



City Council Chamber  
735 Eighth Street South  
Naples, Florida 34102

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**City Council Regular Meeting – October 7, 2009 – 8:28 a.m.**

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Mayor Barnett called the meeting to order and presided.

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

**Present:**

Bill Barnett, Mayor  
Penny Taylor, Vice Mayor

**Council Members:**

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

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**Also Present:**

Roger Reinke, Assistant City Manager  
James Fox, Acting City Attorney  
Tara Norman, City Clerk  
Vicki Smith, Technical Writing Specialist  
Thomas Weschler, Chief of NPFD  
David Lykins, Community Services Director  
Robert Middleton, Utilities Director  
Gregg Strakaluse, Engineering Manager  
Denise Perez, Human Resources Director  
Robin Singer, Planning Director  
Erica Goodwin, Planner  
Mireidy Fernandez, Planner  
Andy Woodcock  
Linda Oberhausen  
John Passidomo  
Arthur Neumann  
Francis Cuomo

Dr. Edward Thompson  
Nick McQuire  
Doug Finlay  
Lyle Hird  
Marvin Easton  
Lisa Swirda  
Robert Hershenhorn  
Matt Taylor  
Sue Smith  
John Ariniello  
Warren Mattiello  
Sheraz Khan  
Dolph von Arx

**Media:**

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

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

Reverend Dr. Edward Thompson, First Presbyterian Church.

**ANNOUNCEMENTS .....ITEM 3**

Mayor Barnett proclaimed October as Domestic Violence Awareness Month in the City of Naples; the proclamation was accepted by Linda Oberhausen on behalf of the Shelter for Abused Women and Children.

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

***MOTION by Price to SET THE 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).***

**PUBLIC COMMENT.....ITEM 5**

None.

### **CONSENT AGENDA**

**APPROVAL OF MINUTES .....ITEM 7-a**

September 2, 2009 Regular meeting; as submitted.

**SPECIAL EVENTS ..... ITEM 7-b**

1) Heartwalk Fundraiser - Collier County Start! and American Heart Association – Cambier Park – 11/07/09.

2) Festival of Lights – Third Street South Association – Third Street South.

3) Fifth Avenue South Christmas Walk – Downtown Naples Association – Fifth Avenue South Shopping District – 12/03/09.

4) Naples Daily News Traditional Dixieland Jazz Band Concerts – Naples Daily News – Cambier Park Bandshell – 01/03/10, 02/07/10, 03/07/10, 04/25/10 and 05/02/10.

5) Naples Concert Band Concerts – City of Naples – Cambier Park Bandshell – 01/10/10, 01/31/10, 02/28/10, 03/21/10, 03/28/10 and 04/16/10.

**RESOLUTION 09-12528.....ITEM 7-c**

**A RESOLUTION APPROVING A JOINT PROJECT AGREEMENT BETWEEN THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION AND THE CITY OF NAPLES TO PAINT TRAFFIC SIGNAL MASTS AND ARMS TO ACHIEVE A UNIFORM COLOR AT INTERSECTIONS ALONG US 41; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AMENDING THE 2009-10 BUDGET ADOPTED BY ORDINANCE 09-12519; AND PROVIDING AN EFFECTIVE DATE.**

Title not read.

**RESOLUTION 09-12529..... ITEM 7-d**

**A RESOLUTION AMENDING THE 2009-10 BUDGET ADOPTED BY ORDINANCE 09-12519 TO FUND THE NEW POSITION OF CODE AND HARBOR MANAGER; AND PROVIDING AN EFFECTIVE DATE. Title not read.**

**CLERK’S TRACKING 09-00019 .....ITEM 7-e**

**AUTHORIZING THE PAYMENT FOR REQUIRED SOFTWARE MAINTENANCE AND SUPPORT SERVICES: \ VENDOR: SUNGARD PUBLIC SECTOR (SUNGARDPS), LAKE MARY, FLORIDA \ COST: \$88,525 \ FUNDING: TECHNOLOGY SERVICES \ APPLICATIONS SOFTWARE MAINTENANCE. Statement not read.**

**RESOLUTION 09-12530..... ITEM 7-f**

**A RESOLUTION AUTHORIZING THE RENEWAL OF FLOOD INSURANCE ON CITY OWNED PROPERTIES LOCATED IN FLOOD ZONES “A” AND “V” THROUGH AMERICAN BANKERS INSURANCE COMPANY; AUTHORIZING THE CITY MANAGER TO ISSUE PURCHASE ORDERS; AND PROVIDING AN EFFECTIVE DATE. Title not read.**

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

**END CONSENT AGENDA**

**RESOLUTION 09-12531 (Denied – see motion below).....ITEM 8  
A RESOLUTION DETERMINING INDOOR AMPLIFIED LIVE ENTERTAINMENT  
PETITION 09-LE10 AND RESIDENTIAL IMPACT STATEMENT PETITION 09-RIS19  
WITH AN AFTER 9 P.M. EXTENDED HOURS WAIVER FOR TAVERN ON THE BAY  
LOCATED AT 489 BAYFRONT PLACE, MORE FULLY DESCRIBED HEREIN;  
SUBJECT TO THE CONDITIONS LISTED HEREIN; AND PROVIDING AN  
EFFECTIVE DATE.** Title read by Assistant City Manager Roger Reinke (8:34 a.m.). This being a quasi-judicial proceeding, Notary Public Vicki Smith administered an oath to those intending to offer testimony; all responded in the affirmative. City Council Members then made the following ex parte disclosures: Willkomm/no contact; Sulick/visited the site but no contact; Price/visited the site, spoke with the petitioner and received numerous emails; Barnett, Taylor and Sorey/no further contact from last consideration but received numerous emails; and Heitmann/visited the site and received numerous emails and telephone calls. Planner Mireidy Fernandez provided a brief overview of the petitions noting that staff recommended approval with the conditions contained in the resolution.

In response to Council Member Price, petitioner's agent Francis Cuomo clarified that the insulation would involve standard roll-type material placed within the dropped ceiling for sound absorption.

**Public Comment:** (8:39 a.m.) **Nick McQuire, 451 Bayfront Place #5208**, representing his parents who reside above the subject establishment, voiced continued concern with the amended request, saying that it involves too many entertainers, on too many nights performing too late into the night; he therefore requested that the petitions be denied. Mr. McQuire did however note that his parents would support entertainment two nights per week until 10:00 p.m. with two non-amplified performers. (It is noted for the record that a copy of correspondence from Mr. McQuire's parents, as well as from other Bayfront residents, is contained in the file for this meeting in the City Clerk's Office.)

Council Member Sulick proffered a motion to deny the request as submitted and instead allow two performers on Friday and Saturday nights only, until 10:00 p.m.; Council Member Willkomm seconded. Following additional discussion of the language in the resolution, Mrs. Sulick amended her motion to reflect simply denial; Mr. Willkomm concurred.

Referencing the above statement on insulation by the petitioner's agent, Council Member Willkomm said he believed the hurricane resistant engineering of the structure would need to be reviewed to ascertain a methodology for buffering sound and vibration.

Council Member Sorey stated that he could support Council Member Sulick's original motion as well as instructing the petitioner to retain an acoustical engineer to review sound and vibration buffering for the establishment. The petitioner could then return for further consideration of the

current request for extended hours. Council Member Price said he did not agree with amending the petitioner's request, noting that the noise ordinance would address the sound issue.

**MOTION by Sulick to DENY RESOLUTION 09-12531 due to requested amount of entertainment and current lack of sound and vibration buffering.**  
***This motion was seconded by Willkomm and carried 4-3 (Taylor-no, Heitmann-yes, Willkomm-yes, Sorey-no, Price-no, Sulick-yes, Barnett-yes)***

During further discussion, Council Member Sulick said she agreed with Council Member Price's comment, saying that decisions regarding live entertainment permits should involve merely approval or denial; upon denial, a petitioner could always return at a later date with an amended request, she added.

Council Member Sorey urged the petitioner to obtain the guidance of an acoustical engineer and return with a revised petition outlining the steps being taken to lessen sound and vibration within the structure.

**RESOLUTION 09-12532.....ITEM 9**  
**A RESOLUTION DETERMINING INDOOR AMPLIFIED LIVE ENTERTAINMENT PETITION 09-LE11 AND RESIDENTIAL IMPACT STATEMENT PETITION 09-RIS20 WITH AN AFTER 9 P.M. EXTENDED HOURS WAIVER, FOR MULLIGAN'S SPORTS GRILLE LOCATED AT 2041 NINTH STREET NORTH, MORE FULLY DESCRIBED HEREIN; SUBJECT TO THE CONDITIONS LISTED HEREIN; AND PROVIDING AN EFFECTIVE DATE.** Title read by Acting City Attorney James Fox (8:49 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/no contact; Sulick, Barnett and Taylor/familiar with the site but no contact; Price/visited the site and spoke with the petitioner; Heitmann/visited the site and received emails; and Sorey/visited the site and received correspondence from nearby residents. Planner Mireidy Fernandez briefly reviewed the petitions, noting that staff recommended approval.

Petitioner John Ariniello explained that the subject location should not impact any residential areas and Council Member Willkomm noted that it was within a shopping center.

**Public Comment:** (8:52 a.m.) None.

**MOTION by Sorey to APPROVE RESOLUTION 09-12532 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 09-12533.....ITEM 10**  
**A RESOLUTION DETERMINING VARIANCE PETITION 09-V7 FROM SECTION 50-35(a)(2) OF THE CODE OF ORDINANCES, CITY OF NAPLES, WHICH REQUIRES POLE SIGNS IN THE HIGHWAY COMMERCIAL DISTRICT TO BE LOCATED 10 FEET FROM A DRIVEWAY, IN ORDER TO ALLOW A CHANGE OF COPY OF AN EXISTING NONCONFORMING SIGN WHICH IS LOCATED 5 FEET FROM THE EXISTING DRIVEWAY FOR THE HOLIDAY INN OF NAPLES, LOCATED AT 1100 NINTH STREET NORTH, MORE FULLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.** Title read by Acting City Attorney James Fox (8:52 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/no contact; Sulick, Barnett and Taylor/familiar with the site but no contact; Price and Sorey/visited the site but no contact; and Heitmann/familiar with the site and viewed the September 9 Planning Advisory Board (PAB) meeting. Planner Erica Goodwin provided a brief overview of the petition, explaining that the current Holiday Inn was to become a Ramada Inn and the petitioner wished to amend the copy on the existing non-conforming sign; staff recommended approval, she said, noting the two conditions reflected in the resolution (a copy of which is contained in the file for this meeting in the City Clerk's Office).

In response to Vice Mayor Taylor, petitioner's agent Warren Mattiello confirmed that while the copy had indeed been changed, the sign had not as yet been lowered to the requested 42 inches per staff direction to await that day's approval.

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

***MOTION by Willkomm to APPROVE RESOLUTION 09-12533 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 09-12534.....ITEM 12**  
**A RESOLUTION DETERMINING PETITION 09-WD8 FOR A WAIVER OF DISTANCE FOR SWEET MAMA'S ISLAND CUISINE IN ORDER TO OBTAIN A 2COP ALCOHOLIC BEVERAGE LICENSE WITHIN 500 FEET OF OTHER ESTABLISHED LICENSEES THAT SERVE ALCOHOL IN THE "D" DOWNTOWN, DISTRICT LOCATED AT 336 NINTH STREET NORTH, MORE FULLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.** Title read by Acting City Attorney James Fox (8:55 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/no contact; Sulick, Price and Sorey/visited the site but no contact; and Barnett, Taylor and Heitmann/familiar with the site but no contact. Planner Mireidy Fernandez reviewed the above petition noting staff had recommended approval.

**Public Comment:** (8:57 a.m.) None.

***MOTION by Taylor to APPROVE RESOLUTION 09-12534 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).***

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**Recess: 8:57 a.m. to 9:00 a.m.** It is noted for the record that the same Council Members were present when the meeting reconvened and consideration of Item 6, scheduled for 9:00 a.m. time certain began.

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**ORDINANCE (Return for Second Reading in January – see motion below).....ITEM 6**  
**AN ORDINANCE RELATING TO RECLAIMED (IRRIGATION) WATER RATES; AMENDING SECTION 30-259(1) RECLAIMED (IRRIGATION) WATER RATES OF APPENDIX "A", FEES AND CHARGES SCHEDULE, OF THE CODE OF ORDINANCES, CITY OF NAPLES, AND DELETING THE EXEMPTION FOR BULK CUSTOMERS; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.** Title read by Acting City Attorney James Fox (9:00 a.m.) who

then provided an overview of the issue regarding re-noticing of the irrigation (reclaimed, reuse or alternative) water rates which had been approved on First Reading during the September 16 meeting. Should Council wish to approve the rates as they had been noticed (general - \$0.89; governmental/institutional - \$0.44; bulk with storage - \$0.39; and bulk without storage - \$0.40 per 1,000 gallons), the ordinance could be adopted that day. Should Council however wish to adopt the rates as currently proposed (general and governmental/institution - \$0.63; and bulk with or without storage - \$0.41 per 1,000 gallons), he would recommend providing another public notice to residents followed by another public hearing. In response to Assistant City Manager Roger Reinke, Mr. Fox confirmed that a lower rate than that publicly noticed could in fact be adopted that day.

Utilities Director Robert Middleton reviewed his memorandum dated September 22 (Attachment 1) wherein he provided an overview of the irrigation water rate considerations as follows:

- June 3 – Rate Alternative 2 had been approved by Council and City Manager authorized to send public notice, via utility billings, of intent to hold public hearing September 2 to consider amendment of irrigation water rates;
- September 2 – during consideration on First Reading of the ordinance containing Rate Alternative 2, Council requested additional information regarding an additional Rate Alternative 5 (that removed the assumption that bulk flows would be reduced by 22% due to increased rates, and utilized the full five-year averages of bulk users with a 70% cost recovery factored); and the potential revenue shortfall produced by current irrigation rates (especially to the debt service for the new Phase 1 and 1A (Port Royal area), and continued the First Reading to September 16;
- September 16 – the above information was provided, including Rate Alternative 5 (see Attachment 1), as well as alternate rates by Port Royal resident Marvin Easton which were then approved by Council on First Reading (see currently proposed rates above). Council also requested a financial performance analysis of Mr. Easton's rates by Tetra Tech, Inc. consultant Andy Woodcock (Attachment 2), and an estimate of their impact to the General Fund as they increased the governmental/institutional rates by 61%.

Mr. Middleton clarified for Council Member Sorey that the potable water rate structure could not be compared to those under discussion as the potable rates are applied under a tiered structure and based upon meter size. Potable water rates are developed with conservation in mind per South Florida Water Management District (SFWMD) water use permit requirements; therefore the tiered rates reflect higher costs for increased usage. He further explained that reclaimed water is increasing in its importance as a commodity but that statewide industry standards continue to recommend that it be offered at a considerably lower cost than potable to encourage its use; a few utilities in the state do charge similarly for reclaimed and potable water but not many, he added.

The bulk users are actually the most efficient customer class of irrigation water, Mr. Middleton stated, in that they utilize large quantities but require little operational maintenance. He further agreed with Council Member Sorey's observation that the cost of reclaimed water to governmental/institutional users, which currently is less than general usage, is subsidizing taxpayers as 40% of City water users are located outside its boundaries. The governmental/institutional classification primarily consists of the City's Parks & Parkways Division whose revenues are ad valorem tax based, Mr. Middleton said, and confirmed for

Council Member Price stated that 4 of 11 bulk users (golf courses) are located outside the City's limits. Mr. Middleton also agreed with Council Member Heitmann who stated that the irrigation water system would be a benefit to all potable water customers by lessening the demand for the potable water. Mr. Reinke added that using the effluent for irrigation purposes rather than allowing it to enter into the Gordon River would also environmentally benefit all residents.

Council Member Price said he believed that governmental/institutional rates should be the same as general customer rates regardless of the amount of consumption or conservation issues, and that he would not support the previously directed discounting of bulk flows. Mr. Middleton indicated that the state recognizes two classifications of reclaimed water users, residential and non-residential, and that many user categories could fall within the non-residential classification; he reiterated that in general, non-residential is charged less than residential customers. Acting City Attorney Fox added that the law was fairly broad in granting Council discretion with regard to setting the rates, so long as they were not considered arbitrary, unreasonable or discriminatory, they would likely prove to be legally defensible.

Council Member Sulick reiterated her ongoing concern that the rate structure be easily understood as well as fair to all classifications. As the system expands, she said, more residents would be impacted by the rates and therefore time should be taken to ensure that decisions are made carefully.

**Public Comment:** (9:19 a.m.) **Marvin Easton, 944 Spyglass Lane**, utilized an electronic presentation (a printed copy of which is contained in the file for this meeting in the City Clerk's Office) wherein he said he had provided references for his comments and opinions regarding irrigation rates during the September 16 meeting. Furthermore, he provided American Water Works Association (AWWA) information regarding the following (composite Attachment 3): reclaimed water rate design criteria and considerations; a reuse survey including rate development methods and revenue sources for operating costs. Mr. Easton continued his presentation by reviewing his interpretation of updated reclaimed flow projections in addition to new 5-year projected flows and infrastructure cost recovery. With regard to the difference between his current and November 2008 projection, he said he agreed with the altered residential usage figures presented by the rate consultant, but reiterated that he could not support the assumption that the golf courses (bulk users) would lessen their consumption. He also commended Mr. Woodcock for his in-depth September 28 response to Council's requests (see Attachment 2). Mr. Easton then agreed with Vice Mayor Taylor that several assumptions by Tetra Tech had changed due to additional information such as actual use by the bulk users for the past fiscal year and the fact that not all Phase 1 and 1A residential customers had two meters and utilized the same amount of water as the Port Royal/Gordon Drive area. This area of 70 homes utilizes two meters and huge sums of water and the mistaken assumption had been made that all residential customers would reflect the same usage (see amended flows Attachment 3, Page 4). Mr. Easton summarized his defense of the proposed rates by explaining that he believed they would realize 100% of the operating and maintenance (O&M) costs as well as all but 32% of infrastructure costs, or 17% of the total budget funded by utility fees (see Attachment 3, Page 4).

Discussion followed regarding Mr. Easton's use of the FDEP (Florida Department of Environmental Protection) 2007 Reuse Inventory (a copy of which is contained in the file for this

meeting in the City Clerk's Office) during which Mr. Middleton noted Mr. Easton's figures had reflected only 61 of the 254 reuse water utilities around the state which charge for the service (see Attachment 3, Page 5). Mr. Middleton further stated that statewide average rates for residential customers reflected \$0.82 and non-residential (which includes bulk) had been \$0.42 in 2007; 2008 data was to be made available that day, he added. Mr. Easton provided a brief overview of his methodology in extracting his data from the FDEP document, confirming for Council Member Sorey that the majority of reuse utilities in the state charge higher rates for residential than non-residential and noted his opinion of the benefits of his proposed rate structure (see Attachment 3, Page 5). Mr. Middleton reiterated that non-residential rates are increasing statewide due to the increasing importance of this resource. **Robert Hershenhorn, 980 Spyglass Lane**, expressed his continued support of Mr. Easton's rate structure as well as his additional comments above. **Doug Finlay, 3430 Gulf Shore Boulevard**, also supported the rates as proposed, especially with regard to governmental/institutional users being charged the same as residential users. **Matt Taylor, Royal Poinciana Golf Club (RPGC)**, commended Mr. Easton for his effort, but pointed out that with regard to bulk user projected flows, the months from May to August, 2009 had been extremely dry for the area. In addition, 2 of the 11 golf courses serviced by the City's system had undergone complete renovations which necessitate increased irrigation for new plantings. Furthermore, he emphasized that the golf courses' use of the reclaimed water, mandated by their water use permits, benefits all by decreasing the amount of this water emptied into Naples Bay. He pointed out that the bulk users do not support the rates as currently proposed. He further maintained that the Tetra Tech rates brought forward from June had been the result of input by all stakeholders and should be honored; if the rates are to be altered, the bulk group now supports the new Rate Alternative 5, he concluded.

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**Recess: 10:17 a.m. to 10:29 a.m. It is noted for the record that the same Council Members were present when the meeting reconvened and consideration of Item 6 continued.**

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**Public Comment (cont.):** (10:30 a.m.) **Lyle Hird, 931 Wildwood Lane**, noted that he had formerly operated a consulting engineering firm, had performed many potable and reuse water rate studies, and said he is a certified expert witness in the field. In his opinion, he said that he supported the Tetra Tech consultant's rates and urged that they be approved. In response to Council Member Sorey, he clarified that reclaimed water rates should be based upon cost of service but agreed that the methodology for these rates is less stringent than that for potable water rate structuring.

Council Member Sorey reiterated his intent to eliminate the use of potable water for irrigation where reasonable and said that he agreed that reuse rates would continue to increase as reclaimed water became more valuable as a resource. He also recommended discussion of future connections to the City's reuse system and encouragement of residents to connect as the system becomes available. Due to the prior implementation of an increased rate to bulk users, Mr. Sorey proffered a motion to approve the \$0.63 rate for general and governmental/institutional users and amending the \$0.41 rate to \$0.39 for the bulk classification; this motion was seconded by Council Member Price. Mr. Middleton however confirmed that due to the increased rate in the governmental/institutional category, the rate would have to be noticed to the public prior to adoption at Second Reading. The aforementioned motion was then withdrawn and Mr. Sorey proffered the motion reflected below.



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**MOTION by Sorey that CITY MANAGER SHALL ADVERTISE IRRIGATION WATER RATES AS FOLLOWS: GENERAL AND GOVERNMENTAL/INSTITUTIONAL AT \$0.63 AND BULK (WITH AND WITHOUT STORAGE) AT \$0.39 PER 1,000 GALLONS. This motion was seconded by Price and carried 4-3, all members present and voting (Heitmann-no, Price-yes, Sorey-yes, Sulick-yes, Taylor-no, Willkomm-yes, Barnett-no). (It is noted that this ordinance shall return for Second Reading in January 2010.)**

Mr. Middleton confirmed for Council Member Sorey that it had indeed been staff's understanding that no additional connection to the reclaimed water system would be allowed in the Phase 1 and 1A areas other than south of 21<sup>st</sup> Avenue South. Further discussion ensued during which Council arrived at the following consensus.

*Consensus to allow any property with access to irrigation (reclaimed, reuse or alternative) water to be connected as long as an adequate supply of irrigation water is available / 7-0.*

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**Recess: 11:04 a.m. to 11:11 a.m. It is noted for the record that the same Council Members were present when the meeting reconvened except Vice Mayor Taylor who returned at 11:13 a.m.**

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**RESOLUTION 09-12535.....ITEM 11**  
**A RESOLUTION DETERMINING VARIANCE PETITION 09-V8 FROM SECTION 56-91 OF THE CODE OF ORDINANCES, CITY OF NAPLES, WHICH ALLOWS ONE GUEST UNIT IN ORDER TO ALLOW TWO DETACHED GUEST UNITS ON PROPERTY LOCATED AT 4370 GORDON DRIVE, MORE FULLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.** Title read by Acting City Attorney James Fox (11:11 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; Sulick and Taylor/familiar with the site but no contact; Price/visited the site and spoke with the petitioner and petitioner's agent; Sorey/visited the site but no contact; and Heitmann/visited the site and reviewed the September 9 Planning Advisory Board (PAB) meeting. Planning Director Robin Singer provided a brief overview of the petition, noting that staff recommended denial based upon the inconsistency in meeting criteria as outlined in the staff report (a copy of which is contained in the file for this meeting in the City Clerk's Office). She also noted that contrary to her memorandum dated September 21, the Port Royal Property Owners Association had not taken a position with regard to this petition.

Attorney John Passidomo, petitioner's agent, utilized an electronic presentation (a printed copy of which is contained in the file for this meeting in the City Clerk's Office) in support of his position that the subject guest unit would meet Section 56-91 of the Code of Ordinances due to the following:

- Subject parcel is 63,162 square feet or 1.45 acres, which is well over the 30,000 square feet necessary to construct a permitted structure; and
- Requested habitable floor area is 1,430 square feet (beach cabana – 503 and guest suite – 927), which again is well under the permissible 40% (or 5,161 square feet) of the principal dwelling's habitable floor area. The portion of the allowable guest unit habitable area is actually 28%, he pointed out.

Mr. Passidomo explained that staff had deemed the guest unit to be detached due to the open-air breezeway which connects it to the main structure and had recommended that the walkway be enclosed and converted to air conditioned space, thereby rendering the guest unit as attached. Therefore, he said, the decision before Council was whether the breezeway, at an additional cost of \$325,000, would have to be enclosed; building permits had already been obtained and the guest unit was currently under construction, he added. In addition, Mr. Passidomo referenced the PAB's unanimous support of the breezeway remaining open-aired.

Ms. Singer stated that she believed whether the breezeway were enclosed or not, the issue remained that a variance had been requested for the construction of two guest units in addition to the existing single family home on the property. Furthermore, she recommended a workshop discussion by both Council and the PAB of the 1994 interpretation of the Code regarding the definition of attached/detached structures; Council Member Sorey agreed. In response to Council Member Sulick, Ms. Singer clarified that no provision existed in the Code with regard to an attached roofline rendering an additional structure as attached to the main structure.

**Public Comment:** (11:25 a.m.) None.

***MOTION by Sorey to APPROVE RESOLUTION 09-12535 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).***

Council Member Sorey recommended that lot size be a consideration with regard to the Code review referenced above; Council Member Heitmann concurred.

**RESOLUTION 09-12536.....ITEM 13  
A RESOLUTION DETERMINING FENCE AND WALL WAIVER PETITION 09-FWW2  
FROM SECTION 56-37(b)(1) OF THE CODE OF ORDINANCES, CITY OF NAPLES,  
WHICH REQUIRES FENCES IN THE REQUIRED FRONT YARD NOT TO EXCEED 3  
FEET IN HEIGHT TO ALLOW FOR A 48-INCH HIGH FENCE WITH A 54-INCH  
HIGH GATE LATCH IN THE REQUIRED FRONT YARD SETBACK AT 25 FOURTH  
AVENUE SOUTH, MORE FULLY DESCRIBED HEREIN; AND PROVIDING AN  
EFFECTIVE DATE.** Title read by Acting City Attorney James Fox (11:26 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/no contact; Sulick, Barnett and Taylor/familiar with the site but no contact; and Price, Heitmann and Sorey/visited the site but no contact. Planner Erica Goodwin briefly reviewed the petition, noting that the request came as the result of Florida Building Code (FBC) pool safety requirements as well as the desire to discourage public use of the property; staff recommended approval, she said.

Landscape Architect Arthur Neumann, petitioner's agent, provided electronic depictions of the site (printed copies of which are contained in the file for this meeting in the City Clerk's Office), pointing out that the FBC required fencing would be constructed within existing seagrapes along the beachfront and therefore visually buffered, and that Florida Department of Environmental Protection (FDEP) permits had already been obtained. Additional height would be added on top of existing masonry walls to the north and south, Mr. Neumann said, stressing that the 54-inch gate latch had also been required by the FBC due to the installation of a spa.

**Public Comment:** (11:33 a.m.) None.

**MOTION** by Taylor to **APPROVE RESOLUTION 09-12536** 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).

It is noted for the record that Item 14 awarded 4 contracts via a single motion.

CLERK'S TRACKING (see motion below) ..... **ITEM 14**  
**AWARDING THE FOLLOWING CHEMICAL CONTRACTS FOR THE WATER AND WASTEWATER TREATMENT PLANTS (FUNDING IS BUDGETED IN THE FY 2009/2010 BUDGET IN WATER/SEWER FUND – WATER PLANT CHEMICALS AND WASTEWATER PLANT CHEMICALS): CHLORINE: \ VENDOR: BRENNTAG MID-SOUTH, INC., ORLANDO, FLORIDA \ COST: \$225,656; QUICKLIME: \ VENDOR: CHEMICAL LIME COMPANY OF ALABAMA, LLC, LAKE LAND, FLORIDA \ COST: \$1,837,978.20; CATIONIC POLYMER: \ VENDOR: CIBA CORPORATION, SUFFOLK, VIRGINIA \ COST: \$103,250; AND ORTHO/PHOSPHATE: \ VENDOR: SHANNON CHEMICAL CORPORATION, MALVERN PENNSYLVANIA \ COST: \$137,900.**

Statement read by Acting City Attorney James Fox (11:33 a.m.).

**Public Comment:** (11:34 a.m.) None.

**MOTION** by Taylor to **APPROVE ITEM 14 (Clerk's Tracking 09-00020 (Chlorine); 09-00021 (Quicklime); 09-00022 (Cationic Polymer); and 09-00023 (Ortho/Phosphate))**; 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 09-12537.....ITEM 15**  
**AN ORDINANCE RELATING TO BEACH PARKING PERMITS; AMENDING SECTION 36-104 OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES FOR THE PURPOSE OF ALLOWING A NEW WINDSHIELD BEACH PARKING STICKER; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.** Title read by Acting City Attorney James Fox (11:34 a.m.).

**Public Comment:** (11:34 a.m.) None.

**MOTION** by Taylor to **ADOPT ORDINANCE 09-12537** 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.....**  
(11:35 a.m.) None.

**CORRESPONDENCE AND COMMUNICATIONS.....**  
(11:35 a.m.) Council Member Willkomm requested a discussion at the next workshop with regard to the City's contract with Tetra Tech, Inc. for the irrigation rate study and the services which had been provided; Council concurred. Council Member Price noted there would be a televised town hall meeting on October 13 regarding the CRA (Community Redevelopment Area); input from stakeholders will be brought forward to the joint CRA/CRAAB (Community Redevelopment Agency/Community Redevelopment Agency Advisory Board) meeting later in October. Mr. Price also noted that representatives from the City's current telecommunications provider Embarq had contacted him regarding Council's approval of a new system with another company. Mr. Price then referenced the recent response from The League of American Bicyclists regarding the City's submittal of an application for its designation as a bicycle friendly community and said that he would not support any conditions requiring undo hardship with

**City Council Regular Meeting – October 7, 2009 – 8:28 a.m.**

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regard to cost and/or infrastructure demands. Vice Mayor Taylor requested that planning begin for the judging of floats in the December 8 Christmas parade, as well as a reviewing stand. Council Member Heitmann, referencing Item 7-d above (see Page 2), asked that information be provided regarding the revised City Dock management plan, including the allocation of management's time and an overview of staffing issues. Mayor Barnett noted that he would be involved in a fundraiser to benefit the Children's Museum of Naples the evening of October 13 at Sea Salt Restaurant.

*Consensus that workshop discussion regarding Celebration Church and its continued use of Cambier Park for services be scheduled November 4, at a time certain.*

**ADJOURN** .....  
11:50 a.m.

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Bill Barnett, Mayor

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Tara A. Norman, City Clerk

Minutes prepared by:

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Vicki L. Smith, Technical Writing Specialist

Minutes Approved: 11/04/09



**NAPLES CITY COUNCIL AGENDA MEMORANDUM**

**Regular Meeting Date: October 7, 2009**

Agenda Section:	Regular	Prepared By: Bob Middleton, Director
Agenda Item:	6	Date: September 22, 2009 Department: Utilities
		Legislative <input checked="" type="checkbox"/> Quasi-Judicial <input type="checkbox"/>
<b>SUBJECT:</b>		
Second Reading of an Ordinance to amend irrigation (reclaimed) water rates.		
<b>SUMMARY:</b>		
City Council is asked to consider an Ordinance on Second Reading to adopt revised irrigation water rates or to authorize public notice to consider revised irrigation rates.		
<b>BACKGROUND:</b>		
<p>An ordinance to amend irrigation water rates was adopted on First Reading on September 16, 2009. Because the First Reading approved rates for two customer classes exceed the rate provided in the public notice to all utility customers, a new public notice to 18,000 customers (with their utility bill) is required prior to adoption on Second Reading. If City Council should decide to adopt rates that are the same or less than the public notice, an ordinance may be adopted on Second Reading.</p> <p>On June 3, 2009, City Council accepted Rate Alternative #2, developed by the City's utility rate consultant, Tetra Tech, as the preferred alternative and authorized the City Manager to provide notice to all utility customers of the proposed rate increase and public hearing.</p> <p>On September 2<sup>nd</sup>, City Council conducted a public hearing and considered the proposed ordinance on First Reading to amend the irrigation water rates (Alternative #2). City Council requested additional information and continued the subject ordinance to the meeting of September 16, 2009. City Council requested information regarding an additional rate alternative that removed the assumption that flows to bulk users (golf courses) would be reduced (by 22%) because of the significant increase in rates to bulk users. [Golf courses have paid \$.03 per 1,000 gallons. The rate increased last year per a new reclaimed water agreement with golf courses to \$0.33 per 1,000 gallons]. The new alternative was considered on September 16<sup>th</sup>. The new alternative is shown in the below table as Alternative #5. Alternative #5 uses the full five-year averages of the bulk users with a 70% cost recovery. That is, 70% of the irrigation water debt service and operating expenses are paid by the users of reclaimed water, and 30% is paid by all utility customers.</p> <p>On September 2<sup>nd</sup>, City Council also sought information as to the potential revenue shortfall produced by the current irrigation rates, particularly with respect to the debt service for the new Phase 1 and 1A Irrigation Project (Port Royal area). On September 16<sup>th</sup>, City Council was informed that the cost requirement is \$1,251,400 and the estimated revenue is \$774,800, which yields an estimated shortfall of \$459,000 in FY 10.</p>		

**NAPLES CITY COUNCIL AGENDA MEMORANDUM**Regular Meeting Date: October 7, 2009

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**BACKGROUND (cont.):**

On September 16<sup>th</sup>, City Council considered Tetra Tech's 2009 Update Rates and five rate alternatives. Mr. Marvin Easton, a Port Royal resident, presented a rate structure which was then accepted by a majority of City Council. Mr. Easton's proposed rate structure was approved on First Reading. City Council then requested an analysis of the financial performance utilizing the rates approved on First Reading and an estimate of the impact to the General Fund. [The rate to the governmental/institutional customer increased by 61%. The majority of governmental use is for irrigation of City parks, median landscaping, and schools]. Responses to City Council's inquiry are provided in the attached report from Tetra Tech dated September 28, 2009 and are summarized as follows:

1. The Council rates approved on First Reading will generate the highest amount of revenues relative to Alternatives #2 and #5. The current rates generate the greatest loss and the Council adopted rates the smallest.
2. The current rates, Council-approved rates, Alternatives #2 and #5 will all meet the rate covenant applicable to the outstanding revenue bonds used to finance the new reclaim distribution lines.
3. Governmental/Institutional Class will pay \$140,000 per year with the current rates, \$158,000 with Alternative #2, \$143,000 with Alternative #5, and \$226,000 with the Council-approved rates. The Council-approved rate impacts the General Fund by approximately \$86,000.
4. The Council-approved rate will generate less revenue from the General class (residential), more revenue from the Governmental/Institutional class and slightly more revenue from the bulk class.

A summary of alternatives are shown below. Emphasis is placed on 4 of 8 options.

	Existing	2009 Update	Alt 1	Alt 2	Alt 3	Alt 4	Alt 5	Approved Rates
General	<b>\$0.82</b>	\$1.27	\$0.87	<b>\$0.89</b>	\$0.89	\$1.21	<b>\$0.85</b>	<b>\$0.63</b>
Institutional	<b>\$0.39</b>	\$0.63	\$0.21	<b>\$0.44</b>	\$0.63	\$0.57	<b>\$0.40</b>	<b>\$0.63</b>
Bulk w/ storage	<b>\$0.33</b>	\$0.56	\$0.14	<b>\$0.39</b>	\$0.56	\$0.49	<b>\$0.34</b>	<b>\$0.41</b>
Bulk w/o storage	<b>\$0.33</b>	\$0.57	\$0.16	<b>\$0.40</b>	\$0.57	\$0.50	<b>\$0.35</b>	<b>\$0.41</b>

- Current rates are rates currently charged to the three classes of irrigation water customers.
- **2009 Update** is full cost recovery and assumes that flow to bulk customers (golf courses) will decrease (22%) due to a higher rate structure. Irrigation water customers pay for all irrigation line debt service and operating costs.
- **Alternative 1** removes recovery of debt service from irrigation water customers. Hence, debt service expenses are paid by all customers.
- **Alternative 2** provides for 70% cost recovery (debt service and operations) with 30% to be paid by all utility customers. It assumes flow to bulk users will decline by 22% due to a higher rate structure.

**NAPLES CITY COUNCIL AGENDA MEMORANDUM**Regular Meeting Date: October 7, 2009

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**BACKGROUND (cont.):**

- **Alternative 3** removes personnel cost associated with maintenance for phase 1 and 1A.
- **Alternative 4** provides for 100% cost recovery (2009 Update) but removes the assumption that flow bulk customers (golf courses) will decrease by 22% due to a higher rate structure.
- **Alternative 5** provides for 70% cost recovery with 30% of costs to be paid by all utility customers. It also assumes that flow to bulk customers (golf courses) will not decrease by 22%. Hence, flows to golf courses are based on the 5-year average.
- **Approved Rates** are the rates adopted on First Reading.

The following table shows the comparison of the financial impacts on the four (4) customer classes when the revenue is calculated by the current rate, Alternative 2, Alternative 5 and the Council-approved rate:

**Rate Alternative Revenues for FY 2009/10**

Customer Class	Current	Rate Alternative #2	Rate Alternative #5	Council Approved
General	\$196,000	\$213,000	\$203,000	\$150,000
Government/Institutional	\$272,000	\$307,000	\$279,000	\$439,000
Bulk w/ Storage	\$258,000	\$305,000	\$266,000	\$320,000
Bulk w/o Storage	\$87,000	\$105,000	\$92,000	\$107,000
Total	\$812,000	\$929,000	\$839,000	\$1,017,000

The Council-approved rates exceed the rates for two customer classes as provided in the Notice of Public Hearing. Should City Council wish to proceed with adoption of the rates as provided in First Reading, it is recommended that a revised Notice of Public Hearing be mailed to all utility customers. To allow the Notice to accompany utility bills as required by law, a Public Hearing and consideration on Second Reading may be scheduled for January 6, 2010.

Additional information is provided by the City Manager in the attached memorandum.

**RECOMMENDED ACTION:**

Should City Council wish to adopt the irrigation (reclaimed) water rates approved on First Reading, or other rates that exceed the rates for Alternative #2, it is recommended that the City Manager be authorized to provide a revised Public Notice to all utility customers and schedule Second Reading in January 2010, or,

Adopt an Ordinance on Second Reading to amend irrigation (reclaimed) water rates, if such rates are equal to or less than that provided by Alternative #2, the rates provided in the Public Notice.

Reviewed by Department Director  
Bob Middleton

Reviewed by Finance  
Ann Marie Ricardi

Reviewed by City Manager  
A. William Moss

City Council Action:



September 28, 2009

Mr. Robert Middleton  
Public Works Director  
City of Naples  
380 Riverside Circle  
Naples, Florida 34102

**Subject: Response to Council's Request at the September 16<sup>th</sup> Hearing**

**Tt # 200-08516-08012**

Dear Mr. Middleton:

This letter is offered in response to questions from the City Council regarding irrigation rates at the September 16<sup>th</sup> Hearing. Specifically the questions ask of Council were:

1. Provide an analysis of the financial performance of the utility utilizing the irrigation rates adopted by the City Council on September 16<sup>th</sup>.
2. Provide an estimate of the impact to the general fund of the irrigation rates adopted by the City Council on September 16<sup>th</sup>.

In responding to the first of these questions a projection of the financial performance of the utility is required. This projection requires certain considerations and assumptions regarding the irrigation utility. In this letter I clearly identify such assumptions. In addition I present a parallel analysis using other rates that were originally considered (referred to as Alternative 2 and Alternative 5 in discussions) and the current irrigation rates so as to demonstrate no bias to one rate over the other.

#### PRINCIPAL CONSIDERATIONS AND ASSUMPTIONS

The analysis presented herein is based upon the following:

1. Irrigation revenues are generated using the following irrigation rate structures:

**Table 1  
Irrigation Rate Alternatives**

Customer Class	Current	Rate Alternative 2	Rate Alternative 5	Council Adopted
General	\$0.82	\$0.89	\$0.85	\$0.63
Government/Inst.	\$0.39	\$0.44	\$0.40	\$0.63
Bulk w/ Storage	\$0.33	\$0.39	\$0.34	\$0.41
Bulk w/o Storage	\$0.33	\$0.40	\$0.35	\$0.41



**TETRA TECH**

Mr. Robert Middleton  
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2. All rates are adjusted annually for inflation pursuant to the City's Rate Ordinance. An annual rate of 1% is used.
3. Water and wastewater revenues are based on current rates in the Rate Ordinance as adjusted for indexing. Water and wastewater revenue and expense projections are based upon work conducted by Tetra Tech in previous studies.
4. Customers in the Phase 1 and 1A Irrigation Project area are assumed to connect in the following manner:

**Table 2**  
**General Irrigation Users & Flows**

	2009/10	2010/11	2011/12	2012/13	2013/14
Users					
Phase 1 & 1A	265	497	651	728	760
Other General	20	20	20	20	20
Total Users	285	517	671	748	780
Flows					
Phase 1 & 1A	81,430,000	152,428,000	199,760,000	223,426,000	233,249,000
Other General	143,289,000	143,289,000	143,289,000	143,289,000	143,289,000
Total Flows	224,719,000	295,717,000	343,049,000	366,715,000	376,538,000

5. Billable flows to bulk customers are assumed to gradually decrease according to the following Table:

**Table 3**  
**Bulk Flows**

	2009/10	2010/11	2011/12	2012/13	2013/14
With Storage:	781,132,000	748,584,000	716,037,000	683,490,000	650,943,000
Without Storage:	262,175,000	251,251,000	240,327,000	229,403,000	218,479,000
Total Bulk Flows:	1,043,307,000	999,835,000	956,364,000	912,893,000	869,422,000

6. Billable flows to governmental/institutional customers are assumed to change according to the following Table:

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Mr. Robert Middleton  
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**Table 4**  
**Govt/Institutional Users & Flows**

	2009/10	2010/11	2011/12	2012/13	2013/14
Connections:	75	78	81	84	87
Flows:	694,982,000	723,578,000	752,175,000	780,772,000	809,368,000

7. Expenses are estimated from the FY 08/09 budget and adjusted annually according to the following factors:

**Table 5**  
**Escalation Factors**

Escalation Factor	2009/10	2010/11	2011/12	2012/13	2013/14
Labor	1.0200	1.0200	1.0200	1.0200	1.0200
General Inflation	1.0100	1.0100	1.0100	1.0100	1.0100
Metered Flow	1.0168	1.0286	1.0161	1.0043	0.9975
Inflation + Metered Flow	1.0270	1.0389	1.0262	1.0143	1.0075
Materials & Supplies	1.0100	1.0100	1.0100	1.0100	1.0100

#### IRRIGATION SYSTEM REVENUES

System revenues are calculated using the rates and projected flows discussed above. A comparison of the FY 09/10 revenues by customer class are presented in Table 6 below:

**Table 6**  
**Rate Alternative Revenues for FY 2009/10**

Customer Class	Current	Rate Alternative 2	Rate Alternative 5	Council Adopted
General	\$196,000	\$213,000	\$203,000	\$150,000
Government/Inst.	\$272,000	\$307,000	\$279,000	\$439,000
Bulk w/ Storage	\$258,000	\$305,000	\$266,000	\$320,000
Bulk w/o Storage	\$87,000	\$105,000	\$92,000	\$107,000
Total	\$812,000	\$929,000	\$839,000	\$1,017,000

By customer class the Council Adopted rates will generate lower revenues relative to Rate Alternative 2 for the general customer class, higher revenues for the government/institutional class and slightly higher revenues for the bulk customer classes. A summary of the total revenues for the full five year projection period is presented in Table 7:

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**Table 7**  
**Rate Alternative Projected Revenues**

	FY 2009/10	FY 2010/11	FY 2011/12	FY 2012/13	FY 2013/14
Current	\$812,000	\$867,000	\$903,000	\$919,000	\$924,000
Alternative 2	\$929,000	\$988,000	\$1,025,000	\$1,042,000	\$1,046,000
Alternative 5	\$839,000	\$896,000	\$933,000	\$950,000	\$954,000
Council Adopted	\$1,017,000	\$1,062,000	\$1,092,000	\$1,107,000	\$1,114,000

In general the Council Adopted rates will generate the highest amount of revenues over the five year period relative to Alternatives 2 and 5 and the current rates.

#### IRRIGATION SYSTEM EXPENSES

System expenses are based upon the FY 2008/09 budget adjusted annually as discussed above. Two budget expense items, renewals and replacement and PILOT are driven by system revenues. In the interest of simplicity these items are shown, conservatively, at the maximum value generated among the rate scenarios. The system expenses for the five year projection period are presented in Table 8 below:

**Table 8**  
**Projected Irrigation Expenses**

	2009/10	2010/11	2011/12	2012/13	2013/14
O&M Expenses	\$454,000	\$463,000	\$471,000	\$479,000	\$486,000
Debt Service	\$688,000	\$688,000	\$688,000	\$688,000	\$688,000
Non-Operating	\$138,000	\$153,000	\$157,000	\$159,000	\$160,000
Total Expenses	\$1,280,000	\$1,304,000	\$1,316,000	\$1,326,000	\$1,334,000

#### SYSTEM PERFORMANCE

The financial performance of the system can be measured in two ways. First of all is the ability of the irrigation rates to recover the allocated irrigation costs. This can be determined simply by calculating the net revenue for the irrigation utility for each of the rate scenarios.

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**Table 9**  
**Projected Net Revenues**

	2009/10	2010/11	2011/12	2012/13	2013/14
Current	(\$459,000)	(\$428,000)	(\$405,000)	(\$398,000)	(\$402,000)
Alternative 2	(\$343,000)	(\$308,000)	(\$282,000)	(\$276,000)	(\$280,000)
Alternative 5	(\$432,000)	(\$399,000)	(\$374,000)	(\$368,000)	(\$371,000)
Council Adopted	(\$254,000)	(\$233,000)	(\$215,000)	(\$210,000)	(\$212,000)

From Table 9 it can be seen that each alternative provides negative revenues to varying degrees. The trend follows that of the irrigation system revenues in that the Current rates generate the greatest loss and the Council Adopted rates the smallest.

The second method of determining system performance is to document the ability of the system to meet the rate covenants of the City's outstanding revenue bonds which state:

The Issuer has covenanted in the Resolution to fix, establish, revise from time to time whenever necessary, maintain and collect always such fees, rates, rentals and other charges for the use of the products, services and facilities of the System which will always provide (i) Net Revenues in each Fiscal Year sufficient to pay one hundred ten percent (110%) of the Bond Service Requirement on all Outstanding Bonds in the applicable Bond Year, and (ii) combined Net Revenues, Sewer System Development Charges, and Water System Development Charges in each Fiscal Year sufficient to pay one hundred twenty percent (120%) of the Bond Service Requirement on all Outstanding Bonds in the applicable Bond Year.

Since the bonds are secured by the total system revenues which include the water and wastewater revenues it is necessary to look at a combined financial performance. In evaluating the overall system performance the projected water and wastewater revenues generated in previous Tetra Tech studies for the City. The results of the rate covenant analysis for each rate scenario are shown below and detailed in Schedules 1, 2, 3 and 4 attached:



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**Table 10**  
**Debt Coverage**

		FY 2009/10	FY 2010/11	FY 2011/12	FY 2012/13	FY 2013/14
Current	Test 1 > 1.10	3.81	3.70	3.70	3.71	3.70
	Test 2 > 1.20	3.98	3.87	3.87	3.88	3.86
Alternative 2	Test 1 > 1.10	3.85	3.74	3.74	3.75	3.74
	Test 2 > 1.20	4.02	3.91	3.91	3.92	3.90
Alternative 5	Test 1 > 1.10	3.82	3.71	3.71	3.72	3.71
	Test 2 > 1.20	3.99	3.88	3.88	3.89	3.87
Adopted	Test 1 > 1.10	3.88	3.76	3.76	3.77	3.76
	Test 2 > 1.20	4.05	3.93	3.93	3.94	3.93

From Table 10 it can be seen that regardless of rate scenario the rate covenants of the City's Bond Resolution will be met.

#### IMPACT TO THE CITY GENERAL FUND

In order to evaluate the impact of the rates to the City general fund it is necessary isolate those customers in the General/Institutional rate class that are identified as City of Naples departments funded by the general fund. After a review of the data it was determined that of the 1,086 government/institutional ERCs projected for FY2009/10, 560 were identified as City of Naples. For purposes of generating revenue the estimated general class flow of 1,753 gpd/ERC was utilized as well as the rates for FY 2009/10 presented above. In order to estimate the shortfall the current rates were used as a baseline to compare the Alternative 2 and the Council Adopted rates. The revenues projected for each rate scenario are:

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**Table 11**  
**General Fund Cost of Irrigation Service**

Customer Class	Current	Rate Alternative 2	Rate Alternative 5	Council Adopted
Government/Inst.	\$140,000	\$158,000	\$143,000	\$226,000

The determination of the increase to the general fund costs is presented in Table 12 below:

**Table 12**  
**Change of General Fund Irrigation Cost**

	Alternative 2	Alternative 5	Council Adopted
Revenue change from Current	\$18,000	\$3,000	\$86,000
% Revenue increase	13%	2%	61%

Rate Alternative 2 represents a 13% increase in costs to the general fund or a total of approximately \$18,000. Alternative 5 represents the lowest impact at 2% or \$3,000. The Council Adopted rate alternative has an additional impact of approximately \$86,000 or 61%.

I hope this letter provides sufficient information to answer the Council's questions regarding the financial impact of the irrigation rates adopted at the September 16, 2009 Council meeting. If any additional information is required please do not hesitate to call.

Very truly yours,

**Tetra Tech**

Andrew T. Woodcock, P.E., MBA  
Senior Project Manager

Attachments  
ATW/sma/200-08516-08012/corresp/comparison ltr2-sept09

SCHEDULE I THE CITY OF NAPLES 2009 Irrigation Rate Study Proforma Operating Results - Combined System Current Rates						
Description	Estimated FY 2008/09	Projected For Fiscal Year Ending September 30:				
		2009/10	2010/11	2011/12	2012/13	2013/14
COMBINED SYSTEM						
OPERATING REVENUES						
Water Sales	\$ 16,523,000	\$ 18,526,000	\$ 18,533,000	\$ 18,615,000	\$ 18,776,000	\$ 18,985,000
Sewer Sales	10,989,000	11,324,000	11,472,000	11,622,000	11,774,000	11,928,000
Reclaimed Sales	776,000	812,000	867,000	903,000	919,000	924,000
Total Operating Revenue	\$ 28,288,000	\$ 30,662,000	\$ 30,872,000	\$ 31,140,000	\$ 31,469,000	\$ 31,837,000
OTHER REVENUES						
Impact Fees	\$ 922,000	\$ 927,000	\$ 920,000	\$ 920,000	\$ 923,000	\$ 822,000
Impact Fees	\$ 486,000	\$ 497,000	\$ 508,000	\$ 510,000	\$ 512,000	\$ 513,000
TOTAL REVENUES	\$ 29,696,000	\$ 32,086,000	\$ 32,300,000	\$ 32,570,000	\$ 32,904,000	\$ 33,172,000
O&M						
Water O&M	\$ 11,712,000	\$ 11,830,000	\$ 11,925,000	\$ 12,045,000	\$ 12,192,000	\$ 12,356,000
Sewer O&M	7,869,000	7,990,000	8,112,000	8,237,000	8,364,000	8,493,000
Reclaimed O&M	446,000	454,000	463,000	471,000	479,000	486,000
Total O&M	\$ 20,027,000	\$ 20,274,000	\$ 20,500,000	\$ 20,753,000	\$ 21,035,000	\$ 21,335,000
NET REVENUES	\$ 9,669,000	\$ 11,812,000	\$ 11,800,000	\$ 11,817,000	\$ 11,869,000	\$ 11,837,000
Less Impact Fees	\$ (486,000)	\$ (497,000)	\$ (508,000)	\$ (510,000)	\$ (512,000)	\$ (513,000)
Funds Available for Debt Service	\$ 9,183,000	\$ 11,315,000	\$ 11,292,000	\$ 11,307,000	\$ 11,357,000	\$ 11,324,000
DEBT SERVICE						
Principal	\$ 2,013,000	\$ 1,982,000	\$ 2,112,000	\$ 2,164,000	\$ 2,218,000	\$ 2,273,000
Interest	1,031,000	986,000	939,000	891,000	842,000	791,000
Total Debt Service	\$ 3,044,000	\$ 2,968,000	\$ 3,051,000	\$ 3,055,000	\$ 3,060,000	\$ 3,064,000
REMAINING BALANCE	\$ 6,139,000	\$ 8,347,000	\$ 8,241,000	\$ 8,252,000	\$ 8,297,000	\$ 8,260,000
NON-OPERATING EXPENDITURES						
Transfer to Capital Fund	1,000,000	7,494,000	4,797,000	3,603,000	3,974,000	2,943,000
Transfer to R&R	1,154,000	1,480,000	1,610,000	1,620,000	1,634,000	1,650,000
PILOT	1,788,000	1,932,000	1,944,000	1,960,000	1,980,000	2,002,000
Total Other Expenditures	\$ 3,942,000	\$ 10,906,000	\$ 8,351,000	\$ 7,183,000	\$ 7,588,000	\$ 6,595,000
FINAL BALANCE	\$ 2,197,000	\$ (2,559,000)	\$ (110,000)	\$ 1,069,000	\$ 709,000	\$ 1,665,000
DEBT SERVICE COVERAGE						
Net Revenues/Debt Service	3.02	3.81	3.70	3.70	3.71	3.70
Coverage Requirement	1.10	1.10	1.10	1.10	1.10	1.10
Net Revenues + Impact Fees/Debt Service	3.18	3.98	3.87	3.87	3.88	3.86
Coverage Requirement	1.20	1.20	1.20	1.20	1.20	1.20
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22-Sep-09						
PAGE 1 OF 6						

SCHEDULE 2 THE CITY OF NAPLES 2009 Irrigation Rate Study Proforma Operating Results - Combined System Alternative 2 Rates						
Description	Estimated FY 2008/09	Projected For Fiscal Year Ending September 30:				
		2009/10	2010/11	2011/12	2012/13	2013/14
<b>COMBINED SYSTEM</b>						
<b>OPERATING REVENUES</b>						
Water Sales	\$ 16,523,000	\$ 18,526,000	\$ 18,533,000	\$ 18,615,000	\$ 18,776,000	\$ 18,985,000
Sewer Sales	10,989,000	11,324,000	11,472,000	11,622,000	11,774,000	11,928,000
Reclaimed Sales	776,000	929,000	988,000	1,025,000	1,042,000	1,046,000
Total Operating Revenue	\$ 28,288,000	\$ 30,779,000	\$ 30,993,000	\$ 31,262,000	\$ 31,592,000	\$ 31,959,000
<b>OTHER REVENUES</b>						
Impact Fees	\$ 922,000	\$ 927,000	\$ 920,000	\$ 920,000	\$ 923,000	\$ 822,000
	\$ 486,000	\$ 497,000	\$ 508,000	\$ 510,000	\$ 512,000	\$ 513,000
<b>TOTAL REVENUES</b>	\$ 29,696,000	\$ 32,203,000	\$ 32,421,000	\$ 32,692,000	\$ 33,027,000	\$ 33,294,000
<b>O&amp;M</b>						
Water O&M	\$ 11,712,000	\$ 11,830,000	\$ 11,925,000	\$ 12,045,000	\$ 12,192,000	\$ 12,356,000
Sewer O&M	7,869,000	7,990,000	8,112,000	8,237,000	8,364,000	8,493,000
Reclaimed O&M	446,000	454,000	463,000	471,000	479,000	486,000
Total O&M	\$ 20,027,000	\$ 20,274,000	\$ 20,500,000	\$ 20,753,000	\$ 21,035,000	\$ 21,335,000
<b>NET REVENUES</b>	\$ 9,669,000	\$ 11,929,000	\$ 11,921,000	\$ 11,939,000	\$ 11,992,000	\$ 11,959,000
Less Impact Fees	\$ (486,000)	\$ (497,000)	\$ (508,000)	\$ (510,000)	\$ (512,000)	\$ (513,000)
Funds Available for Debt Service	\$ 9,183,000	\$ 11,432,000	\$ 11,413,000	\$ 11,429,000	\$ 11,480,000	\$ 11,446,000
<b>DEBT SERVICE</b>						
Principal	\$ 2,013,000	\$ 1,982,000	\$ 2,112,000	\$ 2,164,000	\$ 2,218,000	\$ 2,273,000
Interest	1,031,000	986,000	939,000	891,000	842,000	791,000
Total Debt Service	\$ 3,044,000	\$ 2,968,000	\$ 3,051,000	\$ 3,055,000	\$ 3,060,000	\$ 3,064,000
<b>REMAINING BALANCE</b>	\$ 6,139,000	\$ 8,464,000	\$ 8,362,000	\$ 8,374,000	\$ 8,420,000	\$ 8,382,000
<b>NON-OPERATING EXPENDITURES</b>						
Transfer to Capital Fund	1,000,000	7,494,000	4,797,000	3,603,000	3,974,000	2,943,000
Transfer to R&R	1,154,000	1,480,000	1,610,000	1,620,000	1,634,000	1,650,000
PILOT	1,788,000	1,932,000	1,944,000	1,960,000	1,980,000	2,002,000
Total Other Expenditures	\$ 3,942,000	\$ 10,906,000	\$ 8,351,000	\$ 7,183,000	\$ 7,588,000	\$ 6,595,000
<b>FINAL BALANCE</b>	\$ 2,197,000	\$ (2,442,000)	\$ 11,000	\$ 1,191,000	\$ 832,000	\$ 1,787,000
<b>DEBT SERVICE COVERAGE</b>						
Net Revenues/Debt Service	3.02	3.85	3.74	3.74	3.75	3.74
Coverage Requirement	1.10	1.10	1.10	1.10	1.10	1.10
Net Revenues + Impact Fees/Debt Service	3.18	4.02	3.91	3.91	3.92	3.90
Coverage Requirement	1.20	1.20	1.20	1.20	1.20	1.20
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SCHEDULE 3 THE CITY OF NAPLES 2009 Irrigation Rate Study Proforma Operating Results - Combined System Alternative 5 Rates						
Description	Estimated FY 2008/09	Projected For Fiscal Year Ending September 30:				
		2009/10	2010/11	2011/12	2012/13	2013/14
COMBINED SYSTEM						
OPERATING REVENUES						
Water Sales	\$ 16,523,000	\$ 18,526,000	\$ 18,533,000	\$ 18,615,000	\$ 18,776,000	\$ 18,985,000
Sewer Sales	10,989,000	11,324,000	11,472,000	11,622,000	11,774,000	11,928,000
Reclaimed Sales	776,000	839,000	896,000	933,000	950,000	954,000
Total Operating Revenue	\$ 28,288,000	\$ 30,689,000	\$ 30,901,000	\$ 31,170,000	\$ 31,500,000	\$ 31,867,000
OTHER REVENUES						
	\$ 922,000	\$ 927,000	\$ 920,000	\$ 920,000	\$ 923,000	\$ 822,000
Impact Fees	\$ 486,000	\$ 497,000	\$ 508,000	\$ 510,000	\$ 512,000	\$ 513,000
TOTAL REVENUES	\$ 29,696,000	\$ 32,113,000	\$ 32,329,000	\$ 32,600,000	\$ 32,935,000	\$ 33,202,000
O&M						
Water O&M	\$ 11,712,000	\$ 11,830,000	\$ 11,925,000	\$ 12,045,000	\$ 12,192,000	\$ 12,356,000
Sewer O&M	7,869,000	7,990,000	8,112,000	8,237,000	8,364,000	8,493,000
Reclaimed O&M	446,000	454,000	463,000	471,000	479,000	486,000
Total O&M	\$ 20,027,000	\$ 20,274,000	\$ 20,500,000	\$ 20,753,000	\$ 21,035,000	\$ 21,335,000
NET REVENUES	\$ 9,669,000	\$ 11,839,000	\$ 11,829,000	\$ 11,847,000	\$ 11,900,000	\$ 11,867,000
Less Impact Fees	\$ (486,000)	\$ (497,000)	\$ (508,000)	\$ (510,000)	\$ (512,000)	\$ (513,000)
Funds Available for Debt Service	\$ 9,183,000	\$ 11,342,000	\$ 11,321,000	\$ 11,337,000	\$ 11,388,000	\$ 11,354,000
DEBT SERVICE						
Principal	\$ 2,013,000	\$ 1,982,000	\$ 2,112,000	\$ 2,164,000	\$ 2,218,000	\$ 2,273,000
Interest	1,031,000	986,000	939,000	891,000	842,000	791,000
Total Debt Service	\$ 3,044,000	\$ 2,968,000	\$ 3,051,000	\$ 3,055,000	\$ 3,060,000	\$ 3,064,000
REMAINING BALANCE	\$ 6,139,000	\$ 8,374,000	\$ 8,270,000	\$ 8,282,000	\$ 8,328,000	\$ 8,290,000
NON-OPERATING EXPENDITURES						
Transfer to Capital Fund	1,000,000	7,494,000	4,797,000	3,603,000	3,974,000	2,943,000
Transfer to R&R	1,154,000	1,480,000	1,610,000	1,620,000	1,634,000	1,650,000
PILOT	1,788,000	1,932,000	1,944,000	1,960,000	1,980,000	2,002,000
Total Other Expenditures	\$ 3,942,000	\$ 10,906,000	\$ 8,351,000	\$ 7,183,000	\$ 7,588,000	\$ 6,595,000
FINAL BALANCE	\$ 2,197,000	\$ (2,532,000)	\$ (81,000)	\$ 1,099,000	\$ 740,000	\$ 1,695,000
DEBT SERVICE COVERAGE						
Net Revenues/Debt Service	3.02	3.82	3.71	3.71	3.72	3.71
Coverage Requirement	1.10	1.10	1.10	1.10	1.10	1.10
Net Revenues + Impact Fees/Debt Service	3.18	3.99	3.88	3.88	3.89	3.87
Coverage Requirement	1.20	1.20	1.20	1.20	1.20	1.20
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SCHEDULE 4 THE CITY OF NAPLES 2009 Irrigation Rate Study Proforma Operating Results - Combined System Adopted Rates						
Description	Estimated FY 2008/09	Projected For Fiscal Year Ending September 30:				
		2009/10	2010/11	2011/12	2012/13	2013/14
COMBINED SYSTEM						
OPERATING REVENUES						
Water Sales	\$ 16,523,000	\$ 18,526,000	\$ 18,533,000	\$ 18,615,000	\$ 18,776,000	\$ 18,985,000
Sewer Sales	10,989,000	11,324,000	11,472,000	11,622,000	11,774,000	11,928,000
Reclaimed Sales	776,000	1,017,000	1,062,000	1,092,000	1,107,000	1,114,000
Total Operating Revenue	\$ 28,288,000	\$ 30,867,000	\$ 31,067,000	\$ 31,329,000	\$ 31,657,000	\$ 32,027,000
OTHER REVENUES						
	\$ 922,000	\$ 927,000	\$ 920,000	\$ 920,000	\$ 923,000	\$ 822,000
Impact Fees	\$ 486,000	\$ 497,000	\$ 508,000	\$ 510,000	\$ 512,000	\$ 513,000
TOTAL REVENUES	\$ 29,696,000	\$ 32,291,000	\$ 32,495,000	\$ 32,759,000	\$ 33,092,000	\$ 33,362,000
O&M						
Water O&M	\$ 11,712,000	\$ 11,830,000	\$ 11,925,000	\$ 12,045,000	\$ 12,192,000	\$ 12,356,000
Sewer O&M	7,869,000	7,990,000	8,112,000	8,237,000	8,364,000	8,493,000
Reclaimed O&M	446,000	454,000	463,000	471,000	479,000	486,000
Total O&M	\$ 20,027,000	\$ 20,274,000	\$ 20,500,000	\$ 20,753,000	\$ 21,035,000	\$ 21,335,000
NET REVENUES	\$ 9,669,000	\$ 12,017,000	\$ 11,995,000	\$ 12,006,000	\$ 12,057,000	\$ 12,027,000
Less Impact Fees	\$ (486,000)	\$ (497,000)	\$ (508,000)	\$ (510,000)	\$ (512,000)	\$ (513,000)
Funds Available for Debt Service	\$ 9,183,000	\$ 11,520,000	\$ 11,487,000	\$ 11,496,000	\$ 11,545,000	\$ 11,514,000
DEBT SERVICE						
Principal	\$ 2,013,000	\$ 1,982,000	\$ 2,112,000	\$ 2,164,000	\$ 2,218,000	\$ 2,273,000
Interest	1,031,000	986,000	939,000	891,000	842,000	791,000
Total Debt Service	\$ 3,044,000	\$ 2,968,000	\$ 3,051,000	\$ 3,055,000	\$ 3,060,000	\$ 3,064,000
REMAINING BALANCE	\$ 6,139,000	\$ 8,552,000	\$ 8,436,000	\$ 8,441,000	\$ 8,485,000	\$ 8,450,000
NON-OPERATING EXPENDITURES						
Transfer to Capital Fund	1,000,000	7,494,000	4,797,000	3,603,000	3,974,000	2,943,000
Transfer to R&R	1,154,000	1,480,000	1,610,000	1,620,000	1,634,000	1,650,000
PILOT	1,788,000	1,932,000	1,944,000	1,960,000	1,980,000	2,002,000
Total Other Expenditures	\$ 3,942,000	\$ 10,906,000	\$ 8,351,000	\$ 7,183,000	\$ 7,588,000	\$ 6,595,000
FINAL BALANCE	\$ 2,197,000	\$ (2,354,000)	\$ 85,000	\$ 1,258,000	\$ 897,000	\$ 1,855,000
DEBT SERVICE COVERAGE						
Net Revenues/Debt Service	3.02	3.88	3.76	3.76	3.77	3.76
Coverage Requirement	1.10	1.10	1.10	1.10	1.10	1.10
Net Revenues + Impact Fees/Debt Service	3.18	4.05	3.93	3.93	3.94	3.93
Coverage Requirement	1.20	1.20	1.20	1.20	1.20	1.20
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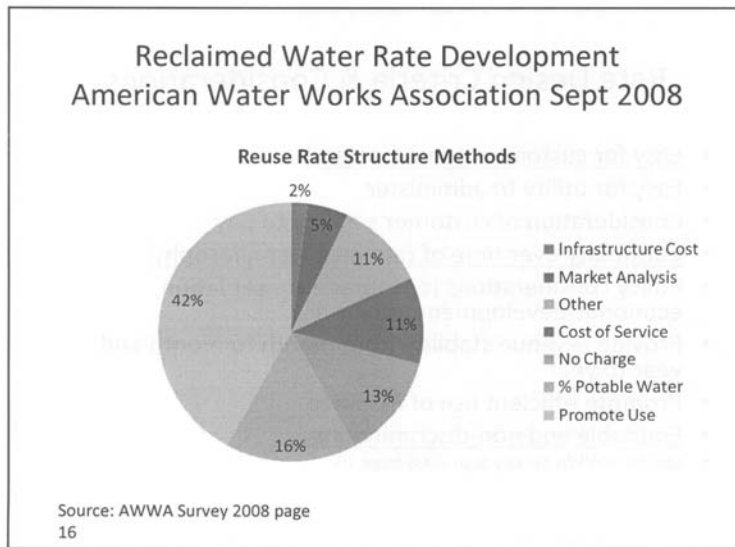
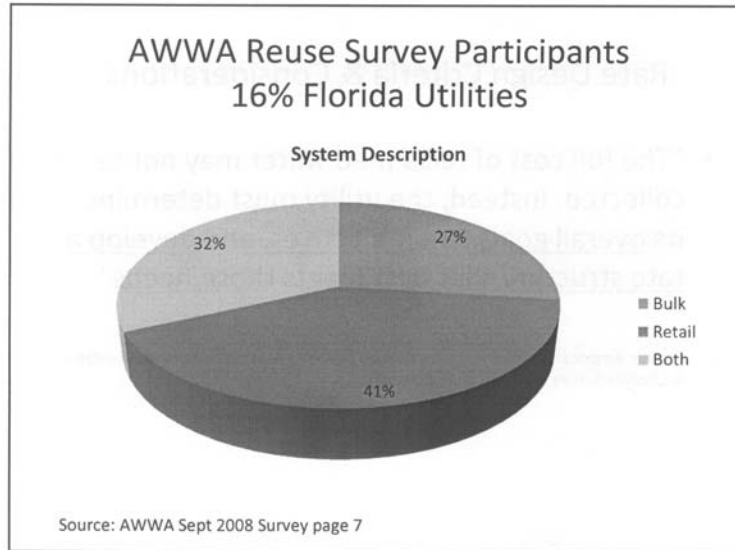
### Rate Design Criteria & Considerations

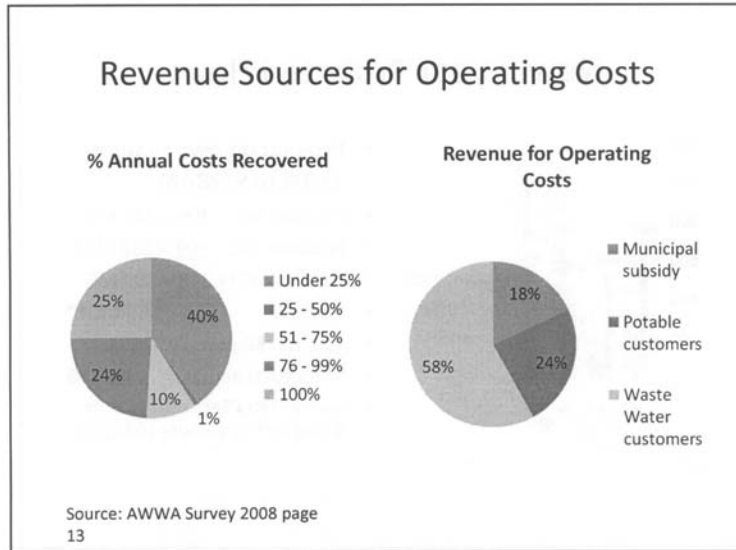
- “The full cost of reclaimed water may not be collected. Instead, the utility must determine its overall goals, and objectives, and develop a rate structure that best meets those needs”

- Source: American Water Works Association (AWWA) Sept 2008 Water Reuse Rates & Charges Survey Result page 19 (9/17/9)

### Rate Design Criteria & Considerations

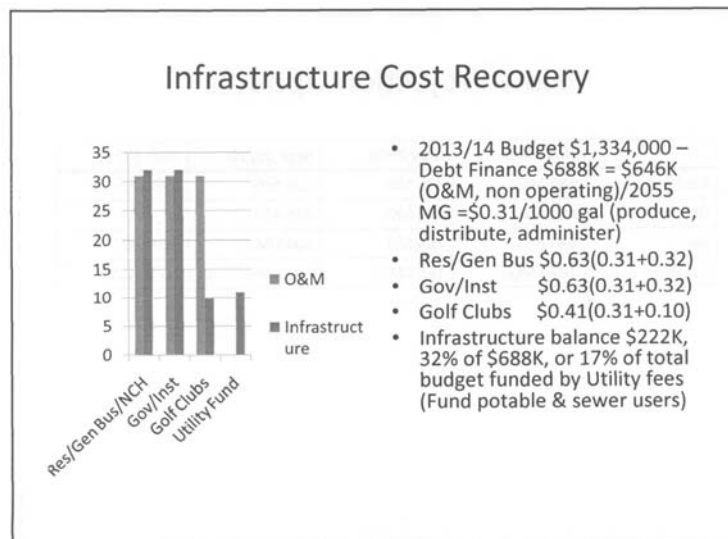
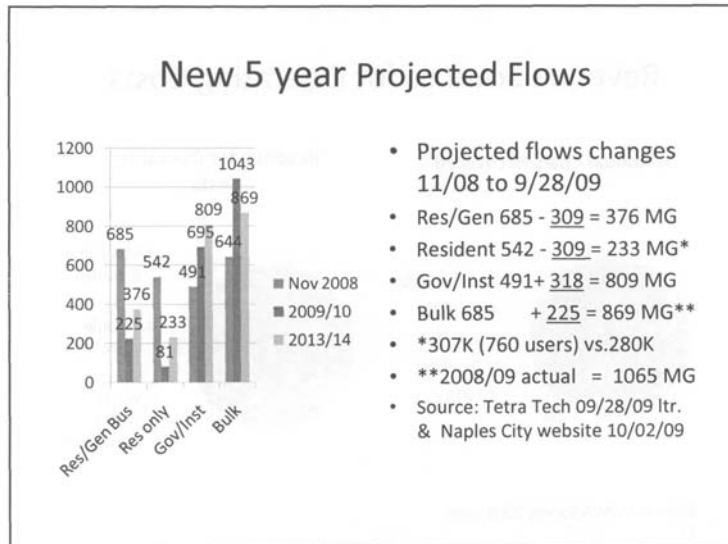
- Easy for customers to understand
- Easy for utility to administer
- Consideration of customer’s ability to pay
- Continuity over time of rate making philosophy
- Policy considerations (encourage conservation, economic development, etc)
- Provide revenue stability from month to month and year to year
- Promote efficient use of resource
- Equitable and non-discriminating
- Source: AWWA Survey Sept 2008 page 19

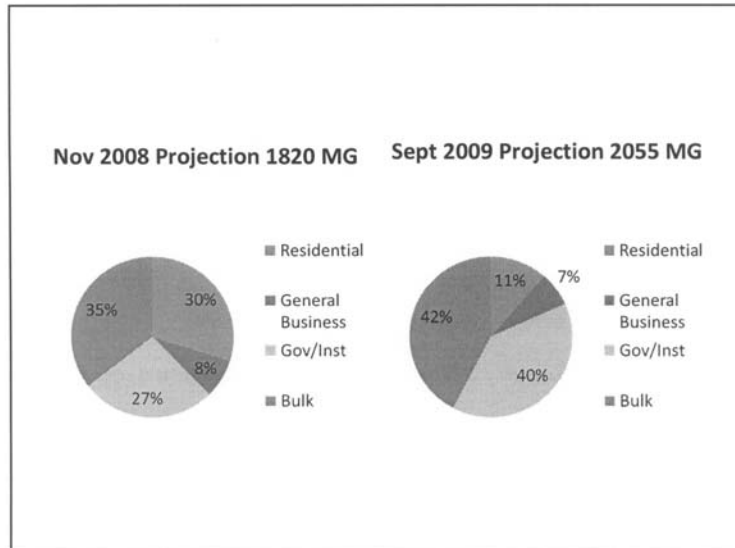




### Flow Projection Updates

	Nov 2008	May 2009	Sept 09/10	Sept 13/14
Res/Gen Bus	685 MG	396 MG	224 MG	376 MG
Gov/Inst	491 MG	506 MG	695 MG	809 MG
Bulk	644 MG	765 MG	1043 MG	869 MG
<b>Total</b>	<b>1820 MG</b>	<b>1667 MG</b>	<b>1962 MG</b>	<b>2054 MG</b>





### What is going on in Florida?

- **42** Reuse Water Utilities charge residential and non residential users the exact same price
- **19** Reuse Water Utilities charge residential users less than non-residential (bulk) users
- Source: FI Dept of Environmental Protection 2007 survey update (9/17/9)
- "District wide average Residential charge is \$0.55 per 1000 gallons and average State wide is \$0.60 per 1000 gallons"
- "District Reclaimed Water Task Force recommendation # 6 – Provide a Discounted Rate for Bulk User"
- Source: Southwest Florida Water Management District Reuse Water Task Force Bulk update 2009 (9/17/9)