



City Council Chamber
735 Eighth Street South
Naples, Florida 34102

City Council Workshop Meeting – January 19, 2010 – 8:29 a.m.

Mayor Barnett called the meeting to order and presided.

ROLL CALLITEM 1

Present:

Bill Barnett, Mayor
Penny Taylor, Vice Mayor

Council Members:

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

Also Present:

William Moss, City Manager
Robert Pritt, City Attorney
Tara Norman, City Clerk
Vicki Smith, Technical Writing Specialist
Roger Reinke, Assistant City Manager
Jessica Rosenberg, Deputy City Clerk
Denise Perez, Human Resources Director
Linda Tanner-Bevard, Sr Human Resources Generalist
Robert Middleton, Utilities Director
Robin Singer, Planning Director
Stephen McNerny, Deputy Chief of NPDF
David Lykins, Community Services Director
Clarence Tears
Frank Nappo

Bruce Sammut
Lisa Swirda
David Alger
Doug Finlay
Ed Duch
Ewing Sutherland
Hans Gruenberg
Mark Elsner
Terry Bankston
Dorothy Hirsch

Media:

Jenna Buzzacco-Foerster, Naples Daily News

Other interested citizens and visitors.

SET AGENDA.....ITEM 2

MOTION by Price to SET THE 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).

PUBLIC COMMENT.....ITEM 3

None.

.....ITEM 4
INTERVIEW WITH CANDIDATE FOR THE COMMUNITY REDEVELOPMENT AGENCY ADVISORY BOARD (CRAAB). Deputy City Clerk Jessica Rosenberg indicated that Candidate David Alger was present for interview.

PROPOSED CONSTITUTIONAL AMENDMENTITEM 5

(Also known as the Hometown Democracy Amendment 4.) A proposed Florida Constitutional amendment, scheduled for referendum in November, requires voter approval prior to amendments to a local government's Comprehensive Plan. The City Attorney will provide an overview of the proposed amendment and its potential impact upon the City of Naples and other local governments. Utilizing an electronic presentation (a printed copy of which is contained in the file for this meeting in the City Clerk's Office), City Attorney Robert Pritt provided a detailed review of his memorandum dated January 19 (Attachment 1) in which he had discussed Florida Constitutional Amendment 4, commonly called Hometown Democracy, which is to be placed upon the November 2, 2010, ballot. Mr. Pritt indicated that it is designed to slow, or in some cases stop, growth and development, but applies only to municipalities and counties, not the Florida Legislature. Should the amendment be adopted, it would require local governments to take comprehensive plan amendments to the voters for approval at referendum elections. Currently, the Growth Management Act allows Comprehensive Plan amendments to be made by local governments via ordinances following a local planning agency review, with assent of the State of Florida Department of Community Affairs (DCA). Therefore, he said, there is a question as to whether the DCA will continue to have a role in comprehensive planning as well as the fact that the Florida Legislature could simply circumvent the intent of the amendment simply by providing that development enterprises, or other business types (potable water, traffic, concurrency, etc.), could be approved without consistency with a Comprehensive Plan, or eliminate the Comprehensive Plan process altogether. Another consequence to consider is increased pressure on the Legislature to approve special acts to authorize important but potentially unpopular local projects. Therefore, Mr. Pritt cautioned that care must be taken that only required, specific goals, objectives, and policies are included within an adopted plan. Zoning and land development provisions, such as detailed regulations as to uses, heights, setbacks, coverage, etc., he continued, when properly enacted by ordinances are not placed in the Comprehensive Plan. He recommended the following actions:

- Conduct a careful and immediate review of the City's Comprehensive Plan to determine whether any amendments are called for prior to November 2010, expediting the implementation of those draft amendments, particularly in light of the length of the process required for DCA review; and
- Consider taking a position on Amendment 4, by resolution.

Mr. Pritt also referenced a January 12 *St. Petersburg Times* article regarding Senator Michael Bennett withdrawing his support of Senate Bill 216/SB 216, which limits the ability of local governments to expend public funds directly, or indirectly, on electioneering communications and political advertisements regardless of possible impacts upon the local government. Should Senator Bennett be successful in overturning SB 216 prior to summer, then local governments could become more vocal in their opposition to Amendment 4.

City Attorney Pritt confirmed for Vice Mayor Taylor that, should the Hometown Democracy amendment pass, an amendment of any provision contained in the City's Comprehensive Plan would indeed be sent to referendum, regardless of the level of local support; this will prove to be time consuming and costly, he added.

Following a brief review by Planning Director Robin Singer of her memorandum dated January 12 (Attachment 2) wherein she outlined potential Comprehensive Plan amendments, Council provided the following direction:

Staff is to begin recommended review of Comprehensive Plan for possible amendment; a Council workshop discussion of staff recommended amendments is then to be scheduled in March with recommendations forwarded to Planning Advisory Board (PAB) in April.

Council thanked Council Member Heitmann for her involvement in providing information of the unintended consequences of Amendment 4. Mrs. Heitmann confirmed that education of the voters would be the key to opposing this legislation, especially in light of its potential effect upon local government budgets.

LOWER WEST COAST WATER SUPPLYITEM 7
Presentation by representatives of the South Florida Water Management District (SFWMD). Every five years the District is required to update its Water Supply Plan, which provides population projections and anticipated water demand and supply, including alternative water supplies. The presentation will summarize the proposed amendments. Mark Elsner, Water Supply Division Director for South Florida Water Management District (SFWMD) utilized an electronic presentation (a printed copy of which is contained in the file for this meeting in the City Clerk's Office) to provide a brief overview of the Lower West Coast (LWC) Water Supply Plan update process; the presentation of the final plan is scheduled for March 2011 (see Attachment 3 for schedule). The plan is updated in five-year cycles to allow the consideration of current data with regard to population projections and anticipated water supply and demand, including alternative water supplies, based on at least a 20-year future planning horizon. He further explained that the most important component is year-round water conservation.

Mr. Elsner reviewed the LWC Planning Area (Attachment 4), explaining that these areas reflect hydrologic boundaries, or drainage divides. Preliminary 25-year population projections are anticipated at a 75% increase for the planning area, with Collier County estimated with a 60% increase. He commended the City for its development of an irrigation (reclaimed, reuse or alternative) water system and plan, noting that currently the City utilizes 85% of wastewater generated.

He continued by noting the importance of public and stakeholder input in the updating process, indicating that public workshops would be scheduled, as well as presentations to other local governments, coordination with other Water Management Districts and meetings with the Southwest Florida Regional Planning Council (SFRPC); the plan must reflect the needs of the residents in the area, he said. He also noted that the City's Comprehensive Plan is now, via state mandate, linked to the subject plan, therefore, the City's Facilities Work Plan (which is contained in the comprehensive plan) must be completed and submitted to the Department of Community Affairs (DCA) within 18 months from the approval date of the LWC Water Plan and demonstrate sufficient water supply for at least the next 10 years.

Mr. Elsner clarified for Council Member Sorey that the LWC Water Supply Plan is not based upon segmented watersheds due to the fact of rainfall dependency for water supply, especially within Collier County. The plan is tailored to fit the region and the local components it will

serve, he pointed out. He also confirmed for Mr. Sorey that the Big Cypress Basin Board (BCB) would be heavily involved in the updated plan, and Mr. Sorey recommended that one of the meetings reflected in the schedule (see Attachment 3) should be held in Collier County.

Council Member Sulick commended Council Member Sorey for his involvement in water related issues. She however questioned the cited population increases, noting the recent population decrease due to economic conditions, and therefore expressed doubt with regard to the appropriateness of continued pressure upon local governments and their residents to meet the increased demands rather than simply admitting that these needs cannot be met. All resources do have a limited supply, she stressed, and meeting projected needs is costly, she said. Mr. Elsner explained that the projections however originate from the individual local municipal and county Comprehensive Plans. With regard to the City, future water needs will not increase to the extent of Collier County, and the Gulf of Mexico could eventually be tapped as a source of water, although the cost would be significant due to the desalination process required to render this water usable, Mr. Elsner said. Mr. Sorey added that while the plan provides alternatives, it is the local government's decision as to which course to follow; the City had decided to focus upon conservation and reuse of water, he added. Mr. Elsner and Mr. Sorey stressed that conditions north of the Immokalee ridge do not affect the City's freshwater supply to a great extent.

With regard to communities with areas containing older homes, Mr. Elsner said that water conservation is being pursued via retrofitted toilets, shower heads, faucets, and the like, as well as automatic flushing devices for utilities around the state. In addition, SFWMD has invested approximately \$2-million over the past five years in the Water Saving Incentive Program for local government water conservation projects, he said, noting that the key objective is to keep conservation and education in the forefront in local planning. Utilities Director Robert Middleton pointed out the BCB mobile irrigation lab, which is provided free to commercial properties and homeowners for testing of their irrigation systems for efficiency. The state recently converted from promoting xeriscaping (*generally accepted term for water conserving landscaping with grass treated as an accent rather than the main lawn covering*) to Florida Friendly Landscaping (*a set of nine guiding principles which help protect natural resources and preserve Florida's unique beauty via water use efficiency through proper design and maintenance*) which is a requirement of permitting, Mr. Elsner added.

REPORT ON HEALTH PLANS.....ITEM 6

A presentation will summarize employee health insurance plans, impact of plan options, amendments designed to limit health insurance expenses, and proposed future options.

Human Resources Director Denise Perez utilized an electronic presentation (a printed copy of which is contained in the file for this meeting in the City Clerk's Office) to review her memorandum dated January 5 (Attachment 5), wherein the past year's medical and prescription plan was highlighted, as well as an update of projected expenditures for the current year.

Ms. Perez also cited the following strategies to be evaluated for implementation October 1:

- Consider elimination of the Point of Service Plan and offer only the Consumer Driven Health Plan;
- Implement a mandatory generic drug provision which requires the use of generic drugs when a generic alternative is available;

- Eliminate pharmacy coinsurance (100% paid by the health plan) for preventative/maintenance drugs ordered through mail order at the generic and brand formulary tier. (Non-formulary preventative/maintenance drugs will be paid according to coinsurance.);
- Hire only non-smoking employees: new hires would be required to be smoke-free for one year prior to hire, sign affidavit attesting to same, and undergo nicotine testing; and
- Prohibit employees from smoking on all City property.

Ms. Perez also noted the ongoing fitness challenge for City employees, indicating that approximately 25% had signed up for the program; an update is to be provided in April with final results, she added.

Mayor Barnett expressed concern with the mandatory generic provision. Ms. Perez however noted the provision to allow brand name drugs when reflected as medically necessary on the prescription. Ms. Perez then confirmed that while the ban on hiring smokers had indeed been discussed the prior year, it had not been approved. Council Member Sorey suggested considering higher premiums for smokers however, Ms. Perez recommended avoiding any provisions which could be deemed discriminatory. Mr. Sorey then commended staff for the ongoing employee education with regard to health issues. In response to Council Member Heitmann, Ms. Perez explained that many employees had chosen the Consumer Driven Health Plan over the Point of Service Plan for financial reasons and that Cigna does contact local health care providers not currently enrolled with regard to joining the plan.

Council briefly discussed the aforementioned ban on hiring smokers as well as prohibiting employee smoking on all City property; Council Member Sulick recommended seeking a legal opinion with regard to the latter. Council Member Heitmann also suggested implementing a challenge for employees who smoke similar to the fitness challenge noted above.

Consensus for future workshop discussion with regard to smoking restrictions on all City property.

Recess: 10:16 a.m. to 10:32 a.m. It is noted for the record that the same Council Members were present when the meeting reconvened.

DISCUSSION OF SPECIAL EVENT VENDOR BOOTH FEESITEM 8
Effective October 2009, booth fees for special events utilizing public streets and parks increased from \$10 to \$35 per booth. Due to recent requests to waive or reduce the booth fee for certain special events, City Council will discuss the booth fee policy. City Manager William Moss explained that Council had recently approved a complete waiver of booth fees for the Open Air Farmers Market (Third Street South) and a reduction (\$35 to \$10) in booth fees for the Art in the Park events; Council had then requested a workshop discussion regarding a temporary reduction in fees due to the current economic environment. Council Member Sulick expressed opposition to continually waiving fees and instead recommended a one-year rollback to the previous \$10 per booth so as not to entirely negate the Council's prior decision; Vice Mayor Taylor agreed.

Council Member Sorey however indicated his opposition to booth fees, and Community Services Director David Lykins further clarified that the park rental fee is based upon the length of time and the amount of square footage occupied and booth fees had been levied because occupants

profit from the sale of goods on City property. Council Member Price agreed with Mr. Sorey, adding that the booth fees represent a means of taxing vendors and do not contribute to recouping taxpayer funding of City parks. Council Member Sulick then further clarified that her recommendation had involved alleviating economic hardships, not attracting more events; she reminded Council that Mr. Lykins had reported the heaviest use of City facilities as January to mid-April. The increasing costs of special events to the City had been the catalyst for the Community Services Advisory Board's (CSAB's) recommendation to increase booth fees, she noted, even though those recommendations had been made prior to the current economic downturn.

In response to Council Member Sulick, City Manager Moss indicated that a resolution could be considered at the January 20 regular meeting to delineate any lowering of booth fees. Mr. Lykins indicated that the anticipated booth fee revenue had been anticipated at \$30,000 and that prior years at the \$10 fee had generated approximately \$20,000. He then recommended that should Council wish to approve the rollback, he would recommend the calendar year as a timeframe, and Mrs. Sulick pointed out that the matter could be revisited in October or November.

Consensus to consider revised vendor booth fees at January 20, 2010 regular meeting.

.....**ITEM 9**
COST ESTIMATES ASSOCIATED WITH FLORIDA FIRE PREVENTION CODE RETROFITS. The State of Florida Fire Code requires certain multi-family dwellings to meet current code requirements, such as the "hard-wiring" of smoke detectors. The Fire Chief will present estimated costs to meet specific Fire Code requirements for specific categories of multi-family dwellings. City Manager William Moss referenced the January 19 memorandum from Deputy Chief Stephen McInerny, Naples Police & Fire Department (NPF) (Attachment 6) which had provided estimated costs involved in complying with recently enacted Florida Fire Prevention Code provisions. These requirements include automatic elevator recall, fire alarm systems, hardwired smoke detectors and smoke-proof enclosures for condominiums. He further noted that representatives from the State Fire Marshal's office would attend the February 16 workshop; Mayor Barnett recommended that a time certain be established for the discussion. Deputy Chief McInerny pointed out that some of the estimates contained in his memorandum had been obtained from fire alarm companies as well as from condominium managers. He also clarified for Council Member Price that the full cost to City residents in retrofitting their buildings could however not be ascertained from the information he was able to assemble. Council Member Willkomm agreed, pointing out that even an average cost per unit would be impossible to achieve due to the differing designs of buildings and the specific retrofits mandated for each. Deputy Chief McInerny also confirmed for Council Member Sulick that while not all such buildings in the City would be in need of retrofits, inspections were still ongoing; his staff intended to work closely with residents to develop a plan for compliance, he added.

Council Member Price stated that apart from fire safety, the issue is the extent of financial impacts and how the City can aid its residents with compliance. He requested that the number of condominium buildings in the City be identified and pointed out that costs provided to him by one association had been a great deal higher than those reflected in the above memorandum (see

Attachment 6). Council Member Sulick cautioned that for the City to provide a cost per unit per size may in fact mislead residents since each structure and retrofit situation must be assessed differing costs. Council Member Willkomm also observed that an appeal process does exist should condominium associations find the retrofits too onerous.

Mayor Barnett stated that the February 16 discussion should provide answers to some of the questions being raised and agreed that the Council could not overturn state mandates; he however urged residents to join with other affected persons in voicing their opposition to state legislators.

Public Comment: (11:11 a.m.) **Bruce Sammut, 4001 Gulf Shore Boulevard, #1001, representing Surf's Edge Condominiums**, explained that the 112 owners had received a preliminary estimate of \$500,000, but cautioned that the final cost would most likely be much higher. This places a tremendous hardship upon these residents, he said. **Ed Duch, 4554 Gulf Shore Boulevard North, PH8, representing Esplanade Club**, explained that his 18-story, 30 year old building contains 122 units, pointing out that many retrofits had not been included in the above referenced memorandum (see Attachment 6), and cited that the estimated cost to his building would be \$6,000 to \$9,000 per unit. He further said that in his building alone, 380 louvered or not self-closing doors must be changed. **Ewing Sutherland, 4005 Gulf Shore Boulevard North**, pointed out that the mandated retrofits, when applied to the cinder-block structures in Florida, make no sense with regard to fire safety. The mandates result in an enormous cost to residents, many of which will prove unaffordable and place many condominiums into receivership with current economic conditions, he said. He stated that he had been working with others to draft a bill to be brought forward to the State Legislature for relief of the 2014 Rule (*requiring automatic fire sprinkler system installation in all high-rise buildings by December 31, 2014*) and requested that Council support this endeavor with local representatives and the Governor. **Hans Gruenberg, 1717 Gulf Shore Boulevard North, and President of the Gulf Shore Property Owners Association**, questioned any actual appeal process offered by the State since local violations would come before the City's Code Enforcement Board. He cautioned that how the new mandates are applied would also aid residents, referencing the issue of sprinklers versus positive pressure ventilation. Should residents decide to install the sprinkler systems by 2014, the ventilation issue becomes moot, he explained, but to make that decision now would not avail them to an accurate estimate of cost for a 2014 installation. **Doug Finlay, 3430 Gulf Shore Boulevard**, took issue with the cost estimates provided by staff (see Attachment 6), referencing the estimate he provided for Council (a copy of which is contained in the file for this meeting in the City Clerk's Office) for his building's retrofits of a new fire alarm system. The initial cost for the system, which was reviewed by City staff, had been \$37,000 but the final cost was almost \$90,000 due to uncertainty as to what retrofits were actually necessary. Many residents living on fixed incomes will not be able to afford the costs of these mandated retrofits, he concluded.

Mayor Barnett recommended that following the February 16 workshop, a small committee could be formed to work with staff to address this issue; Vice Mayor Taylor agreed, saying that communities must come together and create an organized opposition. Council Member Willkomm stated that a way must be found to legally challenge these unnecessary retrofits. Council Member Sulick stated that these rulings and their interpretations are moving targets and

definitive parameters are needed, and that the State Legislature must be made aware of the financial impacts to the residents.

Council Member Price reiterated his call for financial impacts to be ascertained, noting that the Lausanne Condominium had disclosed retrofit costs amounting to \$1,557,000 for 180 units, \$8,600 per unit, he added. Mr. Price also clarified that the types of costs provided by Lausanne had not been in the staff presentation, such as molding to cover the water pipes following their installation (\$150,000 for Lausanne), as well as consulting and engineering costs (\$120,000 for Lausanne). He agreed with the concept of conducting a workshop discussion on February 16 to facilitate the community's coming together to address the issues. Council Member Sorey suggested that the number of affected buildings, within certain categories, be ascertained and then a range of average cost be provided per retrofit. City Manager Moss responded that these mandates had been formulated by the National Fire Protection Association, a group not elected by voters. Rather than accept these rules without question, the Florida Legislature should take a stand, he said; he also suggested that staff obtain a copy of the bill referenced by Mr. Sutherland above and suggest a common sense approach of opposition.

In response to Council Member Heitmann, Deputy Chief McInerny explained that enforcement of the 2014 Rule is not an issue currently; it simply cannot be enforced until the December 31, 2014 deadline. The issue is current violations and how to achieve compliance since high-rise buildings must be fully sprinkled, and also have positive pressure ventilation or smoke-proof enclosures. He then agreed that further discussion could be undertaken during the February 16 workshop. Mr. Moss also noted for Mrs. Heitmann that he could see no way in which the City could obtain group bidding for the retrofits due to the assortment of retrofits needed and the varying designs of the structures.

Deputy Chief McInerny confirmed for Vice Mayor Taylor that, when possible, he and his staff use what discretion is available to them in application of the codes, explaining that some buildings are required to maintain fire hoses on each floor and staff is seeking relief of this as the fire department carries its own hoses. He also clarified for Council Member Sulick that while grandfathering of buildings is allowed in the building codes, it is not applicable to fire safety codes with regard to life safety issues; the fire code is amended every three years, he added.

Consensus to consider: 1) appointing a blue ribbon committee to meet with the Fire Chief to provide input with regard to strategies and 2) requesting the City Attorney to investigate any possible legal recourse. State Fire Marshal Office representatives to attend February 16 workshop; time certain to be scheduled.

Recess: 11:49 a.m. to 11:54 a.m. It is noted for the record that the same Council Members were present when the meeting reconvened.

2010-2011 BUDGET CALENDAR.....ITEM 10

The Budget Calendar is the first step to initiate preparation of the 5-year Capital Improvement Program (CIP) and the FY 2010-11 City Budget. It establishes target dates for preparation, submittal, review, public meetings, and adoption of the annual budget. (It is noted for the record that a copy of the budget calendar is contained in the file for this meeting in the City Clerk's Office.) City Manager William Moss pointed out the tentative April 13 date for an evening public meeting for interested residents to provide input.

Consensus to concur with dates as submitted.

BRIEFING BY CITY MANAGERITEM 11

(It is noted for the record that a copy of the City Manager’s report is contained in the file for this meeting in the City Clerk’s Office.) City Manager William Moss reviewed his report which included the December irrigation (reclaimed, reuse or alternative) water averaged chloride level of 262 mg/l and the monthly financial report. In response to Council, Mr. Moss recommended that the chloride level be reported on a quarterly basis in the future so long as it remains within an acceptable range. He also clarified for Council Member Heitmann that the increase in revenue generated under “Licenses & Permits” was due to the fact that additional items had been allocated to this line item and therefore an increase over the prior year was reflected; an explanation of the “Transfers in” would also be provided via e-mail, he added.

REVIEW OF 01/20/10 REGULAR MEETING AGENDAITEM 13

Council Member Price requested that Item 7-e (Coast Guard Auxiliary lease) and Item 7-g (watering truck budget amendment) be removed from the Consent Agenda for separate discussion. With regard to Item 7-f (irrigation water project budget amendment), Council Member Sulick requested a listing of potential connections. Item 17 (vendor booth fees) was added per Item 8 discussion above.

CORRESPONDENCE / COMMUNICATIONS

(12:04 p.m.) Council Member Sorey suggested that a reduction of solid waste service charges be considered in light of the positive cash flow into the Solid Waste Fund. Council Member Heitmann noted that due to the possible \$3-billion state deficit, the Southwest Florida Regional Planning Council (SFRPC), as well as others around the state, might be disbanded; this would result in municipalities becoming responsible for comprehensive plan reviews, she added. She also requested a report from Florida Power & Light (FPL) regarding a New Years Day power outage and reported that FPL had offered to fund engineering costs should neighborhoods wish to underground their utilities. Vice Mayor Taylor commended City Attorney Robert Pritt for his service to the City, which reflected fiscal responsibility and conservative advice to Council.

EXECUTIVE SESSIONITEM 12

(12:12 p.m.) Mayor Barnett announced that Council would enter into an executive session pertaining to labor negotiations between the City of Naples and Fraternal Order of Police (FOP) and FOP Supervisors’ Bargaining Unit, Lodge 38.

Executive Session: 12:12 p.m. to 12:44 p.m. It is noted for the record that the same Council Members were present when the meeting reconvened.

(12:44 p.m.) No action announced.

ADJOURN

12:44 p.m.

Bill Barnett, Mayor

Tara A. Norman, City Clerk

Minutes prepared by:

Vicki L. Smith, Technical Writing Specialist

Minutes Approved: 02/03/10



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MEMORANDUM

TO: HON. BILL BARNETT, MAYOR, & NAPLES CITY COUNCIL

FROM: ROBERT D. PRITT, CITY ATTORNEY

DATE: JANUARY 19, 2010

RE: HOMETOWN DEMOCRACY-AMENDMENT 4

CLIENT/MATTER: 106763.0001

Florida Constitutional Amendment 4, commonly called Hometown Democracy, will be on the November 2, 2010 ballot. It is designed to slow, or in some cases stop, growth and development.

The methodology is to require local governments to take comprehensive plan amendments to the voters at referendum elections for approval. The bet is that the developers and the cities and counties will only take the best developments and the best amendments to the voters at the risk of voter nullification. At the same time, many proposed developers will not seek amendments to the plan but will instead develop (if at all) in accordance with the current land use categories and plan regulations.

The effective ballot title and summary are deceptively simple:

BALLOT TITLE: REFERENDA REQUIRED FOR ADOPTION AND AMENDMENT OF LOCAL GOVERNMENT COMPREHENSIVE LAND USE PLANS.

BALLOT SUMMARY: Establishes that before a local government may adopt a new comprehensive land use plan, or amend a comprehensive land use plan, the proposed plan or amendment shall be subject to vote of the electors of the local government by referendum, following preparation by the local planning agency, consideration by the governing body and notice. Provides definitions.

Currently, comprehensive plans and amendments are regulated by the Growth Management Act of 1985 as amended (Ch. 163, Part II, Florida Stat.). In summary, they can be amended by local government ordinance, after local planning agency (LPA) review, with assent of the State of Florida Department of Community Affairs (DCA). Small-scale amendments do not need DCA approval. There are special notice and public hearing requirements.

MEMORANDUM

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The legal effect of an adopted plan or amendment is that any land development ordinances and any development orders/permits must be consistent with the adopted plan. It is already an arduous time-consuming and expensive first step in the permitting process to have to seek an amendment to a plan.

Requiring the applicant to go through a further step of a referendum election will add significantly to the already lengthy and expensive process, not to mention the unpredictability of the result.

Likely, that is the purpose of the Hometown Democracy initiative. By their nature, initiatives are themselves examples of a mistrust of the elected officials, bypassing them and going directly to the voter. Direct democracy is a trend and the result is more referenda questions on the ballot.

This technique is not new to Florida. Other cities, such as Cocoa, Sanibel, St. Petersburg Beach and Village of Key Biscayne have such limitations in their charters also.

Nor is it new to Naples. The charter initiative of 2000 (Codified as Sec. 14.1) placing height limits in commercial zoning districts is a local example of “hometown democracy”, in both purpose and effect. It was designed to be, and is (a) a limitation on council, (b) a growth management tool, (c) an override of comprehensive plan and land use (zoning) ordinances usually adopted through an arduous planning and zoning process, and (d) a requirement that could only be amended by a voter approval at a referendum. Its effect has been to limit height and the benefit or disadvantage (depending on point of view) attendant to it.

The opponents appear to fall into in two categories: (1) Those who are concerned about the economic effect, such as developers, builders, real estate professionals, chambers of commerce, etc., and (2) those involved in local governmental implementation of regulations and in permitting, such as city and county local governing bodies, and their planners and permitting administrators.

Interestingly, the Florida Legislature appears to be aloof. So far, it has adopted SB 216 (2009) which curbs the ability of local governments to expend public funds to take positions on such issues, even though they will have a major effect upon local governance. One might deduce that, since Amendment 4 only limits local government action, the state may fill the gap. This would have the effect of frustrating both Hometown Democracy and local control over development.

The Legislature presumably can also negate the effectiveness of Hometown Democracy by simply providing that development or other business (potable water, traffic, etc.) can be approved without consistency with a plan. It could indicate that a plan is of no consequence, and probably will, if it means that much to Florida’s economy.

MEMORANDUM

(PAGE 3 OF 3)

It is also likely that there will be greater pressure on the Legislature to approve special acts to approve important but potentially unpopular local projects, and another cottage industry will be born.

Are there other unintended consequences? It is likely that the Amendment will be more draconian to local governments than represented by (and perhaps anticipated by) the proponents. For example, currently, one of the required elements of the plan is the annual capital improvements budget. Does that have to be approved by the voters?

The Amendment language does not limit its scope to the future land use element only. There are many elements--future land use, housing, conservation and coastal management, transportation, public facilities and water management, parks, recreation and open space, intergovernmental coordination, capital improvements, concurrency management system—that comprise a comprehensive plan. After the scrutiny by the Florida Supreme Court, on multiple occasions already, including analysis of the potential effects, it is unlikely that there will be any narrowing of the scope of this simple proposal.

Will DCA continue to have a role in comprehensive planning? The ballot summary mentions local planning agencies, governing bodies and voters, but not DCA. Courts have been reluctant to invalidate local charters for failure to go through state-required planning review, so it is an open question.

Is there anything a local government can do now? Yes. **It is critical to review the current comprehensive plan to identify whether any changes are necessary, and to make changes now, before the election.** Unfortunately, many local governments have put a lot of unnecessary provisions in their plans. If Amendment 4 passes, they will be stuck with those provisions. There may be time to correct but not much.

One of the biggest mistakes made in comprehensive planning is failing to specify that only the required Goals, Objectives, and Policies are included in the adopted plan, and that the rest is only supporting data and analysis. Another is placing zoning or land development provisions in the plans (such as detailed regulations as to uses, heights, setbacks, coverage, etc.) that properly should be in the zoning ordinances, not in the comprehensive plan.

Recommendation: (1) Conduct a careful and immediate review of the comprehensive plan to determine whether there are amendments that should be made prior to November and implement those draft amendments right away. The process takes a lot of time due to DCA reviews. (2) Consider taking position on Amendment 4, by Resolution.

RDP

cc: A. WILLIAM MOSS, NAPLES CITY MANAGER
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Memo

Planning

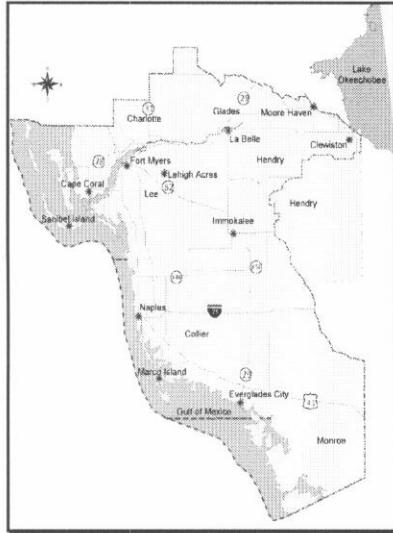
TO: A. William Moss, City Manager
FROM: Robin D. Singer, Planning Director
DATE: January 12, 2010
SUBJECT: Comprehensive Plan Amendments and Hometown Democracy

In the City Attorney's analysis of hometown democracy, he recommends that the City Council consider amending the comprehensive plan to remove policies that are not mandated by Statutes. While it is unclear how hometown democracy will specifically impact the amendment process, it could result in even minor amendments to the plan being required to be put to a vote. One example of how this process would impact residents would be if a neighborhood action plan were amended for one neighborhood it would require an affirmative vote of the majority of the voters in the City.

Many of the goals, objectives and policies in the comprehensive plan have been required through the initial growth management legislation or subsequent amendments. For example, limitations on density and intensity, the establishment of a concurrency management system, policies on natural resource protection, recommendations on historic preservation, policies to reduce greenhouse gas emissions, integration of the annual update to the capital improvement plan and the inclusion of a Water Supply Facilities Work Plan are all required in the plan. Others that the City has chosen to provide but are not required include the Vision, policies on mega houses, policies on commercial/residential buffering, an annexation policy, and neighborhood action plans.

Staff recommends that as part of the second round of amendments for this year, the City Council consider amendments to streamline the comprehensive plan. During the public hearings on the EAR based amendments, City Council members indicated an interest in discussing further amendments to the plans. Staff should meet with the individual members of City Council at their earliest convenience to discuss changes and prepare for a Workshop discussion of potential amendments in March. Staff is also in the process of meeting with the neighborhood associations to recommend changes to the neighborhood action plans. It would be logical to remove the neighborhood action plans from the comprehensive plan and create a separate neighborhood planning document that could be assessed and amended more frequently than is required for the comprehensive plan. The City should also look at amending or removing policies, such as those addressing mega houses and commercial/residential buffering, that have already been addressed in the code or where there is no intention of amending the code. The Vision and annexation policy are given more weight by including them in the plan and staff would recommend that those policies remain.

Lower West Coast Planning Area



Includes:

- Lee County
- Portions of Collier, Charlotte, Glades, Hendry and Monroe counties

Population

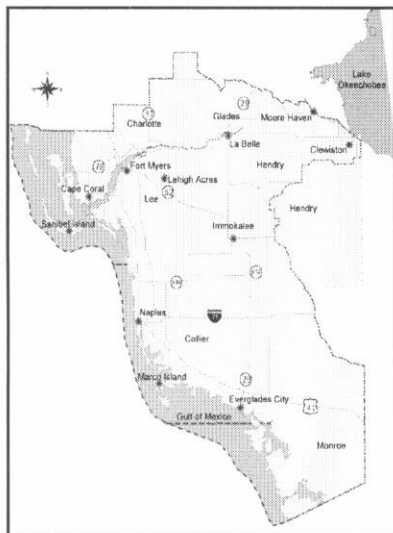
Planning Area

- 2005 - 920,000
- 2030 - 1,581,000*

* Projections being updated

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Lower West Coast Planning Area



Includes:

- Lee County
- Portions of Collier, Charlotte, Glades, Hendry and Monroe counties

Population

Planning Area

- 2005 - 920,000
- 2030 - 1,581,000*

* Projections being updated



Memo

Human Resources

Benefits • Labor Relations • Recruitment • Risk Management • Training

TO: A. William Moss, City Manager
THROUGH: Denise K. Perez, Human Resources Director
FROM: Lori P. Parsons, Risk Manager
DATE: January 5, 2010
SUBJECT: Employee Health Benefit Plan Overview

On Tuesday, January 19, 2010 City Council will be presented with an overview of the Employee Health Benefit Plan. Included in this overview will be a financial summary of the 2008 – 2009 plan year in comparison to prior years, as well as projections for the current 2009 – 2010 plan year.

Fiscal Year 2008-09 Plan Summary

In Fiscal Year 2008-09, two health plan options were made available to employees: A traditional Point of Service plan and a Consumer Driven Health Plan. Overall enrollment decreased 6% in the health plan over Fiscal Year 2007-08, attributed to workforce reduction. There were 447 employees enrolled of which 19.5% were in the Consumer Driven Health Plan.

Total claims paid were \$4,471,754, which is a 17% increase from plan year 2006-07 to 2008-09.

| Plan Year | Actual Claims Paid | Expected Claims Paid |
|-----------|--------------------|----------------------|
| 2008-2009 | \$4,471,754 | \$4,021,191 |
| 2007-2008 | \$4,143,881 | \$5,132,258 |
| 2006-2007 | \$3,822,849 | \$3,878,992 |

***actual claims paid does not include administrative fees**

The Plan year ended with thirty-two (32) claimants having medical and pharmacy paid claims in excess of \$25,000. Seven of these claimants had medical and pharmacy paid claims exceeding the specific deductible of \$100,000. With less employees enrolled than the last two years, the City ended the plan year with more claimants on the large claim report than either of the previous two plan years. However, the total large claims paid were 23% **less** than the total large claims paid from the previous year. Of the seven claimants that exceeded the \$100,000 specific deductible, only five are currently active.

While the initial enrollment in the Consumer Driven Health Plan was less than 20%, some positive trends began to develop during the plan year. The increase in the pharmacy co-pay structure (from \$10/\$20/\$35 to \$10/\$30/\$50) resulted in a reduction in pharmacy claims by 9.42%. In addition, there was a 38.5% increase in routine medical exams as a result of preventative care being paid at 100%. This increased utilization of preventative/routine

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January 5, 2010

services resulted in \$17,000 more in claims; however, the return on investment is significant considering the potential for early detection of chronic conditions.

Fiscal Year 2009-10 Plan Year

Fiscal Year 2009-10 began with 437 employees enrolled, of which 51% enrolled in the Consumer Driven Health Plan; a 151.68% increase over Fiscal Year 2008-09. In addition to the significant increase in enrollment in the Consumer Driven Health Plan, the following plan design changes were implemented October 1, 2009 as cost saving strategies:

- Change the \$25 co-pay for office visits, specialist visits, and urgent care to 85% coinsurance.
- Increase the out-of-network deductible from \$400/\$800/\$1,000 to \$800/\$1,600/\$2,000 and the out-of-network out-of-pocket maximum from \$1,500/\$1,750/\$2,000 to \$3,000/\$3,500/\$4,000.
- Change pharmacy co-payments from \$10 generic; \$30 brand formulary; and \$50 non-formulary to **coinsurance** percentages of 30% generic; 40% brand formulary; 50% non-formulary.

Increased participation in the Consumer Driven Health Plan combined with the above plan design changes is expected to have a significant impact on utilization and/or behavior patterns resulting in reduced claim costs. While too early to tell, there are a number of positive developments relating to downward plan trends. For instance, the per-employee-per-month cost for October and November 2009 was 4.2% above expected; compared to 25% above expected for the October and November 2008. In addition, the City started the 2009 – 10 plan year with one claimant on the large claim report (excess of \$25,000) versus five claimants on the large claims report at the end of November 2008.

Additional strategies being evaluated for implementation effective October 1, 2010 to include:

- Consider elimination of the Point of Service Plan and offer only the Consumer Driven Health Plan.
- Consider implementing a mandatory generic drug provision which requires the use of generic drugs when a generic alternative is available. Members would pay the difference between generic and brand/non-brand formulary costs if they elect a name brand drug when a generic equivalent is available.
 - ⇒ *Increasing the use of generic drugs remains one of the most effective ways for a plan to decrease the cost of the prescription drug benefit.*
- Consider elimination of pharmacy coinsurance (100% paid by the health plan) for preventative/maintenance drugs ordered through mail order at the generic and brand formulary tier. (Non-formulary preventative/maintenance drugs will be paid according to coinsurance).

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January 5, 2010

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- ⇒ *Studies show that high deductibles and out of pocket costs may discourage many individuals from purchasing maintenance medications and receiving treatment for chronic illness.*
 - ⇒ *Eliminating the pharmacy coinsurance for all preventative/maintenance drugs ordered through mail order compliments the City's efforts to provide routine preventative care at no cost to the member.*

Smoking continues to be an area for potential health improvements for employees. An estimated that 19% of City employees smoke and that the majority are long term employees who have smoked for years. Staff is uncertain as to whether an increase in health premiums for smokers will change employee behavior. In lieu of increased health insurance premiums for smokers at this time, the City may reduce healthcare costs in the long term, increase productivity and decrease absenteeism by adopting a hiring ban on smokers. New hires would be required to sign an affidavit indicating they have been smoke free for one year and undergo nicotine testing post offer, pre employment for confirmation. The estimated cost for nicotine testing is \$2,000 - \$3,000 per year.

Another strategy for consideration is to prohibit employees from smoking on all City property. Employees would be required to leave City property for smoke breaks and may find it inconvenient, thus reducing the number of smoke breaks throughout the day.

In addition to evaluating the cost effectiveness of the above strategies, employee benefit brokerage services (currently Aon Consulting) and third party claims administration services (currently CIGNA) will be competitively bid this year. A recommended award of contract will be presented in June.

**NAPLES CITY COUNCIL AGENDA MEMORANDUM**Workshop Meeting Date: January 19, 2010

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|---|----------|--|--|
| Agenda Item: | 9 | | Prepared By: Stephen R. McInerney II, Fire Chief |
| | | | Date: January 12, 2010 Department: Naples Police and Fire Department |
| SUBJECT: Florida Fire Prevention Code Compliance Costs | | | |
| <p>BACKGROUND: Councilman Price requested, and City Council concurred, that staff should develop an estimated cost to comply with the Florida Fire Prevention Code as it relates to low, mid and high-rise buildings. The following information was gathered by calling and speaking with property managers that had received quotes to comply with the specific codes below. Some managers shared the cost information and some opted not to share the information. In some cases, staff received pricing directly from the fire alarm companies. Cost information is as follows:</p> | | | |
| <u>AUTOMATIC ELEVATOR RECALL*</u> | | | |
| Mid-Rise (4-8 stories) | | | Per Unit Cost |
| 5 bids \$ 46,000 – 68,000 | 39 units | | \$1,180 - \$1,744 |
| \$42,875 | 21 units | | \$2,042.00 |
| \$10,000 | 18 units | | \$ 556.00 |
| \$11,500 | 40 units | | \$ 288.00 |
| \$17,000 | 36 units | | \$ 472.00 |
| *Prices vary on this item depending on the capabilities of the existing fire alarm panel. | | | |
| <u>FIRE ALARM SYSTEM</u> | | | |
| Low-Rise (1-3 stories) | | | Per Unit Cost |
| 3 bids \$ 70,000 – 80,000 | 34 units | | \$2,059 - \$2,353 |
| \$31,580 | 22 units | | \$1,435.00 |
| Mid-Rise (4-8 stories) | | | Per Unit Cost |
| \$100,000 | 52 units | | \$1,923.00 |
| \$68,500 | 64 units | | \$1,070.00 |
| \$39,500 | 31 units | | \$1,274.00 |

City of Naples

**NAPLES CITY COUNCIL AGENDA MEMORANDUM**Workshop Meeting Date: January 19, 2010

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|--|----------------|----------------------|
| Agenda Item: 9 | | |
| BACKGROUND (cont.): | | |
| High-Rise (Over 9 stories) | | Per Unit Cost |
| \$230,000 | 138 units | \$1,667.00 |
| \$80,000 (2 Bldg's, \$40,000 ea.) | 48 units | \$1,667.00 |
| \$29,000 | 36 units | \$ 806.00 |
| <u>HARDWIRED SMOKE DETECTORS</u> | | |
| Mid Rise (4-8 stories) | | Per Unit Cost |
| \$5,593 | 28 units total | |
| | 15 units | \$ 248.00 |
| | 13 units | \$ 144.00 |
| <u>SMOKEPROOF ENCLOSURE</u> | | |
| High Rise (Over 9 stories) | | Per Unit Cost |
| \$500,000 | 112 units | \$4,464.00 |
| Reviewed by Department Director Thomas Weschler | | |
| Reviewed by Finance N/A | | |
| Reviewed by City Manager A. William Moss | | |
| City Council Action: | | |