BEACH OUTFALLS. (It is noted for the record that a printed copy of the electronic presentation made in conjunction with this item is contained in the file for this meeting in the City Clerk's Office.) Natural Resources Manager Michael Bauer explained that that dunes are naturally occurring coastal features that are essential to the protection of coastal communities, acting first as a line of defense in the event of a major storm by absorbing wave energy and reducing impact landward. Dunes and their vegetation also provide shelter, nesting habitat, and food for a variety of animals and shorebirds, including the endangered loggerhead turtle, as well as trap sand in high winds and storm events. He then reviewed numerous photographs depicting this entrapment which had occurred during Tropical Storm Fay (see photographs contained in the electronic presentation), which he said demonstrated the need for maintaining and further stabilizing the City's shorelines and beaches. Opportunities to restore dune ecosystems occur when residents seek Coastal Construction Setback Line (CCSL) variances; the City requests that the property owners undertake enhancement of the dune should it be needed, as well as when the beach is renourished with new sand. Council Member Sulick questioned the existence of groins (*man-made structures designed to trap sand as it is moved down the beach by the longshore drift*) along the southernmost portion of the City's shoreline, and Dr. Bauer confirmed that permits would be needed to restore them. In response to Council Member Willkomm, Dr. Bauer agreed that the City should assume maintenance after Collier County installs the posts and ropes placed around its dune plantings to restrict access by pedestrians.

Collier County's Coastal Zone Management Director Gary McAlpin explained that the County budgets \$75,000 per year for its plant renourishment program, which includes the ropes and posts noted above; biodegradable rope is used and if areas are noted in need of replacement, he suggested notifying Dr. Bauer who could then contact the County for this maintenance.

Mr. McAlpin then explained that the County intended to proceed with a \$50,000 study, funded by the Tourism Development Council (TDC), consisting of two major components. The first is to develop a conceptual drainage plan for the City involving removal of its beach outfall pipe and the second is to review the current beach renourishment program, reevaluating it as needed. With regard to the drainage plan, he explained that the Florida Department of Environmental Protection (FDEP) had mandated that prior to issuance of another permit for beach renourishment, the aforementioned outfall conceptual plan must be designed and approved by the City and the FDEP. The County has retained Coastal Planning and Engineering, Inc., due to its experience in such design, although the plan would be directed by Dr. Bauer and Gregg Strakaluse, the City's Engineering Manager. The existing renourishment permit was obtained in 2004 and expires in 2014, Mr. McAlpin explained, noting that usually a three-year process is required to obtain a new permit and therefore the need to develop the conceptual program.

Mr. McAlpin also noted that the County intends to eventually develop a master plan with regard to beach renourishment, briefly noting prior renourishment projects and their FEMA (Federal Emergency Management Agency) funding. He also stated that Tropical Storm Fay had removed approximately 175,000 cubic yards of beach sand. Prior to replacing it, as well as renourishing several known areas of repeated sand loss along area beaches, the County wished to ascertain whether higher and wider renourishment than before the storm event is indicated. He explained that increased performance of the beaches could be obtained due to the fact that the sand had not migrated onto the nearshore hard-bottom (*primary natural reef structures found in this region at depths of 0-4 meters derived from accretionary ridges of coquina mollusks, sand, and shell marl*) and therefore the state would most probably allow a wider beach area. He further explained that although not a coral reef, the nearshore hard-bottom performs the same function providing habitat and through mapping, when the sand is deposited for renourishment, it is placed so as to avoid the nearshore hard-bottom. A wider beach would better withstand damage from future storm events, Mr. McAlpin concluded. Council Member Sulick urged that the TDC continue to fund the needs of beaches as opposed to the advertising expenditures that had recently been under consideration; Council Member Sorey agreed.

Engineering Manager Strakaluse began his review of the ten drainage outfalls located along the City's beaches, the northernmost which drains private property only and the outfall immediately to the south which drains a combination of private property and a small portion of right-of-way. The remaining eight are owned and operated by the City, he said, and located on public property. He explained that repeated wave action results in sand being pushed into the pipes which then compacts and prohibits the outflow of water; the joints of the pipes also fail allowing the ingress of sand, he added. The pipes are also unsightly and discharge mostly untreated stormwater into the Gulf of Mexico which affects water quality. Mr. Strakaluse read into the record a portion of the 2004 FDEP beach renourishment permit condition as it applies to drainage outfalls as follows: "...adversely affecting the beach by contributing to erosion, impacting turtle nesting habitat, interfering with lateral beach access and degrading water quality,...". Therefore, he said,

it had been mandated that a plan for their removal be developed prior to further permitting, noting that the review team would include the City, the County, and possibly the South Florida Water Management District (SFWMD) and Big Cypress Basin Board although it was unclear at that time whether FDEP or SFWMD would be the future permitting agency, Mr. McAlpin said.

Mr. Strakaluse explained that the draft plan must also address the millions of gallons of water which empties into the Gulf of Mexico during a heavy rain or storm event. Possible solutions include redirecting the water farther east as well as processing the water via swales and a pump system thereby directing the water to Naples Bay; otherwise an exfiltration system could be considered which would consist of underground pipes that allow the water to percolate and recharge ground water. Research would involve contact with other communities who had removed their beach outfalls, he added. In response to Council Member Sulick, Mr. Strakaluse explained that should SFWMD be the permitting agency and a net benefit can be seen in the draft plan, then water quality credits are not necessary to move forward.

Council commended staff and urged that they keep Council abreast of developments with regard to the draft plan. Mr. Strakaluse indicated that an update had been scheduled for September or October following the summer recess.

Citing the above master planning activity, Council Member Sorey commended Mr. McAlpin, pointing out that the Collier County Coastal Advisory Committee, of which he is a member, has been challenging the City and Mr. McAlpin with regard to extending the beach renourishment timeframe; if beaches can be widened, he added, they might better withstand storm events and therefore not require renourishment as often. Mr. Sorey then noted that the Clam Bay/Clam Pass issue was to come before the Board of Commissioners on June 23, and Mr. McAlpin provided a brief update of the navigational marker conflict, pointing out the goal of eliminating or at least minimizing litigation.

Council Member Sorey indicated that while currently free, the County had recently proposed a \$75.00 charge for their beach parking stickers. Mr. McAlpin also clarified that FDEP mandates that City and County stickers be identical in cost for residents and non-residents alike, due to the receipt of grant funding from the agency. City Attorney Robert Pritt noted the recent acceptance by the US Supreme Court of a Florida beach renourishment case, (Walton County v. Stop the Beach Renourishment) which challenges Part I of Chapter 161, Florida Statutes, referred to as the Beach and Shore Preservation Act (*questioning whether the Act unconstitutionally deprives upland owners of littoral rights without just compensation*).

No action.

.....**ITEM 25**
REVIEW AND DISCUSSION OF BICYCLE FRIENDLY COMMUNITY APPLICATION. City Manager William Moss explained that this item had been to allow review by Council of Part I of the Bicycle Friendly Community Application to the League of American Bicyclists, which had been prepared by the Naples Pathway Coalition, represented by Alan Ryker, its Co-President.

Mr. Ryker provided Council with the Coalition's most recent publication (a copy of which is contained in the file for this meeting in the City Clerk's Office) and reviewed reasons which he

said he believed supported the completion of the application and its submission. The City of Marco Island and Lee County are also currently pursuing this designation, he added. Should the application be submitted and not approved for one of the four levels of achievement (bronze, silver, gold or platinum), then the League of American Bicyclists, the agency reviewing the application, would contact the City with suggestions as to how to meet its requirements. He explained that the City no longer had a pathway coordinator on staff, so the Coalition had worked with Dave Rivera, the City's Street and Traffic Supervisor; nevertheless, completion of Part I had entailed only a few minutes of staff time. He further noted that he had completed Part II except for a limited number of questions which staff would need to address.

Council Member Price said he supported submission of the application as a means of receiving an assessment of the City's bicycle friendliness and conservation measures regardless of whether the designation is achieved. Mayor Barnett agreed, but Council Member Sulick cautioned that the City could experience various unforeseen mandates should the application go forward; she also questioned the actual beneficiary of such a designation. Mr. Price cited Council's support of the Mayor signing the Kyoto Protocol (energy conservation), although he had shared similar reservations at that time. He said that he however might not support the bicycle friendly designation should the assessment bring to light costly requirements. Responding to Vice Mayor Taylor, Mr. Price explained that the questions contained in Part II of the application require answers which are part of the public record and therefore should not engender legal issues but could be topics for future discussion.

Public Comment: (11:28 a.m.) **Sue Smith, 11th Avenue South**, stated that while she supports bicycling, this community is already greatly impacted by Collier County residents, tourists and winter residents who also ride bicycles, she said, stressing that in many areas of the City, roadways cannot be widened to safely accommodate cyclists. In response, Mr. Price stated that part of his motivation is his belief that the riders must be made to adhere to the rules of the road just as those who drive motor vehicles; this must occur by education and enforcement of current laws, he said. Council Member Willkomm noted the packs of professional cyclists, which seem to occupy the City's roadway with no regard for the law, who must be targeted by enforcement for the safety of the community. Mr. Price stated that whether or not the designation is achieved, his intent is to create a better environment in the community for all residents.

Council Member Heitmann asked whether the City would be mandated to proceed with requirements such as amending policies and the Code of Ordinances. City Manager Moss stated that only administrative policies regarding internal review with regard to building or resurfacing of roadways would be necessary as he understood the procedure, but cautioned that obligations to receive the designation could be another matter altogether with regard to commitments. Streets & Stormwater Director Ron Wallace expressed the belief that a resolution must be approved adopting the "Action Plan" (Attachment 3) and this continued to be a concern; included in the plan are items which could indeed be construed as commitments, he pointed out. In discussion following Mr. Wallace's remarks, Council Member Price suggested that the City Manager and City Attorney research whether the above referenced resolution would be necessary to submit Part I; if so, it should not be forwarded for consideration by the League of American Bicyclists; Council concurred.

Consensus to direct City Attorney and City Manager to ascertain whether resolution adopting action plan must be submitted with Part 1 of application, if so it is not to be submitted.

A brief discussion of Item 10 above followed regarding whether action had been necessary, and City Manager Moss stated that he believed none was needed due to the fact that the plan had seemingly met with Council approval and staff would proceed accordingly; Council agreed.

PUBLIC COMMENT.....

(11:58 a.m.) **Willie Anthony, 599 14th Street North**, referencing that week's workshop discussion regarding the River Park Community Center's pool, noted the need for involvement by the River Park neighborhood with regard to decision-making. He clarified that of the 18 surveys he had personally collected for the City, all had indicated their desire that the pool remain, although some had believed that the proposed splash pool would be constructed in addition to the existing pool.

Recess: 12:02 p.m. to 12:22 p.m. It is noted for the record that the same Council Members were present when the meeting reconvened.

RESOLUTION 09-12476.....ITEM 24

A RESOLUTION APPROVING, RATIFYING AND CONFIRMING THE CONTRACT BETWEEN THE CITY OF NAPLES AND THE PROFESSIONAL FIREFIGHTERS OF NAPLES, INTERNATIONAL ASSOCIATION OF FIREFIGHTERS (IAFF), LOCAL 2174; AND PROVIDING AN EFFECTIVE DATE. Title read by Mayor Barnett (12:22 p.m.). Mayor Barnett commended Assistant City Manager Roger Reinke as well as the firefighters for reaching an agreement and proffered a motion for approval which Vice Mayor Taylor seconded. Council Member Price questioned Article 30, the deletion of Section 30.05 regarding re-opening of the article (pensions). Mr. Reinke confirmed that this is addressed within another section of the contract allowing re-opening between June 1, 2010, and September 30, 2010, of the pension article as well as any of the other financial portions. Mr. Reinke also clarified for Mr. Price that although in a three-year contract, the first year is virtually concluded, the aforementioned opportunity to re-open portions exists for the coming year and then negotiations for a new contract would commence in June 2011, if necessary.

In response to comments regarding a Blue Ribbon Pension Committee, which had been recommended by the Ad Hoc Blue Ribbon Financial Planning Committee (BRFPC), Council Member Price, who had chaired the BRFPC, stated that such a committee would require members with specific skills and that it would therefore be difficult to obtain qualified membership. Vice Mayor Taylor however disagreed, pointing out that there is certain to be qualified persons in the community who would be willing to serve; she suggested that development of requirements be accomplished by staff over the summer recess.

Public Comment: (12:29 p.m.) None.

MOTION by Barnett to APPROVE RESOLUTION 09-12476 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).

.....ITEM 26
DISCUSSION OF INITIATION OF THE CHAPTER 164 DISPUTE RESOLUTION PROCESS AND INTERLOCAL SERVICE BOUNDARY AGREEMENT (ISBA) REGARDING HOLE-IN-THE-WALL PROPERTY BY THE NORTH NAPLES FIRE

CONTROL AND RESCUE DISTRICT. (12:29 p.m.) City Attorney Robert Pritt noted his recommendation that the City decline the North Naples Fire Control and Rescue District's request to enter into the dispute resolution process under Chapter 164, Florida Statutes, with regard to an Interlocal Service Boundary Agreement (ISBA) in relation to the recently annexed Hole-in-the-Wall Golf Club. He then reviewed his memorandum dated June 9 in support of this opinion (Attachment 4) and provided a brief overview of the Chapter 164 proceedings undertaken by the City with regard to the Collier Park of Commerce (CPOC) which, he said, had proven disadvantageous to the City.

Public Comment: (12:37 p.m.) None.

MOTION by Taylor to DECLINE ENTERING INTO CHAPTER 164 PROCEEDINGS BASED UPON OPINION OF CITY ATTORNEY; 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).

(Added Item).....ITEM 27 FIFTH AVENUE SOUTH PROPERTY OWNER GROUP'S PRESENTATION. Pursuant to a discussion at that week's workshop meeting, City Manager William Moss confirmed that a group of property owners on Fifth Avenue South was indeed considering further study by Urban Planner Andres Duany. The City had been advised by Fifth Avenue businessman Lou Vlasho that the group would meet the day following the Council's workshop to make its final decision. It was also articulated that there was a possibility that the group would request funding from the Community Redevelopment Agency (CRA), he added.

In response to Mayor Barnett, Mr. Vlasho indicated that funding would not be requested at that time and that merely an update would be provided. Mr. Vlasho explained that the study would go forward and include branding and merchandizing of Fifth Avenue South, east to the Gordon River bridge. Consultant Robert Gibbs would also be involved, he said, noting that Mr. Gibbs' focus would be on the entire City with additional, simultaneous emphasis on Third Street South. He explained that the current plan was to finalize specifications for the study and then prepare a letter to the property owners outlining the project; invoicing would be based on a tiered structure which had been agreed upon at a prior meeting of those involved. The study would most probably take place in August, Mr. Vlasho said, and effort would be made to keep City staff informed of its progress.

Referencing a recent report entitled *Downtowns and the Global Economics* (a copy of which is contained in the file for this meeting in the City Clerk's Office), Mr. Vlasho expressed concern with the number of vacancies along Fifth Avenue South and said that the Downtown Naples Association (DNA) would gather information regarding the ownership and management of properties which would enable better communication between property owners and tenants with regard to needs of the area. In response to Council Member Heitmann, he confirmed that the Duany study would be inclusive of the area from the eastern entrance to Fifth Avenue South (Gordon River bridge) to and including the Fifth Avenue South Special Overlay District; the retail study to be performed by Consultant Gibbs would concentrate on Fifth but include the areas as above described, noting that Mr. Gibbs had recently completed three other such studies. Mr. Vlasho then explained that Third Street South, while included in the retail study, would not be approached for funding.

Public Comment: (12:50 p.m.) **Sue Smith, 11th Avenue South**, as a Fifth Avenue South property owner, expressed concern that she had not been contacted with regard to the above project and had become aware of it via that week's workshop discussion. She therefore questioned the City's responsibility in this regard. In response to Mayor Barnett's offer to continue with her comments beyond the allotted time, Mrs. Smith expressed concern that staffing reductions seemed to be the first action considered in balancing the City's budget and expressed her strong disagreement with this practice. In response to Council Member Heitmann, she confirmed that she was not a DNA member due to lack of time in her schedule, pointing out that she participates as much as possible in the City's issues, such as having been present the entire current meeting.

No action taken.

CORRESPONDENCE AND COMMUNICATIONS.....

(12:59 p.m.) Council Member Sulick commended Assistant City Manager Roger Reinke with regard to contract negotiations (see Item 24 above). Council Member Price noted receipt of a letter from Messrs. Russell Gowland and Marvin Easton offering to volunteer their time where needed (a copy of which is contained in the file for this meeting in the City Clerk's Office) and expressed his appreciation to Council for its teamwork during the past year. He also noted the passing of Frazer Smithson. Vice Mayor Taylor referenced a request from the Old Naples Association that the City appoint a Blue Ribbon committee to review operations/finances at the municipal airport with regard to possible revenue sources for the City; Mayor Barnett pointed out that Council had discussed this issue and that the Naples Airport Association (NAA) Chair, John Allen, would be invited to attend a Council meeting following summer recess. Miss Taylor then noted that residents had approached her requesting consideration of a dog park in the City and that Architect Matthew Kragh had offered pro bono design services; she therefore requested Council's approval for the group to contact staff in this regard; Council concurred. Vice Mayor Taylor expressed concern that a safe pedestrian crossing on Goodlette-Frank Road to Freedom Park should be researched and cautioned that quality of life and property values must be considered in addressing budget concerns. In response to Council Member Heitmann, City Manager William Moss clarified that the City is not responsible for the administration and operation of the Downtown Naples Association (DNA) and urged her to contact the Chamber of Commerce for further elucidation. Council Member Sorey referenced the upcoming issues with regard to Collier County's proposal to increase its beach parking fees (see Item 23 above) and also expressed appreciation to his fellow Council Members for their public service. With regard to the public's access to the City Manager and staff, Mayor Barnett explained that when questions, concerns or comments are received by Council, they are indeed forwarded to the City Manager's office to be addressed.

It is noted for the record that Items 6 and 7 were considered consecutively during the following executive session.

**EXECUTIVE SESSION.....ITEM 6
EXECUTIVE SESSION TO DISCUSS STATUS OF NEGOTIATIONS WITH THE
PROFESSIONAL FIREFIGHTERS OF NAPLES, IAFF LOCAL 2174; AMERICAN
FEDERATION OF STATE, COUNTY, AND MUNICIPAL EMPLOYEES, COUNCIL 79,
LOCAL 2017; FRATERNAL ORDER OF POLICE, LODGE 38; AND FRATERNAL
ORDER OF POLICE, SUPERVISORS BARGAINING UNIT.**

EXECUTIVE SESSION.....ITEM 7

EXECUTIVE SESSION REGARDING HOMELAND / DOMESTIC SECURITY.

(1:19 p.m.) Mayor Barnett advised that Council would enter into its executive sessions at that time.

Executive Session: 1:19 p.m. to 2:34 p.m. It is noted for the record that the same Council Members were present when the meeting reconvened.

(2:34 p.m.) No action announced.

ADJOURN.....

2:35 p.m.

Bill Barnett, Mayor

Tara A. Norman, City Clerk

Minutes prepared by:

Vicki L. Smith, Technical Writing Specialist

Minutes Approved: 08/19/09

Background:

- GHG Inventory (2006) completed for the City in 2008;
- Energy Savings Task Force Established; and
- To identify practical, low cost ways to reduce energy use, save money and minimize GHG emissions.

Rationale:

- Over \$3.5 million in electricity costs, 2008;
- Nearly \$1 million in fuel (FY 07-08);
- +/- 30 staff positions lost;
- U.S. Mayors Climate Protection Agreement;
- Governor Crist "Florida is the most vulnerable state in the nation to sea level rise"; and
- Leading by example - the green jewel of southwest Florida.

Energy Savings Action Plan:

- Incorporates new and existing efforts; and
- Savings (\$350,000) and GHG reductions (1216 MT or 5.2%) per emission sector.

Buildings:

- Climate control (76°F/68°F);
- Shutdown procedures;
- Space consolidation;
- Energy efficiency retrofits;
- City Hall; and
- HVAC upgrades.

Commute:

- Commuter Services program; and
- Four-day work week.

Fleet:

- Vehicle reductions;
- No-idling policy;
- Preventative maintenance;
- Driver education;
- Fleet management; and
- Alternative fuel?

Waste:

- Office waste management;
- Construction materials recycling;
- Water bottles; and
- Printing.

Water:

- Water Conservation Fixtures;
- Weather station and computerization of irrigation sites;
- HVAC Upgrades; and
- Gasification.

General:

- Employee education and training;
- Performance appraisals; and
- Intranet.

Next Steps:

- **Reduction target;**
- **Energy savings policy;**
- **Implementation;**
- **Assessing results; and**
- **Community-wide measures.**

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS	
LAST NAME—FIRST NAME—MIDDLE NAME <i>Taylor, Penelope A</i>	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <i>Naples City Council</i>
MAILING ADDRESS <i>995 13th St N</i>	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:
CITY <i>Naples</i>	<input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
DATE ON WHICH VOTE OCCURRED <i>6/17/09</i>	NAME OF POLITICAL SUBDIVISION: <i>Collier</i>
	MY POSITION IS: <input checked="" type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTEE

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you otherwise may participate in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on other side)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Penny Taylor, hereby disclose that on 6/17, 20 09:

(a) A measure came or will come before my agency which (check one)

- ☒ inured to my special private gain or loss;
- ☐ inured to the special gain or loss of my business associate, _____;
- ☐ inured to the special gain or loss of my relative, _____;
- ☐ inured to the special gain or loss of _____, by whom I am retained; or
- ☐ inured to the special gain or loss of _____, which is the parent organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

Item #15

I have worked for Neapolitan Enterprises and they are the petitioner. This item has been discussed throughout my term of work with Neapolitan this year.

6/17/09

Penny Taylor

Date Filed

Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.

“Action Plan”

1. Adopt a target level of bicycle use (e.g. percent of trips) and safety to be achieved within a specific timeframe, and improve data collection necessary to monitor progress.
2. Provide safe and convenient bicycle access to all parts of the community through a signed network of on- and off-street facilities, low-speed streets, and secure parking. Local cyclists should be involved in identifying maintenance needs and ongoing improvements.
3. Establish information programs to promote bicycling for all purposes, and to communicate the many benefits of bicycling to residents and businesses (e.g. with bicycle maps, public relations campaigns, neighborhood rides, a ride with the Mayor)
4. Make the City a model employer by encouraging bicycle use among its employees (e.g. by providing parking, showers and lockers, and establishing a city bicycle fleet).
5. Ensure all city policies, plans, codes, and programs are updated and implemented to take advantage of every opportunity to create a more bicycle-friendly community. Staff in all departments should be offered training to better enable them to complete this task.
6. Educate all road users to share the road and interact safely. Road design and education programs should combine to increase the confidence of bicyclists.
7. Enforce traffic laws to improve the safety and comfort of all road users, with a particular focus on behaviors and attitudes that cause motor vehicle/bicycle crashes.
8. Develop special programs to encourage bicycle use in communities where significant segments of the population do not drive (e.g. through Safe Routes to Schools programs) and where short trips are most common.
9. Promote intermodal travel between public transport and bicycles, e.g. by putting bike racks on buses, improving parking at transit, and improving access to rail and public transport vehicles.
10. Establish a citywide, multi-disciplinary committee for nonmotorized mobility to submit to the Mayor/Council a regular evaluation and action plan for completing the items in this Charter.



Memo

Office of the City Attorney

TO: Hon. Bill Barnett, Mayor and Naples City Council
FROM: Robert D. Pritt, City Attorney
DATE: June 9, 2009
SUBJECT: North Naples Fire District - Hole-in-the-Wall

Attached is a letter from the Chief of North Naples Fire Control & Rescue District, again seeking to engage the City in negotiations over the taxes for Hole-in-the-Wall annexation, this time through a Chapter 164 proceeding. That is a dispute resolution process between governments and is a prerequisite to filing a lawsuit.

The City Council has twice declined to enter into negotiations with the District over annexation of Hole-in-the-Wall. There is a statute (171.093 F.S.) that provides for what happens when the parties (City and Fire District) cannot come to an agreement. It includes the City's having to pay the District tax money for 4 years.

The District also requested the City to enter into negotiations for an Interlocal Service Boundary Agreement (ISBA) (Part II, Chapter 171) which the City declined, as this procedure is an alternative (and therefore, optional) process. The District and the County went ahead with negotiations without the City and are now trying to impose the Agreement upon the City. It is my opinion that the process and the agreement are void as applied to the City.

The ISBA process contains a requirement to proceed under Chapter 164. However, that contemplates that the City is a participant in the negotiations, which it is not.

It appears from the District's letter that it is the taxing authorities, not the City, against whom the District has a dispute. The City does not have the ability to determine the taxation issues, nor does it have an interest in whether the District over-taxes, since it must pay the statutory amounts for the 4 years.

Thus, the District is attempting to obtain additional taxes for property that is in the City (Council's constituency), and is attempting to create a "dispute" with the City where none exists. In doing so, it is trying to engage the City in a negotiation and dispute resolution process that will be costly and a waste of taxpayers' money. Once the City enters into the negotiations, it has a duty to negotiate in good faith. There being nothing to negotiate, the District will undoubtedly claim in the inevitable lawsuit, that the City violated its duty to negotiate in good faith. The City is better off not stepping on that land mine.

The threat concerning premium tax funds relates to the lawsuit and settlement in which the District obtained over \$1.6 million of City funds due to a monumental screw-up by the state. It is not surprising that it sees the City as a source of funding.

It is recommended that the request be declined.

Efficiency in all that we do... Service to others before self... Quality in all that we do.

J. Christopher Lombardo, Chairman
Margaret Hanson, Vice Chairman
Paul J. Moriarty Sr., Treasurer
James Burke, Commissioner
John O. McGowan, Commissioner



1885 Veterans Park Drive
Naples, FL 34109
(239) 597-3222
Fax (239) 597-7082

North Naples Fire Control and Rescue District

May 18, 2009

RECEIVED

MAY 18 2009

VIA CERTIFIED MAIL RETURN
RECEIPT AND HAND DELIVERY

Bill Moss, City Manager
City of Naples
735 Eighth Street South
Naples, FL 34102

RE: Initiation of the Chapter 164 Dispute Resolution Process
Interlocal Service Boundary Agreement - Hole-In-The-Wall Property

Dear Mr. Moss:

On May 14, 2009, the Board of Fire Commissioners of the North Naples Fire Control and Rescue District ("District") adopted a resolution initiating the dispute resolution process provided for in chapter 164, Florida Statutes, as it relates to the interlocal service boundary agreement for the property that was annexed in 2007 by the City of Naples ("City") known as Hole-In-The-Wall. An interlocal service boundary agreement ("Agreement") was executed by Collier County and the District in March 2008. Although the City did not execute the Agreement, the Agreement is binding on the City as a result of section 171.203(5), Florida Statutes. The City disputes the Agreement's effect.

The Agreement provides that the boundary of the District did not contract upon the annexation of the Hole-In-The-Wall property. In accordance with the Agreement, the District has continued to provide fire protection services to the Hole-In-The-Wall property even though it did not properly receive ad valorem taxes or insurance premium tax revenues in 2008. When the District attempted to correct the miscoding of the insurance premium tax revenues with the Florida Department of Revenue, the City disputed the District's claim that the Hole-In-The-Wall property was located within the District's boundaries.

Bill Moss, City Manager
City of Naples
Initiation of the Chapter 164
May 18, 2009
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There is a dispute regarding whether the Agreement is effective against the City resulting in the City being bound by its provisions. Until these issues are addressed, there will be continued conflict as it relates to the provision of service, ad valorem taxation and insurance premium tax revenues. Although the District does not have a conflict with Collier County, the District is sending notice of its resolution to Collier County and asking it to participate since it was a party to the Agreement and may be impacted. In addition, the Collier County Property Appraiser is being notified.

In accordance with section 164.1052, Florida Statutes, a certified copy of the resolution is enclosed. The District proposes scheduling the conflict assessment meeting at the Administration Building, Station #45, 1885 Veterans Park Dr, Naples, Florida, on one of the following dates: May 29, June 12, or 15, 2009. The District will provide proper public notice of the meeting once a date has been agreed upon. At a minimum, I will be attending the conflict assessment meeting in addition to the District's special counsel.

Please contact me as soon as possible regarding the date that the City's representatives are able to meet so the conflict assessment meeting can be properly noticed.

Sincerely,



Orly Stoits
Chief

ENCL.

cc: Robert Pritt, City of Naples Attorney
Jim Mudd, Collier County Manager
Leo Ochs, Collier County Deputy County Manager
Jeff Klatzkow, Collier County Attorney
Abe Skinner, Collier County Property Appraiser
Jay Wood, Collier County Property Appraiser Attorney
Laura Jacobs Donaldson, Esq.

OCS/bek

RESOLUTION NO. 09-021

A RESOLUTION OF THE BOARD OF FIRE COMMISSIONERS OF THE NORTH NAPLES FIRE CONTROL AND RESCUE DISTRICT, COLLIER COUNTY, FLORIDA, ADOPTED PURSUANT TO CHAPTER 164, FLORIDA STATUTES, INITIATING, IN GOOD FAITH, THE FLORIDA GOVERNMENTAL CONFLICT RESOLUTION ACT ("THE CONFLICT RESOLUTION ACT") TO SEEK RESOLUTION OF A CONFLICT WITH THE CITY OF NAPLES, COLLIER COUNTY; PROVIDING DIRECTION AND AUTHORIZATION TO THE FIRE CHIEF TO TRANSMIT A LETTER AND CERTIFIED COPY OF THIS RESOLUTION TO THE CITY MANAGER OF THE CITY OF NAPLES, THE COUNTY MANAGER OF COLLIER COUNTY AND THE COLLIER COUNTY PROPERTY APPRAISER; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the purpose of the Florida Governmental Conflict Resolution Act ("Act") as defined in chapter 164, Florida Statutes, is to promote, protect, and improve the public health, safety and welfare and to enhance intergovernmental coordination efforts by the creation of a governmental conflict resolution procedure that can provide an equitable, expeditious, effective, and inexpensive method for resolution of conflicts between and among local governmental entities; and

WHEREAS, section 164.1051, Florida Statutes, of the Act provides that it applies specifically to any governmental conflicts arising from municipal annexation or service provision areas; and

WHEREAS, the District having considered the issues surrounding a dispute with the City of Naples ("City") described below, is initiating the dispute resolution procedures of the Act in an attempt to avoid future litigation against the City; and

WHEREAS, on October 5, 2007, the owners of the Hole-in-the-Wall Golf Club, and subsequently an adjacent property owner ("Annexed Property"), petitioned the City to be annexed; and

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WHEREAS, in response to such petition, Collier County ("County") initiated the Interlocal Service Boundary Agreement ("ISBA") Act found in part II of chapter 171, Florida Statutes, by adopting an initiating resolution; and the North Naples Fire Control and Rescue District ("District") timely adopted a responding resolution so that it could participate in the ISBA process; and

WHEREAS, the City adopted a responding resolution declining its participation in the initiated ISBA process on December 19, 2007 in addition to adopting Ordinance 07-11886 annexing the Annexed Property into the City; and

WHEREAS, the County and District held publicly noticed meetings to discuss an ISBA for the Annexed Property and an ISBA was executed by the County and the District and recorded in April 2008 (the "Agreement"); and

WHEREAS, although the City did not execute the Agreement, the Agreement is binding on the City as a result of section 171.203(5), Florida Statutes; and

WHEREAS, pursuant to Section 2 of the Agreement, the boundary of the District shall not contract upon the effective date of the annexation by the City; and

WHEREAS, the District has continued to provide fire protection services and shall continue to provide services to the Annexed Property pursuant to the Agreement; and

WHEREAS, the District has not received any ad valorem tax revenues associated with the Annexed Property or any other payment even though the Annexed Property continues to receive services from the District; and

WHEREAS, on March 1, 2008, the City submitted documentation to the State of Florida Department of Revenue for the Insurance Premium Tax Revenues Database stating that the Annexed Property was within the City resulting in the City incorrectly receiving insurance premium tax revenues associated with the Annexed Property as provided for in section 175.101(1), Florida Statutes; and

WHEREAS, when the District sent a letter requesting that the coding on the Annexed Property be returned to the District's code as a result of the Annexed Property being located

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within both the District and City, the City disputed the District's request resulting in the District not receiving the insurance premium tax revenues associated with the Annexed Property; and

WHEREAS, there is a dispute regarding whether the Agreement is effective, thus allowing the District to remain the service provider and to collect ad valorem taxes and other revenues owed by the Annexed Property; and

WHEREAS, section 171.212, Florida Statutes, requires a local government to proceed through the conflict resolution procedures of the Act before filing an action in circuit court regarding any question or dispute about effect of the Agreement; and

WHEREAS, the District has determined that the County may have a role in approving any settlement of this conflict and that its substantial interests may be affected by the resolution of the conflict and thus, should be invited to participate;

NOW, THEREFORE, BE IT RESOLVED that the Board of Fire Commissioners of the North Naples Fire Control and Rescue District, Collier County, Florida, intends and initiates the conflict resolution procedures provided by the Florida Governmental Conflict Resolution Act prior to initiating a court proceeding pertaining to the conflict and in support of such initiation provides:

Section 1. The foregoing recitals are hereby ratified and conformed as being true and correct and are hereby made a part of this Resolution upon adoption hereof.

Section 2. The Interlocal Services Boundary Agreement between the County and the District as recorded in OR: 4353 PG: 1818 of the Official Records of Collier County, FL on April 25, 2008 and the issues/concerns it raises, are hereby incorporated herein.

Section 3. The Board of Fire Commissioners of the North Naples Fire Control and Rescue District hereby authorizes and directs the Fire Chief of the North Naples Fire Control and Rescue District to commence the intergovernmental coordination imposed on all governmental agencies to resolve, to the greatest extent possible the controversy described in this Resolution, including but not limited to: whether the City has breached the Agreement; if so, the extent to

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which the District has been damaged by the breach; and determine the future performance by the parties with regard to the Agreement.

Section 4. The Board of Fire Commissioners of the North Naples Fire Control and Rescue District hereby authorizes the Fire Chief to transmit a letter and certified copy of this Resolution to the City Manager of the City and the Collier County Property Appraiser.

Section 5. If any section, sentence, clause or phase of this resolution is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this resolution.

This Resolution shall be effective immediately upon adoption.

The foregoing Resolution was offered by Commissioner Burke.

who moved its adoption.

The motion was seconded by Commissioner Moriarty, and the

Vote was as follows:

Chairman J. Christopher Lombardo

Yes

Vice-Chairman Margaret Hanson

Yes

Treasurer Paul J. Moriarty, Sr.

Yes

Commissioner John O. McGowan


Yes

Commissioner M. James Burke

Yes

Duly passed on this 14th day of May, 2009 by the Board of Fire Commissioners of the North Naples Fire Control and Rescue District.

NORTH NAPLES FIRE CONTROL & RESCUE DISTRICT


J. Christopher Lombardo, Chairman 5/14/09

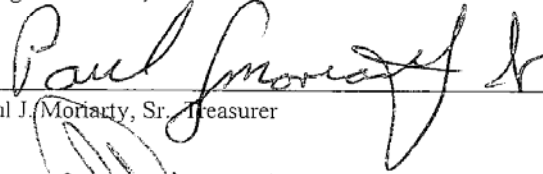
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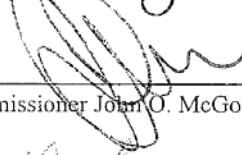
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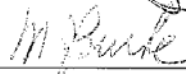
Margaret Hanson, Vice-Chairman



Paul J. Moriarty, Sr., Treasurer

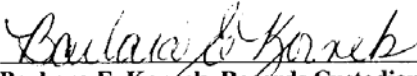


Commissioner John O. McGowan



Commissioner M. James Burke

**I Certify this is a true and accurate copy of
Resolution 09-021 adopted by the North Naples Fire
Control and Rescue District Board of Fire
Commissioners May 14, 2009.**



Barbara E. Kornek, Records Custodian