



City Council Chamber
735 Eighth Street South
Naples, Florida 34102

City Council Regular Meeting – February 3, 2010 – 8:28 a.m.

Mayor Barnett called the meeting to order and presided.

ROLL CALLITEM 1

Present:

Bill Barnett, Mayor
Penny Taylor, Vice Mayor

Council Members:

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

Also Present:

William Moss, City Manager
Robert Pritt, City Attorney
Tara Norman, City Clerk
Roger Reinke, Assistant City Manager
Vicki Smith, Technical Writing Specialist
Jessica Rosenberg, Deputy City Clerk
David Lykins, Community Services Director
Robert Middleton, Utilities Director
Paul Bollenback, Building Services Director
Thomas Weschler, Chief of NPF
Stephen Weeks, Technology Services Director
Roger Jacobsen, Code & Harbor Manager
Greg Givens, Grants Coordinator
Karen Ball, Accounting Manager
Joe Boscaglia, Parks & Parkways Superintendent
Ralph LaCivita, Comptroller
Denise Perez, Human Resources Director
Stephen McInerney, Deputy Chief of NPF
Robin Singer, Planning Director
Ann Marie Ricardi, Finance Director
Ronald Wallace, Streets & Stormwater Director
Michael Bauer, Natural Resources Manager
Douglas Finlay
Samuel Saad, III

Michael Harper
Kevin Rambosk
Lois Selfon
John Passidomo
Marvin Easton
Sue Smith
Jacques Groenteman
Murray Hendel
Lisa Swirda
Alan Ryker
Honorable Hugh D. Hayes
Margaret Bishop
Larry Obrecht
Karen Clawson
Halle Lamb
Corey Jones

Media:

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

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

Reverend Michael Harper, Naples Community Hospital.

ANNOUNCEMENTSITEM 3

Larry Obrecht, Former Commissioner of Oakland County, Michigan, presented a plaque to the City's current Grants Coordinator, Greg Givens. This was in recognition for Mr. Givens' efforts in acquiring grant funding for the 14.2-mile, non-motorized Polly Ann Trail. Mayor Barnett then read the following proclamations: Catholic Schools Week, January 31 through February 2; and designating February as "Bring a Book, Bring a Friend for Children's Literacy" month. He then read Resolution 10-12597 which honored Vice Mayor Taylor for her years of service and contributions to the City. (It is noted for the record that Miss Taylor served on the Council from 2000 to 2010.)

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

MOTION by Taylor to SET THE AGENDA adding Item 16 (extending the term of Council Member Price on Firefighters' Retirement Trust Fund Board); 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).

PUBLIC COMMENT.....ITEM 5

(8:45 a.m.) None.

CONSENT AGENDA

APPROVAL OF MINUTESITEM 6-a

January 19, 2010, Workshop and January 20, 2010, Regular meetings; as submitted.

SPECIAL EVENTS ITEM 6-b

1) West Coast Muscle Car Show – West Coast Muscle Car Club, Inc., - Renaissance Village site – Goodlette-Frank Road and US 41 – 02/27/10.

CLERK'S TRACKING 10-00001ITEM 6-c

APPROVE A PLAN TO REIMBURSE TECO / PEOPLES GAS FOR FRANCHISE FEES AND PUBLIC SERVICE TAXES PAID TO THE CITY IN ERROR. No statement read.

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

END CONSENT AGENDA

ORDINANCE 10-12598.....ITEM 7

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 City Attorney Robert Pritt (8:45 a.m.).

Public Comment: (8:46 a.m.) **Marvin Easton, 944 Spyglass Lane**, provided a brief update of the number of connections to the City's irrigation (reclaimed, reuse or alternative) water system to date and commended staff for its efforts in lowering the system's chloride level; he also praised Council for its consideration of public input while developing the rate schedule under discussion. Council Member Price thanked Mr. Easton for his contribution and proffered a motion of approval; Council Member Sulick seconded.

MOTION by Price to ADOPT ORDINANCE 10-12598 as submitted; seconded by Sulick and carried 6-1, all members present and voting (Heitmann-yes, Price-yes, Sorey-yes, Sulick-yes, Taylor-no, Willkomm-yes, Barnett-yes).

Vice Mayor Taylor noted her negative vote was the result of her belief that the rates, which had been brought forward by Mr. Easton, represented a conflict of interest as, in fact, he is a resident of the Port Royal neighborhood that was most benefited by the final general service user rates (lowered from \$0.82 to \$0.63 /1,000 gallons).

It is noted for the record that Items 8 and 9 were read and considered concurrently.

**RESOLUTION (Continued / see motion below)ITEM 8
A RESOLUTION APPROVING AMENDMENT NO. 1 TO SOUTH FLORIDA WATER
MANAGEMENT DISTRICT LOCAL GOVERNMENTAL AGREEMENT NUMBER
4600001679 TO ACCEPT A GRANT FOR STORMWATER IMPROVEMENTS WITHIN
BASIN V AND TO BE THE DISBURSING AGENT FOR THE NAPLES ZOO
PROJECT; AUTHORIZING THE CITY MANAGER TO EXECUTE THE
AMENDMENT; AND PROVIDING AN EFFECTIVE DATE.**

**RESOLUTION (Continued / see motion belowITEM 9
A RESOLUTION APPROVING AN AGREEMENT WITH THE NAPLES ZOO, INC.
ALLOWING THE CITY TO ACT AS AGENT BETWEEN THE SOUTH FLORIDA
WATER MANAGEMENT DISTRICT AND THE NAPLES ZOO FOR DISBURSEMENT
OF GRANT FUNDS FOR A NAPLES ZOO PROJECT TO CONVERT AN EXISTING
SEPTIC DISPOSAL SYSTEM TO THE CITY’S SANITARY SEWER SYSTEM;
AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND
PROVIDING AN EFFECTIVE DATE.** Titles read by City Attorney Robert Pritt (8:49 a.m.). Council Member Sorey indicated that he would abstain from voting on Item 9 due to his membership on the Naples Zoo Board of Directors, as well as an agreement as a consultant. Streets & Stormwater Director Ron Wallace, provided a brief overview of the two agreements as contained in the memorandums dated January 11 by Gregg Strakaluse, Engineering Manager (Attachments 1 and 2, referencing Items 8 and 9 respectively). The first amended agreement (Item 8) involves the City accepting a South Florida Water Management District (SFWMD) grant in the amount of \$1,050,000 for stormwater improvements within Basin V; \$50,000 of this funding amount is to be disbursed to the Naples Zoo to convert from a septic disposal system to the City’s sanitary sewers. The City’s improvements are currently under construction with completion expected within six months, Mr. Wallace reported.

Council Member Sorey expressed appreciation to the SFWMD, as well as the Big Cypress Basin and its Director, Clarence Tears, for continued support of City stormwater projects. Council Member Price agreed, but questioned the City’s role as disbursing agent for the \$50,000 designated for the Zoo. Referencing the applicable agreement (a copy of which is contained in the file for this meeting in the City Clerk’s Office), he cited Paragraph 4(c) as follows:

“City of Naples agrees, represents and warrants the following: The property underlying the (the Zoo’s) Project , and all uses of said property, have been and presently are in compliance with all Federal, State and Local environmental laws; that no hazardous substances have been generated, stored, treated or transferred on the property...”.

Since Collier County owns the subject property, Mr. Price therefore questioned disbursement to an entity other than the County and further expressed concern with regard to the City’s liability in light of the above cited provision. Mr. Wallace indicated that since the Naples Zoo is not a

qualified recipient under SFWMD regulations, the Big Cypress Basin Board had recommended that the funds be disbursed via the City. He also noted that a similar conveyance had occurred between Collier County and The Conservancy of Southwest Florida with the County acting as disbursement agent for filter marsh funding (see Attachment 2). City Attorney Pritt confirmed that he would in fact advise caution but that Council must weigh the need of the grant funding against the possible risks identified by Mr. Price. Assurances should be obtained from the Zoo with regard to the condition of the property, he added, although this may put the grant at risk. Mr. Price further observed that such conditions are usually placed upon the party receiving the funding and in this instance, the City is merely the distributor of the \$50,000 and should not be requested to warrant the condition of the property whatsoever. The SFWMD will consider the City as the receiver, if only for the time it takes to finalize the transfer, Mr. Pritt explained.

Council Member Sulick questioned whether the County, as owner of the property, should be responsible for affirming that the soil condition is not hazardous. Vice Mayor Taylor further noted that the cost to rectify hazardous conditions, should they be found, would greatly exceed the \$50,000 in grant monies under discussion. Mr. Pritt explained that as the owner of the property, Collier County would be responsible for any remediation, but the City would be liable for the \$50,000. In addition, he clarified that although the County had once been included as a party, the nature of the grant made it necessary for the City and the Zoo to be the parties to the agreement.

Mr. Sorey however stressed the critical nature of the project and the need of the Zoo, as a not-for-profit, for grant funding to complete its connection to the City's sanitary sewer system. Furthermore, he said that he believed a Phase I Environmental Assessment had been completed when the County acquired the property. *(It is noted for the record that a Phase I Environmental Assessment includes: a site inspection; interviews with owners, occupants, environmental agencies and neighboring properties; review of environmental databases; analysis of local geologic conditions; and review of historical records for the subject property / its intent is to determine if there are any known or potential significant environmental liabilities at the property.)* Collier County Project Manager Margaret Bishop stated she too believed that the property had undergone the assessment. She also said that she had been involved in the aforementioned disbursement of grant funding from the SFWMD to the County, who had then disbursed the funds to the Conservancy without incidence.

Public Comment: (9:02 a.m.) **Sue Smith, 11th Avenue South**, agreed with Council Member Price's concern, stating that she believed the language of the agreement should be revised with more definitive statements as to the City's liability.

Discussion continued as to the language of the agreement between the City and the Zoo (Item 9) during which City Manager William Moss pointed out the possibility of the City altering its grant amount by a \$50,000 increase, following which it would transfer the additional funding to the Zoo. Mr. Wallace then suggested moving the language contained in 4(c) to paragraph 6, which is the heading under which the Zoo's warranties are positioned. Mayor Barnett agreed with the latter and suggested continuing the items to the February 17 meeting to allow time for review of the necessary revisions by all parties; Vice Mayor Taylor agreed and proffered the motion reflected below.

Mr. Wallace then explained that with regard to 4(d), the Zoo would be required to obtain permitting from the City for the connection to its sewer system. Utilities Director Robert Middleton further clarified that as a private lift station, the Zoo would retain control of its construction although City staff would review and approve the plans with regard to possible impact to the City's system. Council Member Price requested that this provision be reviewed along with the above noted 4(c), and Mr. Wallace pointed out that he believed this agreement had been fashioned after the aforementioned agreement between the County and the Conservancy, and that its revision should not create any issues.

MOTION by Taylor to CONTINUE ITEMS 8 AND 9 TO THE FEBRUARY 17, 2010 REGULAR MEETING; 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).

Recess: 9:14 a.m. to 9:22 a.m. It is noted for the record that the same Council Members were present when the meeting reconvened and the concurrent reading and consideration of Items 10-a and 10-b commenced.

RESOLUTION 10-12599.....ITEM 10-a
A RESOLUTION DETERMINING VARIANCE PETITION 09-V09 FROM SECTIONS 58-174, 58-175 AND 58-176 OF THE CODE OF ORDINANCES, CITY OF NAPLES, ALLOWING THE SUBDIVISION OF PROPERTY RESULTING IN A LOT THAT IS APPROXIMATELY 8,333 SQUARE FEET IN AREA WHERE A MINIMUM LOT AREA OF 10,000 SQUARE FEET IS REQUIRED, ALLOWING THE LOT TO BE 62.5 FEET IN WIDTH WHERE A MINIMUM LOT WIDTH OF 75 FEET IS REQUIRED AND ALLOWING THE EXISTING STRUCTURES TO REMAIN APPROXIMATELY 7 FEET FROM THE NEWLY CREATED PROPERTY LINE WHERE A 7.5 FOOT SIDE SETBACK IS REQUIRED IN THE R1-10 RESIDENCE DISTRICT, LOCATED AT 1160 GORDON DRIVE, MORE FULLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.

RESOLUTION 10-12600..... ITEM 10-b
A RESOLUTION DETERMINING PETITION 10-SD1 FOR PRELIMINARY AND FINAL PLAT APPROVAL TO REPLAT APPROXIMATELY 0.46 ACRES OF DEVELOPED PROPERTY, CONSISTING OF FOUR EXISTING PLATTED LOTS IN A NORTH SOUTH CONFIGURATION, TO CREATE TWO PLATTED LOTS IN AN EAST WEST CONFIGURATION, LOCATED AT 1160 GORDON DRIVE, MORE FULLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Titles read by City Attorney Robert Pritt (9:22 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, Sulick and Price/visited the site with petitioner and petitioner's agent; Barnett/familiar with the site and spoke with petitioner's agent; Taylor/familiar with the site but no contact; Heitmann/familiar with the site and spoke with petitioner's agent; and Sorey/visited the site with petitioner's agent. Planning Director Robin Singer provided a brief overview of the petitions, noting that, if approved, the four existing north-south, 33-foot wide lots would be re-platted into two, east-west orientated lots (s 3). The newly created northernmost lot would meet lot width and area requirements, but the southern lot requires a variance as explained in the staff memorandum dated January 20 (Attachment 4).

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) wherein he explained that the existing structures date to the 1900's and are considered to be of historical importance, therefore, the petitioner's intent is to create the two lots to allow the marketing of the northern lot and, with the proceeds, to continue maintaining the small cottages on the southern lot. Additionally, he said, it is hoped that a new owner would retain the existing main structure due to its historical significance. Should the replat not be approved, Mr. Passidomo said, the petitioner would be forced to sell all four lots as one parcel. This would most probably result in redevelopment or subdivision into two, north-south lots; in either scenario, demolition of the main structure would result. He noted that staff and the Planning Advisory Board (PAB) had recommended approval, and that the petitioner had agreed to the conditions set forth by the PAB as contained in Attachment 4 (Page 2). He further clarified for Vice Mayor Taylor that with the replat, only two buildable lots would be created without additional density due to the fact that since the three existing structures house five transient lodging units, they are considered non-conformities and could not be replaced. In further response to Vice Mayor Taylor, Mr. Passidomo stated that the petitioner could not agree to imposing a restrictive covenant with regard to retaining the existing structures due to the economics involved and reiterated the hope that with the replat, the northern parcel could then be marketed to those interested in retaining and renovating the main structure.

While agreeing with Vice Mayor Taylor's concerns, Council Member Sorey also pointed out that Section 2(c) of the resolution (Item 8/a copy of which is contained in the file for this meeting in the City Clerk's Office) states that should the existing structures be demolished, any reconstruction would have to comply with the then current Code of Ordinances requirements. Council Member Sulick expressed her full support of the replat as a creative way in which to attempt to preserve the character of the area, and moved approval; Council Member Price seconded.

Public Comment: (9:42 a.m.) **Sue Smith, 11th Avenue South**, a nearby resident, cautioned that variances should be granted carefully and only with the intent of maintaining the character of the Old Naples area. Mrs. Sulick pointed out that since the City has no historic preservation ordinance, at times variances are however the only means available to aid property owners wishing to save at least the exterior appearance of their historic structures. Mrs. Smith then stated her strong and continuing opposition to any regulations that would impose regulations that would allow developers of property to misuse credits given for such historic preservation in order to do such things as invade protected wetlands for development. Council Member Price noted Mrs. Smith's past vocal opposition and Mrs. Smith further clarified that as an owner of a historic structure, she would however be most willing to discuss options for continued preservation with Council Members and staff.

Vice Mayor Taylor continued to voice opposition in granting the requested subdivision and variance in order to aid in selling a property; she also maintained that this particular parcel had been on the market for years, even without the above referenced deed restrictions. Attorney Passidomo contended that the property could be sold as one parcel, contending that the best opportunity to maintain the character of the property while allowing the owners to continue maintenance of the two small cottages is the course of action proposed. Mr. Passidomo also cited maintaining the character of the community as a goal of the City's Comprehensive Plan.

He said he would however be willing to discuss any other means of preservation, other than deed restrictions.

City Manager William Moss noted the inadvertent omission of the PAB meeting minutes in the Council information packet and that, due to a provision in the Code, a brief recess was called to allow staff to provide the document.

Recess: 10:02 a.m. to 10:04 a.m. It is noted for the record that the same Council Members were present when the meeting reconvened and consideration of Items 10-a and 10-b continued.

The January 13, 2010 PAB meeting minutes were presented and entered into the record of the meeting and Vice Mayor Taylor noted that Council had indeed received the PAB January 13 minutes via e-mail; the actions reflected below were then taken by Council.

MOTION by Sulick to APPROVE RESOLUTION 10-12599 as submitted; seconded by Price and carried 6-1, all members present and voting (Taylor-no, Willkomm-yes, Sorey-yes, Sulick-yes, Heitmann-yes, Price-yes, Barnett-yes)

MOTION by Willkomm to APPROVE RESOLUTION 10-12600 as submitted; seconded by Price and carried 6-1, all members present and voting (Heitmann-yes, Price-yes, Sorey-yes, Sulick-yes, Taylor-no, Willkomm-yes, Barnett-yes).

**ORDINANCE 10-12601.....ITEM 11
AN ORDINANCE RELATING TO FENCES AND WALLS; AMENDING SECTION 56-37(b)(1) AND SECTION 56-54(a), OF THE CODE OF ORDINANCES, CITY OF NAPLES, TO PROVIDE FOR POOL SAFETY FENCES, CLARIFY THE BASE POINT OF MEASUREMENT AND ADDRESS RETAINING WALLS; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.**
Title read by City Attorney Robert Pritt (10:06 a.m.).

Public Comment: (10:07 a.m.) None.

MOTION by Sorey to ADOPT ORDINANCE 10-12601 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).

**ORDINANCE 10-12602.....ITEM 12
AN ORDINANCE RELATING TO EXCEPTIONS TO HEIGHT LIMITATIONS; AMENDING THE DEFINITION OF ARCHITECTURAL EMBELLISHMENT IN SECTION 44-8, DEFINITIONS, AND AMENDING SECTION 56-39(a), HEIGHT REQUIREMENTS, EXCEPTIONS THERETO, OF THE CODE OF ORDINANCES, CITY OF NAPLES, FOR THE PURPOSE OF CLARIFYING EXCEPTIONS TO THE HEIGHT LIMITATIONS; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.** Title read by City Attorney Robert Pritt (10:07 a.m.).

Public Comment: (10:07 a.m.) None.

MOTION by Price to ADOPT ORDINANCE 10-12602 as submitted; seconded by Heitmann and unanimously carried, all members present and voting (Heitmann-yes, Price-yes, Sorey-yes, Sulick-yes, Taylor-yes, Willkomm-yes, Barnett-yes).

ORDINANCE 10-12603.....ITEM 13
AN ORDINANCE RELATING TO EXPEDITED REVIEW OF PETITIONS AND REQUESTS FOR PERMITS; ADDING A NEW DIVISION 5, EXPEDITED REVIEW, REVIEW OF DETERMINATION, TO ARTICLE III, OFFICERS AND EMPLOYEES, TO CHAPTER 2 OF THE CODE OF ORDINANCES, CITY OF NAPLES; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (10:08 a.m.).

Public Comment: (10:08 a.m.) None.

MOTION by Taylor to ADOPT ORDINANCE 10-12603 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).

CLERK'S TRACKING 10-00000ITEM 14
AWARDING A CONTRACT FOR THE CONSTRUCTION OF A FILTER MARSH TO IMPROVE THE WATER QUALITY OF STORMWATER RUNOFF ENTERING NAPLES BAY: \ VENDOR: PALM BEACH MARINE CONSTRUCTION, INC., WEST PALM BEACH, FLORIDA \ COST: \$404,846.35 \ FUNDING: FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (FDEP) GRANT, SOUTH FLORIDA WATER MANAGEMENT DISTRICT (SFWMD) GRANT, AND THE STORMWATER BUDGET. Statement read by City Attorney Robert Pritt (10:08 a.m.). Natural Resources Manager Michael Bauer provided a brief overview of the project and explained for Council Member Sulick that the majority of contaminants filtered out of the stormwater is absorbed by the plants, which are then replaced over time when needed.

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

MOTION by Taylor to APPROVE ITEM 14 as submitted; seconded by Willkomm and unanimously carried, all members present and voting (Heitmann-yes, Price-yes, Sorey-yes, Sulick-yes, Taylor-yes, Willkomm-yes, Barnett-yes).

RESOLUTION 10-12604.....ITEM 16
A RESOLUTION EXTENDING THE TERM OF COUNCIL MEMBER GARY PRICE AS AN EX OFFICIO MEMBER TO THE BOARD OF TRUSTEES OF THE FIREFIGHTERS' RETIREMENT TRUST FUND UNTIL FEBRUARY 16, 2010, AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (10:11 a.m.).

Public Comment: (10:11 a.m.) None.

MOTION by Barnett to APPROVE RESOLUTION 10-12604 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.....
(10:11 a.m.) None.

CORRESPONDENCE AND COMMUNICATIONS.....
(10:12 a.m.) Council bade farewell to Vice Mayor Taylor and Council Member Willkomm, thanking them for their service to the community. Council Member Sulick noted staff's timely response to the recent fish kill which occurred in Lantern Lake (located in Port Royal).

Recess: 10:22 a.m. to 12:00 p.m. It is noted for the record that Vice Mayor Taylor and Council Member Willkomm left the meeting at 10:22 a.m. and did not return.

.....**ITEM 15**
SWEARING IN OF NEWLY ELECTED COUNCIL MEMBERS BY HONORABLE
HUGH D. HAYES, 20TH JUDICIAL CIRCUIT. Honorable Hugh D. Hayes administered the
oath of office to re-elected Council Member Gary Price, and newly elected Council Members
Douglas Finlay and Samuel Saad.

ADJOURN.....
12:06 p.m.

Bill Barnett, Mayor

Tara A. Norman, City Clerk

Minutes prepared by:

Vicki L. Smith, Technical Writing Specialist

Minutes Approved: 02/17/10



NAPLES CITY COUNCIL AGENDA MEMORANDUM

Regular Meeting Date: February 3, 2010

Agenda Section:	Regular	Prepared By: Gregg Strakaluse, Engineering Manager
Agenda Item:	8	Date: January 11, 2010 Department: Streets and Stormwater
		Legislative <input checked="" type="checkbox"/> Quasi-Judicial <input type="checkbox"/>
SUBJECT:		
Resolution to approve Amendment No. 01 to South Florida Water Management District's Local Government Agreement No. 4600001679 to add an additional \$1,050,000 in matching grant funds for stormwater improvements within Basin V and for the Naples Zoo sanitary sewer project.		
SUMMARY:		
City Council is asked to consider a Resolution to approve Amendment No. 01 to Agreement No. 4600001679 between the City of Naples and South Florida Water Management District (the District) in the amount of \$1,000,000 in matching grant funds for water quality and flood mitigation improvements within Drainage Basin V and to act as the disbursement agent for \$50,000 to the Naples Zoo to offset costs for conversion of an existing septic disposal system to the City's sanitary sewer system for a total of \$1,050,000.		
BACKGROUND:		
<p>In accordance with the City's Stormwater Master Plan, staff has been working to improve water quality and drainage within Basin V. Basin V is generally known as that area south of Creech Road, north of 6th Avenue North, west of Goodlette-Frank Road, and east of U.S. 41. The system has been hydraulically modeled to help better define deficiencies in order to recommend a specific approach for stormwater system improvements throughout the Basin. The intent of the improvements is to provide a level of service that keeps roads passable during a 5-year, 24-hour storm event (6.6 inches of rainfall). The improvements have been divided into phases based upon permitability and available funding. Initial construction improvements included swale creation and restoration, as well as the installation of new storm sewer pipe, inlets and junction boxes. The District has allocated an additional \$1,000,000 in matching grant funds to the City of Naples for this fiscal year for a total Agreement value for stormwater improvements of \$1,750,000.</p> <p>The District has also identified another project within Basin V which the Naples Zoo is ready to fund and construct. This project would eliminate an existing septic disposal system and connect to City sewer at an estimated cost of \$132,550. In order for the Naples Zoo to receive a \$50,000 contribution from the District, the District must remit payment to a qualified recipient such as the City of Naples (see Section 2 a of the Agreement). At the suggestion of the Big Cypress Basin, the City of Naples would serve only as a disbursing agent to accommodate the transfer of funding from the District to the Naples Zoo. This type of arrangement has previously been demonstrated when Collier County acted as the disbursing agent for the Conservancy of Southwest Florida for construction of a filter marsh. The arrangement will be formalized through an Agreement between the City and the Naples Zoo during the February 3, 2010 City Council Regular meeting.</p> <p>Finally, the Amendment also extends the term of the Agreement through September 9, 2010. The</p>		

City of Naples



NAPLES CITY COUNCIL AGENDA MEMORANDUM

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BACKGROUND (cont.):

grant requires that only 50% of construction be completed before the City can receive full disbursement of grant funds, while it continues with completion of the project.

FUNDING SOURCE:

City matching funds for Basin V are available in Basin V Stormwater Improvements – Capital Improvement Project 10V26 in the amount of \$1.2 million.

The Naples Zoo has committed matching funds for their project. There is no fiscal impact to the City by acting as a disbursing agent on behalf of the SFWMD and the City has no financial responsibility for construction of the sewer system connection at the Zoo.

Section 3 of the budget ordinance states that acceptance of a grant automatically amends the budget. Therefore, this acceptance will amend the Capital Improvement Budget, Project 10V26, by receiving \$1,050,000 in revenue from the District.

RECOMMENDED ACTION:

Adopt a Resolution to approve Amendment No. 01 to Agreement No. 4600001679 between the City of Naples and South Florida Water Management District (the District) in the amount of \$1,000,000 in matching grant funds for water quality and flood mitigation improvements within Drainage Basin V and to act as the disbursement agent for \$50,000 to the Naples Zoo to offset costs for conversion of an existing septic disposal system to the City's sanitary sewer system for a total of \$1,050,000.

Reviewed by Department Director
Ron Wallace

Reviewed by Finance
Ann Marie Ricardi

Reviewed by City Manager
A. William Moss

City Council Action:



NAPLES CITY COUNCIL AGENDA MEMORANDUM

Regular Meeting Date: February 3, 2010

Agenda Section:	Regular	Prepared By: Gregg Strakaluse, Engineering Manager
		Date: January 11, 2010
		Department: Streets and Stormwater
Agenda Item:	9	Legislative <input checked="" type="checkbox"/> Quasi-Judicial <input type="checkbox"/>
SUBJECT:		
Resolution to approve an Agreement with the Naples Zoo, Inc. in order to allow the City to act as an agent between South Florida Water Management District and the Naples Zoo for disbursement of \$50,000 in grant funds		
SUMMARY:		
City Council is asked to consider a resolution approving an Agreement between the City and Naples Zoo, Inc., allowing the City to act as an agent between South Florida Water Management District and the Naples Zoo for disbursement of grant funds in the amount of \$50,000 for a Naples Zoo project to convert an existing septic disposal system to the City's sanitary sewer system.		
BACKGROUND:		
<p>The South Florida Water Management District (the District) has approved Amendment No. 1 to the City's existing Agreement No. 4600001679 to add funding in the amount of \$1,050,000 for improvements within Basin V. Of the \$1,050,000, the City has been allocated \$1,000,000 towards stormwater system improvements, and the Naples Zoo has been allocated \$50,000 to offset an estimated cost of \$132,550 for conversion of an existing septic disposal system to the City's sanitary sewer system. The District can only contribute funds to a qualified recipient, such as the City of Naples, and not directly to the Naples Zoo. At the suggestion of the Big Cypress Basin, the City of Naples would serve only as a disbursing agent to accommodate the transfer of funding from the District to the Naples Zoo. This type of arrangement has been previously demonstrated when Collier County acted as the disbursing agent for the Conservancy of Southwest Florida for construction of a filter marsh.</p> <p>In order to formalize the City's role, staff has developed the attached Agreement between the City and the Naples Zoo. The Agreement only provides for the City to transfer documentation from the Naples Zoo to the District demonstrating that the project has been completed. The District will then disburse funding to the City for transfer to the Zoo in the amount received. The City has no responsibility, liability or authority for managing, constructing, or operating the Naples Zoo project. This arrangement does not impede or otherwise affect the District's Agreement with the City to fund up to \$1,000,000 towards the completion of stormwater improvements in Basin V.</p>		
FUNDING SOURCE:		
There is no fiscal impact to the City by acting as a disbursing agent on behalf of the District		

City of Naples



NAPLES CITY COUNCIL AGENDA MEMORANDUM

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RECOMMENDED ACTION:

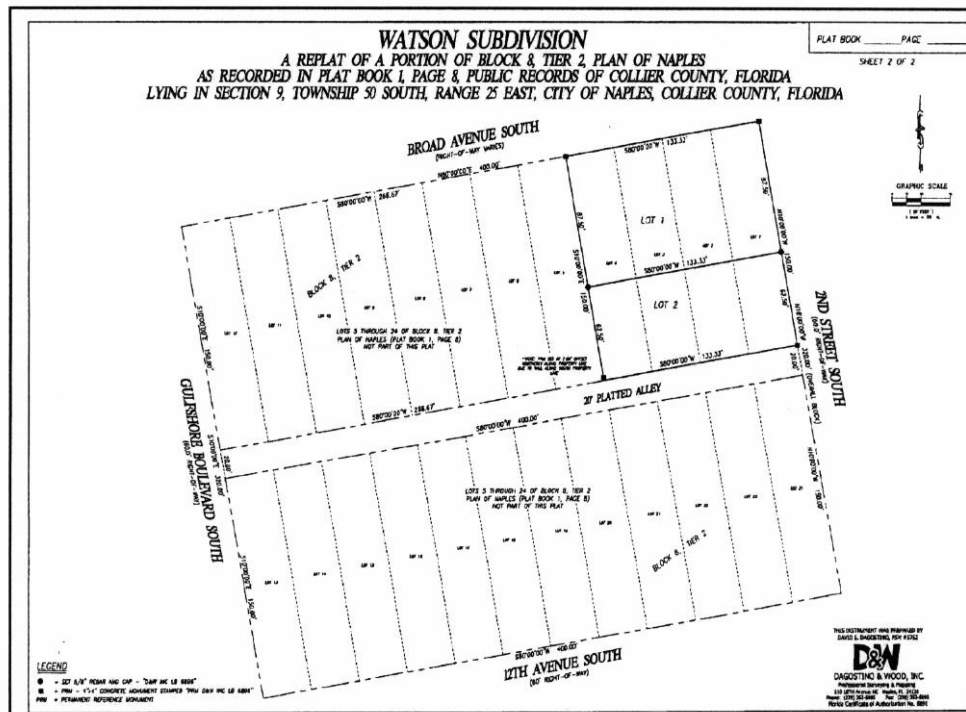
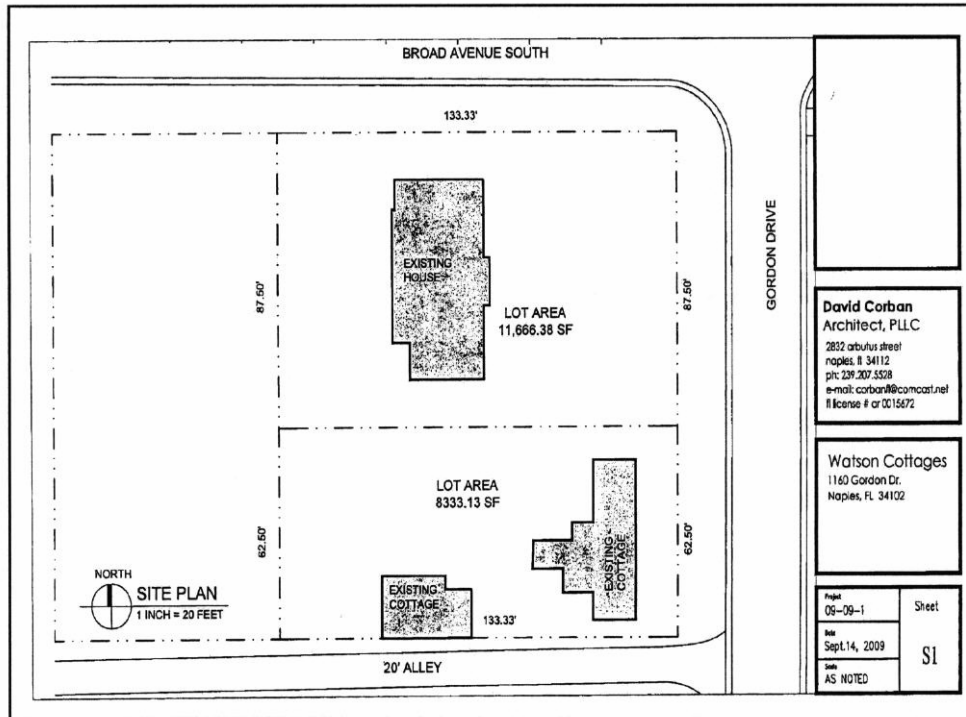
Adopt a resolution approving an Agreement between the Naples Zoo, Inc. and the City of Naples that allows the City to act as an agent between South Florida Water Management District and the Naples Zoo for disbursement of grant funds in the amount of \$50,000 for a Naples Zoo project to convert an existing septic disposal system to the City's sanitary sewer system.

Reviewed by Department Director
Ron Wallace

Reviewed by Finance
Ann Marie Ricardi

Reviewed by City Manager
A. William Moss

City Council Action:





NAPLES CITY COUNCIL AGENDA MEMORANDUM

Regular Meeting Date: February 3, 2010

Agenda Section:	Regular	Prepared By: Robin Singer, Director
Agenda Item:	10 (a) and (b)	Date: January 20, 2010 Department: Planning
		Legislative <input type="checkbox"/> Quasi-Judicial <input checked="" type="checkbox"/>
SUBJECT: Public Hearings to consider two Resolutions: (a) Resolution determining Variance Petition 09-V9 to allow a subdivision resulting in a reduced setback, lot size and lot width; and (b) Resolution determining Subdivision Petition 10-SD1 for preliminary and final plat approval to allow the creation of two platted lots in an east west orientation on property located at 1160 Gordon Drive.		
SUMMARY: City Council is asked to consider the following: (a) A resolution determining Variance Petition 09-V9 to grant a variance from Sections 58-174, 58-175 and 58-176 in order to allow the subdivision of property resulting in a lot that is approximately 8,333 square feet in area where a minimum lot area of 10,000 square feet is required, to allow the lot to be 62.5 feet in width where a minimum lot width of 75 feet is required, and to allow the existing structures to remain approximately seven feet from the newly created property line where a 7.5 foot side setback is required in the R1-10 Residence District; and (b) A resolution determining Subdivision Petition 10-SD1 granting preliminary and final plat approval in order to re-plat approximately .46 acres of developed property, consisting of four existing platted lots in a north south orientation, to create two platted lots in an east west orientation; on property located at 1160 Gordon Drive. In that this is a Quasi Judicial matter, disclosures and the swearing in of those giving testimony are required.		
BACKGROUND: The subject property is a .46 acre parcel that is located in the R1-10 single family district. The property is currently developed with three structures containing a total of five units. The property is within the City's historic district and the existing buildings, built in the early 1900's, are considered historic, contributing structures according to the historic district map. The property owners would like to subdivide the property into two lots facing Gordon Drive with the expressed intent that the properties could be sold and the existing structures may be retained. The property currently consists of four platted lots facing Broad Avenue South each approximately 33.33 feet in width. According to Section 54-5 governing the splitting of single family lots, the property could be divided along the existing platted lot lines, but that would result in the demolition of the structures. The proposed split would provide a corner property that conforms to lot width and area requirements. The resulting south property would not conform to lot width or area requirements. The proposed lot line would result in a seven foot side setback to a covered patio on the existing structure where a 7.5 foot side setback is required. The rear structures are already nonconforming as to setbacks and the proposed		

City of Naples



NAPLES CITY COUNCIL AGENDA MEMORANDUM

Regular Meeting Date: February 3, 2010

Page Two

Agenda Item:

10 (a) and (b)

BACKGROUND (cont.):

split will not increase the degree of nonconformity. In the event that the two properties were later redeveloped, one single family home would be permitted on each lot and the allowable density permitted in the comprehensive plan would not be exceeded.

File Reference: 09-V9 and 10-SD1

Petitioner: Gordon R. Watson, II and Pamela S. Watson, Trustees

Agent: John M. Passidomo

Location: 1160 Gordon Drive

Zoning: R1-10

The Planning Advisory Board reviewed both the variance and subdivision request at their January 13, 2010 meeting and voted 7-0 to recommend approval. Following the board meeting, staff has continued to work with the petitioner's agent and the City Attorney to refine and revise the plat language and conditions of approval. The conditions of approval should read as follows:

1. Building reconstruction must comply with controlling zoning regulations as and to the extent required by the Naples Code.
2. At or prior to filing in the Collier County Public Records of a deed indicating that fee simple title to Lots 1 and 2 is held separately (the "Date of the Conveyance"), the then owners of Lots 1 and 2 shall provide written notice thereof to the City Manager so that the City can take whatever action in deems appropriate under the Naples Code and:
 - a. Each lot shall meet setback and parking requirements in effect at the Date of the Conveyance, except for existing nonconforming yards for Lot 2 and the newly created side yard for Lots 1 and 2 approved by the City under Variance 09-V9.
 - b. Each lot shall meet its individual utility and access requirements in effect at the Date of the Conveyance.
 - c. Variance 09-V9 applies only to existing conditions on resulting Lot 1 and Lot 2. Individual lot re-development will require compliance with all current zoning and building requirements in the Naples Code.
 - d. Access requirements for existing or future conditions on Lot 2 shall comply with the current requirements in the Naples code on or after the Date of the Conveyance. Utility requirements may be fulfilled by either the construction of new facilities at the street alley frontage and/or the establishment of easement(s) across Lot 2.



NAPLES CITY COUNCIL AGENDA MEMORANDUM

Regular Meeting Date: February 3, 2010

Page Three

Agenda Item:		
10 (a) and (b)		
RECOMMENDED ACTION:		
Two Resolutions relating to property located at 1160 Gordon Drive.		
<p>(a) Public Hearing to adopt a resolution determining Variance Petition 09-V09 from Sections 58-174, 58-175 and 58-176 of the Code of Ordinances, in order to allow the subdivision of property resulting in a lot that is approximately 8,333 square feet in area where a minimum lot area of 10,000 square feet is required, to allow the lot to be 62.5 feet in width where a minimum width of 75 feet is required and to allow the existing structures to remain approximately seven feet from the newly created property line where a 7.5 foot side setback is required in the R1-10 Residence District; and</p>		
<p>(b) Public Hearing to adopt a resolution determining Petition 10-SD1 for preliminary and final plat approval in order to replat approximately .46 acres of developed property, consisting of four existing platted lots in a north south configuration, to create two platted lots in an east west configuration.</p>		
Reviewed by Department Director Robin Singer	Reviewed by Finance N/A	Reviewed by City Manager A. William Moss
City Council Action:		