



City Council Chamber
735 Eighth Street South
Naples, Florida 34102

City Council Workshop Meeting – February 16, 2010 – 8:29 a.m.

Mayor Barnett called the meeting to order and presided.

ROLL CALLITEM 1

Present:

Bill Barnett, Mayor

Council Members:

Douglas Finlay
Teresa Heitmann
Gary Price, II
John Sorey, III
Samuel Saad, III
Margaret Sulick

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
Larry Bacci, Fire Marshal
Thomas Weschler, Chief of NPDF
Stephen McNerny, Deputy Chief of NPDF
Michael Bauer, Natural Resources Manager
Katie Laakkonen, Environmental Specialist
David Lykins, Community Services Director
Michael Leslie, Asst. Dir. Community Services
Robin Singer, Planning Director
Adam Benigni, Planner
Roger Jacobsen, Code & Harbor Master
Fred Coyle Terry Thesieres
Will Dempsey Frank Soffey
Lois Selfon Sandra Cece
Wayne Arnold Cathy Ballinger
Mike Murphy Clark Waite
Clarence Tears Robert Liepold
Jacques Groenteman Nick Cullen
Jim Boula Ellie Krier
Sharon Kenny Ed Duch

Joan LaRuffa	John Cardillo
Carmine Dilullo	James Melican
George Paul	Robert Meister
Steve Smith	Jim Goodloe
Russ Gowland	Julius Halas
Maria Figueroa	
Ewing Sutherland	
Fred Gollash	
Dale King	
Tim Durkin	
Phil Harrison	
Bruce Sammut	
Chris Thornton	
Carol Donovan	
Dianne Rowe	
William Donovan	
George Tebbetts	
Lewis Busconi	
Michelle Busconi	
James Delaney	
Dorothy Maciaga-Slifshein	

Media:

Sarah Donovan, Naples Daily News
Eric Staats, Naples Daily News
Other interested citizens and visitors.

SET AGENDA.....ITEM 2

MOTION by Price to SET THE AGENDA as submitted; seconded by Saad and unanimously carried, all members present and voting, (Finlay-yes, Heitmann-Yes, Price-yes, Saad-yes, Sorey-yes, Sulick-yes, Barnett-yes).

PUBLIC COMMENT.....ITEM 3

None.

.....ITEM 4

Interviews with Candidates for the Planning Advisory Board (PAB), Board of Trustees of the Police Officers Retirement Trust Fund and the Collier County Contractors Licensing Board. Deputy City Clerk Jessica Rosenberg noted that Wayne Arnold, John Cardillo and James Melican, candidates for the Planning Advisory Board (PAB), were present for interview, as well as Robert Meister for the Collier County Contractors Licensing Board.

.....ITEM 5

FLORIDA FIRE PREVENTION CODE OVERVIEW-STATE FIRE MARSHAL. Multi-family dwelling units are required to meet specified Fire and Life Safety Codes adopted by the State of Florida and enforced by the State Fire Marshal and local governments. Due to concerns expressed by Naples condominium property owners regarding the requirements and expense associated with retrofitting a building to meet new codes, the Florida State Fire Marshal was invited and accepted an invitation to address City Council and property owners. City Manager William Moss noted that although Chief Fire Official and State Fire Marshal Alex Sink was unavailable, the following were in attendance to participate in the presentation regarding Fire and Life Safety Codes for the State of Florida: Division Director Julius Halas; Bureau Chief Jim Goodloe; and NFPA (National Fire Prevention Association) Regional Manager Maria Figueroa.

Director Halas utilized an electronic presentation (a printed copy of which is contained in the file for this meeting in the City Clerk's Office) to facilitate the discussion. He explained that prior to assuming their current duties, he had been a Fire Chief and Chief Goodloe had served as Clearwater Fire Marshal; Ms. Figueroa, he said, had served for 25 years with Miami-Dade's fire rescue service prior to joining NFPA.

Director Halas said that during the growth periods of the 1980's and 1990's Florida locales had enacted individual fire safety codes making it difficult for both residents and construction professionals to comply. Therefore, Governor Jeb Bush formed a study commission which resulted in two 1998 legislative enactments: Section 553.72 (minimum statewide building code) and Section 633.0215 (minimum fire prevention and life safety code), Florida Statutes which actually became effective in 2002. The mandatory high-rise sprinkler retrofit requirement was imposed on both living and common areas, Director Halas said. Upon revision, he explained, the compliance date was extended to December 31, 2014 and associations were provided the opportunity to opt-out of retrofitting private living areas with a two-thirds vote of unit owners/occupants.

Legislation continues to be submitted to either further extend the compliance date or allow a complete opt-out of the retrofit with a two-thirds vote of unit owners/occupants. Nevertheless, retrofits under the current criteria are underway in many structures around the state. He also read for the record the letter from Governor Charlie Crist regarding the veto of Senate Bill 714 in

2009 which would have extended the high-rise sprinkler retrofit compliance date from 2014 to 2025 (Attachment 1). However, Director Halas asserted that this extension would increase risks of fire related injuries even though it would have additionally provided some relief to condominium owners and their associations with regard to their insurance requirements. This controversy continues in part because the number of fire related deaths in the State is low and the cost of the retrofits so high, he concluded.

Chief Halas then explained that the local amendment process, which must however exceed state requirements, would automatically expire in three years, and be eligible for one three-year extension only. He further explained that some affected properties were phasing the retrofits as other renovations were occurring, some taking up to six years for completion and thereby lessening the financial impact.

Chief Goodloe reviewed pertinent laws, explaining that 553.72(4), Florida Statutes, mandates that the Florida Building Code (FBC) include by reference the Florida Fire Prevention Code and the Life Safety Code. Section 633.0215(2), Florida Statutes, mandates that the State Fire Marshal adopt and enforce the NFPA's Standard 1, Fire Prevention Code, and Life Safety Code, Pamphlet 101, he said. He then reviewed NFPA Standard 1, 2006 Edition, adopted in 2007, wherein Section 13.3.2.20.1.2 states that all high-rise buildings (*structures over 75 feet in height as measured from the lowest level of fire department access to the floor of the highest level which can be occupied / usually 7 to 8 stories*) be protected by an automatic sprinkler system or a professionally engineered life safety system (*which shall include any or all of the following: partial automatic sprinkler protection; smoke detection systems; smoke control systems; compartmentalization; and other approved systems*) approved by the fire official no later than December 31, 2014, unless, per NFPA 101, every dwelling unit has an exterior exit access.

Ms. Figueroa then explained the method by which the NFPA drafts rulings and how those rulings apply to Florida. She noted that the mission of the NFPA, an international, non-profit organization established in 1896, is to reduce the worldwide burden of fire and other hazards on the quality of life. This is to be achieved by providing and advocating consensus codes and standards, research, training, and education. The NFPA's technical committees are comprised of members of the public and the private sector, she said.

Ms. Figueroa maintained that NFPA 1 (Uniform Fire Code), provides requirements to establish a reasonable level of fire safety and property protection in new and existing buildings while NFPA 101 (Life Safety Code) establishes minimum requirements for new and existing buildings to protect occupants from fire, smoke and toxic fumes. She also indicated that the 2009 edition of these regulations would be considered for adoption within the year as it traditionally occurs at three-year intervals. The regulations are developed to protect an entire structure with the following components:

- Fire resistive construction which is considered passive to contain fire and control its spread;
- Fire detection systems which provide early warning to occupants should fire/smoke occur; and

- Fire sprinkler systems to control fire in the area or room of origin, reduce smoke and toxic gases, and protect the firefighting force as well as providing an atmosphere tenable for the escape of occupants.

Furthermore, she cautioned that NFPA 1 provides that the jurisdictional authority may require additional safeguards should the structure of occupancy be of an especially hazardous nature, where access to firefighting apparatus is difficult, or where the size and configuration of the building or contents limits fire suppression efforts. She then provided the following national statistics: There are approximately 400,000 home fires per year with the following:

- Average of 3,000 deaths and 13,000 injuries;
- \$6.5-billion in direct property loss;
- Account for 73% of all structure fires; and
- Represent 91% of civilian deaths related to structure fires.

She continued by noting that even though there are fewer high-rise fires because of fire protection systems, fires in these types of structures originate in areas of ingress/egress and result in greater loss of life and property damage. Occupants and firefighters are also at greater risk of injury or death in high-rise fires because residents tend to be older or younger than the norm and have a higher incidence of disability and impairment. She cited the following with regard to deaths and injuries in the above-referenced demographic:

- 41% occurred while the victim was sleeping;
- 33% of victims were unable to act or acted irrationally;
- 21% were attempting to escape; and
- 5% were attempting to rescue other occupants or control the fire.

She concluded by saying that while nationwide the number of residents over the age of 65 increased by 12.4% between 2000 and 2008, Florida experienced a 17.4% increase in this same high risk population.

In closing, Director Halas explained that the City and State staffs had been working closely in interpretation of the regulations under discussion; however, should residents believe that compliance being imposed exceeds that which is mandated, an appeal process is available, beginning at the local level, followed by State Fire Marshal review and possible granting of a declaratory statement. This, he noted, is occurring with cases of transient lodging in historical buildings and in homes where historically rentals are available which then places the structure under hotel/motel regulatory rulings.

In response to Council Member Sorey, Director Halas indicated that he would provide the most recent statistics on high-rise fires as soon as released, agreeing that loss of life and property damage would be low since new requirements resulted in 98% of such fires being contained to the unit of origin. Mr. Sorey then expressed concern with the retroactivity of the new codes when older structures had met the codes at the time of their construction. Director Halas clarified that the main concern with regard to high-rise fires is that most ladder trucks extend only to 100 feet, or approximately the seventh floor and therefore the mandatory nature of the requirements to at least the common areas of such structures. However, requirements being considered for 2010 will also target single-family and two-family dwellings as well. With regard to low- and mid-rise (*4 to 7 stories*) structures, the key retrofit is replacing battery-operated smoke detectors with hard-wired models, he added.

In response to Council Member Price, Chief Goodloe clarified that general guidelines refer to those applicable to the professional design engineer when developing a fire safety system, not the requirements themselves. Mr. Price said that like Council Member Sorey, he was interested in the number of fire deaths in 2009, citing the above statistic regarding 91% of fire deaths occurring in homes and questioning the percentage of these which occur in high-rise structures. Ms. Figueroa stated that of that amount, 84% occur in single-family homes with the remaining 7% inclusive not only of multi-family, but of town homes, manufactured homes and condominiums. Mr. Price reiterated that while he understood and appreciated the issues for firefighters represented by high-rise structures, he continued to disagree with the cost of the mandated retrofits when compared with the risk assessment. He said he also questioned the quantitative risk reduction that is expected to be realized from retrofitting and therefore expressed frustration with such apparently unknown factors which makes the task of enforcement even more contentious.

Chief Goodloe explained that while building occupancies vary greatly demanding particularity in fire safety apparatus, an overall downward trend in fire deaths had come about when the state enacted legislation in the late 1980's that all buildings three stories or greater shall be fully sprinkled. He further reiterated that the subject requirements are intended to provide early warning and additional time for exiting a structure for an aging population, as well as safe passage for emergency personnel during an emergency; however, he confirmed that he had no quantified answers to Mr. Price's request for statistics in this regard. Ms. Figueroa indicated that she would submit Mr. Price's questions to the NFPA's statistical team. In response, Mr. Price stressed that the aforementioned risk management approach said to have been applied by the NFPA should also take into consideration the estimated \$3-billion investment required of the residents of the State of Florida.

Council Member Sulick questioned the impact to insurance rates should condominium residents elect to opt-out with regard to their living units, and Chief Goodloe explained that this will in large part preclude discounted insurance rates; although a bill is to be considered this year that includes a provision that would grant some discount based on common areas, or a partially sprinkled building, he added. Ms. Figueroa also pointed out that building-related codes such as these also impact the amount of FEMA (Federal Emergency Management Agency) disaster recovery funds designated to a community, as are community-wide ISO (Insurance Services Office) ratings (*which determine insurance rates available within a community*). City Attorney Pritt provided clarification to the effect that although the City Council sits as the Board of Appeals under the Naples Code of Ordinances, it would not in this instance have jurisdiction to grant relief of the state-mandated fire requirements. Director Halas reported that Sarasota residents had averaged an 8% to 20% decrease of insurance premiums when structures were fully sprinkled, conceding however that it would take many years to recoup the millions spent on retrofits.

In response to Council Member Heitmann, Ms. Figueroa provided a brief overview of the process by which new codes are designed and adopted, pointing out that she has no involvement as a field manager with that particular process. She also indicated that she would provide the professional background of the members of the NFPA committee which is responsible for the new codes.

Upon announcing public comment, Mayor Barnett noted that several local condominium representatives would subsequently be meeting with the presenters; he therefore requested that should a speaker agree with comments previously made, in the interest of time the points not be reiterated.

Collier County Commissioner Fred Coyle indicated that he had first been aware of the legislation under discussion in the late 1990's when he served as a City Council Member. He stated that in his opinion, no actual appeal process exists, merely a diversion for residents seeking relief and that the Governor and Legislation must be convinced to take a reasonable position. Furthermore, he maintained that no insurance rate advantages exist in that 75% to 80% of premiums in the State of Florida address wind damage, therefore a 20% reduction in fire premiums alone would actually result in a much smaller overall percentage of a resident's premium; this will be more than offset by the impending 30% across the board increase to insurance rates in this state, he added. National statistics should be considered meaningless to local elected officials, he continued, as local decisions must be based upon local information; central planning has not worked for other countries and it will not work in the State of Florida, he said. He then read into the record a resolution to be considered by the Board of Commissioners the following week (Attachment 2) supporting relief from the mandates to owners of units within existing structures similar to that of other states. Commissioner Coyle concluded by requesting that the City approve a similar resolution to be forwarded to the state.

Public Comment: (10:17 a.m.) The following speakers supported the resolution presented by Commissioner Coyle, urging the City to follow suit while sharing their personal experiences with regard to the retrofits, some of which resulted in costs of over \$1-million per association as well as necessitating the filing of liens against owners unable to financially participate: **Russ Gowland, 4451 Gulf Shore Boulevard North; Ed Duch, 4551 Gulf Shore Boulevard; Steve Smith, 3215 Gulf Shore Boulevard North; Fred Gollash, 4301 Gulf Shore Boulevard North; PH1; Dale King, 4001 Gulf Shore Boulevard North,#1202; Tim Durkin, 4301 Gulf Shore Boulevard North; Phil Harrison, 4001 Gulf Shore Boulevard North #401; Carol Donovan, 5530 Rattlesnake-Hammock Road; Terry Thesieres, 2100 Gulf Shore Boulevard; Frank Soffey, 3430 Gulf Shore Boulevard North; Sandra Cece, 3430 Gulf Shore Boulevard North, #4-J; and Nick Cullen, 4401 Gulf Shore Boulevard North.** Attorney Chris Thornton, representing CALL/Community Associations Leadership Lobby, a statewide group of over 4,000 condominium owners, urged support of House Bill/HB 561 and SB 1222. **Bruce Sammut, 4001 Gulf Shore Boulevard North,** noted that he believed ex post facto law (*a law passed which retrospectively changes legal consequences*) would apply to these mandates and that they should be abolished as unconstitutional; **Carmine Dilullo, 3000 Gulf Shore Boulevard,** who, as an engineer dealing with these types of codes over many years, claimed that they are designed for worst case scenarios; statistics for local residential structures should be garnered and these requirements challenged, he urged; and **Ewing Sutherland, 4005 Gulf Shore Boulevard North,** also cautioned that a recent indication from the Governor's office was that he now intends to veto HB 561 and SB1222, therefore local legislators must become very active to overturn this decision. The following waived comment: **James Delaney, 4301 Gulf Shore Boulevard, Dianne Rowe, 5560 Rattlesnake-Hammock Road, William Donovan, 5530 Rattlesnake-Hammock Road, Lewis and Michelle Busconi, 4051 Gulf Shore Boulevard North, PH105, Cathy Ballinger, 1036 South Collier Boulevard, Clark Waite, 4001 Gulf**

Shore Boulevard North, #900, and Robert Liepold, 4001 Gulf Shore Boulevard. George Tebbetts, 4005 Gulf Shore Boulevard North, did not respond when called. Mayor Barnett thanked all speakers for their comments, recommending that Council add consideration of a resolution to that week's regular meeting agenda and Council Member Price noted that he had submitted a sample resolution to the City Manager's Office which reflects the intent of that presented by Commissioner Coyle.

Recess: 10:51 a.m. to 11:02 a.m. It is noted for the record that the same Council Members were present when the meeting reconvened and discussion of Item 5 continued.

Council Member Finlay questioned whether affected persons are represented when the NFPA revises its codes, and Chief Goodloe explained that once the NFPA develops its codes by an international consensus process, they are then submitted for approval in each state which may then amend as they see fit. With regard to Florida, this is done via Chapter 120, Florida Statutes, which requires workshops and allows public comment of the proposed codes. Anyone can propose a code change, he pointed out, adding that adoption of the 2007 edition would begin March 1. He reiterated that Ms. Figueroa would be providing a summary of the NFPA members who participate in drafting of codes as well as their background information. Chief Goodloe confirmed Mr. Finlay's assertion that Chapter 633.025, Florida Statutes, does indeed allow local fire officials some limited latitude in their interpretations. Also, despite Mr. Finlay's indication that the codes should not be applied similarly to wooden and concrete block structures, Ms. Figueroa indicated that it is the contents that provide the fire load; one upholstered chair generates enough energy for flash-over within three to five minutes, she said. The occupancy of a structure must also be a consideration, she reiterated.

Council concluded their discussion by listing the information requested of the presenters as follows: a listing of fire related deaths in Florida during 2009, by incident and to include whether the subject structure met code or not; and the background information of the NFPA committee responsible for drafting these codes.

Consensus to support HB 561 and SB 1222 via a City-generated resolution supporting legislative efforts to extend Life Safety Retrofit Code relief to community associations; resolution to be added to 02/17/10 Regular Meeting agenda.

Council thanked the State Fire Marshal and NFPA representatives for their attendance.

DISCUSSION REGARDING CREATION OF A DOG PARK.....ITEM 6

Citizens have explored potential sites for the creation of a "dog park" within the City. Working with staff, they have identified a potential site and prepared a preliminary design of the proposed dog park. The proposed site consists of about 1.37 acres of City-owned property located off of Central Avenue at Riverside Circle. Deed restrictions limit the use of this property, but permitted uses include parks. The group of citizens has also developed cost estimates to create a dog park, proposed private and public funding, a tag program to control access, park management, and safety. Community Services Director David Lykins utilized an electronic presentation (a printed copy of which is contained in the file for this meeting in the City Clerk's Office) and reviewed his February 4 memorandum (Attachment 3) wherein he explained that staff had been working with a citizen's group involving the installation of a dog park on City-owned property located at the southern terminus of Riverside Circle at Goodlette-Frank Road (Attachment 4). He further noted that the future Gordon River Greenway is to terminate along the shoreline directly east of the subject site and

that a 60-foot wide, east-west easement had been granted by the Pulling family in 2008 along the northern border of the property which reverted to their ownership; the easement was granted to within 100 feet of the river and could afford a direct link between the dog park and the Greenway, he said.

Mr. Lykins then reviewed the estimated budget for the project, which was proposed for installation in two phases, the first at a cost of \$96,700 and the second an additional \$108,500 resulting in a total of \$205,200 (see Attachment 5 for details). The initial phase would include necessary site work, a five-foot fence, infrastructure such as a water meter and irrigation lines, along with sod, mulch, four benches, sidewalks and signage. Phase two involves additional amenities as listed on Attachment 5.

Attorney Will Dempsey, speaking on behalf of the private citizens and interested parties, residing, he said, in both the City and Collier County, also reviewed existing conditions of the parcel (Attachment 6) as well as the proposed site plan for the park (Attachment 7). He said that such a facility is considered a necessary amenity by many. Following review of numerous dog parks located in communities considered similar to Naples, he explained that the group, including input from City staff, had developed the proposal and acknowledged the fact that some of the elements might not survive the public hearing process which includes review by the Community Services Advisory Board (CSAB) and Planning Advisory Board (PAB), returning to Council for phase one as well as the additional Design Review Board (DRB) scrutiny of phase two due to the inclusion of a shade structure.

Mr. Dempsey reiterated the importance of the park location near the Greenway for those with canine companions but pointed out that Council would be asked to approve a conditional use petition because the site had been assigned a PS Public Service zoning designation (*and all uses therein are considered conditional*). He further noted that Planning Department parking immediately north of the proposed location should suffice for both uses. Mr. Dempsey also stated that his law firm had confirmed that the deed restrictions on the subject parcel would allow the installation of this type of facility.

He continued by explaining the following which he stressed were merely conceptual:

1. Phase one:
 - The park would operate in a somewhat controlled manner with an annual fee of \$120 to provide funding for annual maintenance and a permit needed for each dog (limited to two per owner);
 - Smaller dogs (25 pounds or less) would be contained in a 0.37 acre area and separated from an approximate one acre area for larger dogs; and
 - Basic landscaping and mulch would be installed making it functional.
2. Phase two, resulting in a park described as being consistent with the quality and character of the City:
 - Installation of a shade structure; and
 - Additional amenities for dog owners such as trees, palms and other landscaping, additional benches, drinking fountain and wash stations.

With regard to the budget, Mr. Dempsey reiterated that phase one would provide the infrastructure and basic elements of a functional dog park, while phase two adds the comfort

elements for owners; the \$205,200 figure (see Attachment 5) is the total for the completed project, he added. He stated that the goal of citizens is a public/private partnership and that the group intends to raise as much funding as possible.

Council Member Sulick questioned annual maintenance costs and the cost for personnel to provide continuous on-site monitoring. Mr. Dempsey however took the position that continuous monitoring would not be necessary as owners will supervise activities similarly to other dog parks across the country wherein user fees are charged. Mr. Lykins added that a contractor would be retained for lawn maintenance with City staff responsible for trash removal and upkeep of the remaining landscaping; \$22,000 per year is estimated for total operating and maintenance. Mr. Dempsey indicated that, given the level of public interest, 400 annual permits would not be an unreasonable estimate.

While commending the concept, Council Member Sulick maintained that all other costs should be funded by the users of the park if the City were to contribute the land. She noted however that her main concerns involve the City's taxpayers funding a park primarily utilized by County residents as well as the scarcity of greenspace, and the possibility that this park may at some point require allocations from the General fund. This latter concern, she said, would preclude her support. Council Member Finlay agreed, adding that a similar agreement had been reached between the City and the Naples Rowing Association for an area on the small peninsula located on the Gordon River wherein the City allows use for a nominal fee, although the Association has funded the construction of its storage racks and dock, as well as upkeep. He also questioned whether soil removal from the site would be necessary. Mr. Lykins stated that much of the surface is hardscape which must be removed and soil would be removed along with it; it would require replacement to level the surface and this cost had been included in the estimate (see Attachment 5). Mr. Lykins then confirmed that prior testing of the site, which had formerly been used as a waste disposal site, had resulted in prohibiting enclosures housing such activities as a nursery or preschool as previously considered, and Mr. Finlay stated that should it become necessary to remove soil for environmental reasons, then he believed the City should indeed participate in its funding.

In response to Council Member Sorey, Mr. Dempsey said that similar communities had set aside like-sized areas for dog parks, although no specific capacity analysis had been accomplished in conjunction with the proposal; however, should the demand prove greater than anticipated, the situation should be revisited, he said. Council Member Sorey commended the project and suggested that it be permitted for the entire proposal with installation to proceed upon receipt of funding, suggesting that the City provide \$100,000 funding, or a loan if necessary. He said that this recommendation was based on input he had received from City residents and the potential users of the park who would raise the remainder. With regard to the long term use of the land as a dog park, Council Member Sorey cautioned that in the future the use of the property could in fact change due to the needs of the City and this should be kept in mind over time.

Council Member Heitmann expressed her support for the proposal but questioned whether the use would be limited to City residents and if so, how seasonal visitors would be accommodated. Furthermore, she said on-site monitoring would be needed, especially with regard to the City's liability. Mrs. Heitmann also predicted that the parcel in question might indeed be needed by the

City at some point in the future; City Manager William Moss indicated however that the only possible use he was aware of was parking associated with the Gordon River Greenway, reiterating the caution that those contributing to the dog park should be made aware of the possibility that the use of the property could be altered in the future. He additionally cautioned Council that once the use as a dog park is approved, it may prove quite difficult to rescind it in the future. Mr. Dempsey then confirmed for Mrs. Heitmann that the County had indicated that leashed pets would be allowed access to the Greenway.

In response to Council Member Saad, Ellie Krier of the Southwest Florida Land Preservation Trust, coordinator of the Gordon River Greenway Project, additionally confirmed that Collier County's recreation officials had indeed stated that leashed dogs would be allowed. Mr. Dempsey explained for Mr. Saad that security cameras had not been a consideration in this initial proposal and that prorated rates would be available for seasonal residents. Mr. Saad further recommended that temporary permits be considered for visitors and that he fully supported the project as a needed amenity for residents.

Council Member Price, noting the public support of the project, stated that so long as the final facility reflected the character of the community, he could also support it, although he said that he believed the City's provision of the site to be a sizable contribution to the effort. He further urged that private funding be identified prior to additional consideration by City boards and/or committees due to the cost of such meetings. Once the potential financial commitment of the citizens is known, then the park concept and amenities could be based upon the amount of funding available, he said. Council Member Sulick agreed, but Mayor Barnett stated that the project should move forward through the process in light of the preliminary work already accomplished by the citizens making the proposal.

Public Comment: (12:01 p.m.) **Lois Selfon, 71 12th Avenue South**, said that while she supported the project she continued to have concerns with finances and possible hidden costs, especially liability issues. She also cited lay-offs which had occurred among City workers. **Dorothy Maciaga-Slifshein, 35 Lemans Drive**, stated that she supports the dog park and questioned how visitors would utilize the park; however, she also took issue with the proposed fees which she said were too high. **Joan LaRuffa, 1274 Grand Isle Court**, stated that while she resides closer to the dog park located in Veterans Park (*off Immokalee Road in Collier County*), she also supported the facility under discussion. Furthermore, she explained that owners closely monitor their pets at the County dog park for aggressiveness and deal with it immediately, therefore, no monitor is assigned. She also cautioned that she believed that the City should welcome area dogs, not merely those owned by City residents. **George Paul, 5400 Jaeger Road**, indicated his support, especially in light of the reputation of Naples as a world class destination. **Sharon Kenny, no address given**, recommended that lifetime memberships be offered, suggesting \$1,000 each, to aid in the initial financing drive by the citizens.

Mayor Barnett continued his comments from above, recommending that the project be forwarded to the CSAB. Council Member Sorey agreed, suggesting that volunteers might be considered with regard to monitoring ingress to the park as well as dog behavior. Council Member Heitmann reiterated her support of a dog park but also her concern with regard to the use of the particular site for this purpose. She also expressed continuing unease with finances; she offered to work with the group and provide options.

Council Member Finlay stated that he believed it would be counter-productive should County residents not be allowed to use the park, and noting that the charge would be the same for all users. He further said that citizens should realize that the project would most probably be self-funded, with the City providing the land. Council Member Price added that it must be made clear whether the City is committing to anything beyond the provision of land in light of the ongoing economic recession, noting the \$22,000 in annual operation and maintenance costs cited earlier.

Mayor Barnett requested that consensus be given that the project be forwarded to the CSAB with the provision of land but no funding, and await CSAB recommendations. Council Member Price stressed that while he could agree with this proposal, he would not support the financing of the project whatsoever, other than the use of the land. Council Member Saad agreed, stating that the commitment of the land should be made and allow the project to proceed through the process. City Manager Moss reiterated his belief that the use under discussion would indeed meet his projection for parking for the Greenway, which had been discussed as a use for this site in the past; parking would actually be increased due to restriping, Mr. Lykins added. Mr. Dempsey stated that his personal experience had been that the southernmost parking area for the planning staff was rarely, if ever, used and that the only vehicles he had noted were those being stored by the City.

In response to Council Member Sulick, Mr. Dempsey explained that while at least four other sites within the area had been considered, the subject site was the most appropriate; this opinion had been shared by City staff, he added.

Consensus to forward proposal to Community Services Advisory Board (CSAB) with commitment of land but no funding by the City / 6-1 (Heitmann dissenting).

Recess: 12:36 p.m. to 12:49 p.m. It is noted for the record that the same Council Members were present when the meeting reconvened.

RESTORATION OF NAPLES BAY 20-YEAR PLAN.....ITEM 7
The City and its Natural Resources Division have developed programs and projects designed to improve the quality of Naples Bay and its estuarine ecosystem. Proposed is a 20-year plan designed to improve water quality for the restoration of living habitats in Naples Bay. (It is noted for the record that this report was electronically presented and a printed copy is contained in the file for this meeting in the City Clerk's Office as well as an excerpted outline of the reports highlights appended hereto as Attachment 8.) Natural Resources Manager Michael Bauer provided a brief overview of the 20-Year Plan to Restore Naples Bay developed by staff. He explained that the plan is comprised of two facets, the first involving seven major restoration efforts regarding water quantity and quality, which are the physical basis for restoration of the three major living habitats: oysters, mangroves and seagrasses. These in turn support a variety of fish and invertebrates, he added.

Additionally, the use of habitat islands would create entirely new environments in Naples Bay and, finally, trawling (*the practice of pulling a net through the water behind a boat in order to trap fish enabling a determination of enrichment of species*) would be performed to measure the level of restoration on an ongoing basis. Further, Dr. Bauer explained, the report illustrates current actions and accomplishments for each of these restoration efforts, the expected direct

results thereof, and staff efforts originating from these endeavors are included at a period five years hence. Anticipated results of the Bay's condition are outlined at 10- and 20-year intervals also. Environmental Specialist Katie Laakkonen reviewed the current elements of the Bay's water quality, providing 2006 to 2009 data on total phosphorous and nitrogen, chlorophyll, and copper levels, as well as its salinity. Salinity, she said, will be improved by a Big Cypress Basin plan to divert one-third of the 200 mgd (million gallons per day) of water draining into the Bay from the Golden Gate Canal (GGC) to Henderson Creek. In addition, the City's planned ASR (aquifer storage and recovery) system anticipates removing water from the GGC which will further reduce these flows by 10%.

Public Comment: (1:16 p.m.) **Lois Selfon, 71 12th Avenue South**, commended Dr. Bauer and his staff for their ongoing efforts.

Clarence Tears, Director of the Big Cypress Basin of the SFWMD (South Florida Water Management District), confirmed that Naples Bay and its restoration continued to be a concern of his agency which, along with SFWMD, would continue to support the City's efforts to the extent possible.

It is noted for the record that Mayor Barnett left at 1:38 p.m. during discussion of Item 10 and returned at 2:03 p.m.

SIGN ORDINANCE AMENDMENTS.....ITEM 10

Due to recent court decisions, the City Attorney and staff recommended that the City Code regulating signage be reviewed and revised. Proposed amendments include signage related to: real estate development projects; temporary; vehicular; vessel; public streets and rights-of-way; political; and change in copy on non-conforming signs. City Attorney Robert Pritt provided an overview of recommended amendments to the City's sign ordinance, explaining that while some changes were necessary in light of recent court rulings, others should be considered as updating an ordinance which was enacted prior to 1990. (It is noted for the record that a complete draft of the ordinance is contained in the file for this meeting in the City Clerk's Office.)

Public Comment: (2:26 p.m.) **Ellie Krier, representing Naples Area Board of Realtors (NABOR)**, pointed out needed revisions to achieve consistency in terminology. She also received clarification from City Attorney Pritt that the prohibition of signage closer than five feet to the paved roadway had been removed from Sections 50-39(a)(2)(f) and 50-29(b)(2)(f) because commercial signage is afforded protection and this limitation would in some instances, not allow the placement of signage due to nearby landscaping or fences. He therefore recommended further review of the draft by the Planning Advisory Board (PAB) and Design Review Board (DRB); Council concurred. Ms. Krier offered the assistance of her group with regard to their commercial signage.

Consensus that draft ordinance be forwarded to Planning Advisory Board (PAB) and Design Review Board (DRB) / 7-0.

TECHNICAL IMPROVEMENTS TO CITY COUNCIL CHAMBER.....ITEM 9

Advancements in technology, the televised meetings of City Council, Boards, and Committees, and the number of citizens who attend these meetings suggest that technical improvements may be appropriate to improve the experience of public meetings. Proposed are equipment upgrades to the City Council Chamber. (It is noted for the record that a printed copy of the electronic presentation utilized for this item is contained in the file for this meeting in the City Clerk's Office.) Technology Services Director Stephen Weeks reviewed

possible renovations of the Council Chamber dais, including the installation of eight individual monitors with 15-inch screens to facilitate easier viewing of electronic presentations during meetings; he also described two, 50-inch commercial plasma televisions installed for members of the public attending meetings. Mr. Weeks quoted the cost of equipment at \$10,000, not including modifications to the dais itself for an additional \$5,000 to \$10,000.

Mr. Weeks then reviewed the necessary video technology upgrades necessary for facilitating broadcast capabilities of the City's cable television channel, resulting in an additional \$15,115; however, cost of audio system upgrades is yet to be determined, he added.

Discussion followed during which Council indicated that the modifications to the dais were not to be pursued at that time but additional information be provided with regard to the audio and video upgrades. Council indicated an interest in electronically generated meeting information packets via laptop thereby negating the need of their books; however, a cost benefit analysis was requested with regard to staff time for electronic preparation of the packets versus the traditional document-based packets currently in use.

Consensus that staff provide further details with regard to audio and video technology upgrades as well as cost benefit analysis of utilizing electronic information packets for Council meetings (laptops).

Recess: 3:00 p.m. to 3:10 p.m. It is noted for the record that the same Council Members were present when the meeting reconvened.

“D” DOWNTOWN ZONING REGULATIONSITEM 8
The Community Redevelopment Agency's (CRA) Plan Update of 2008 identified a number of short-term, mid-term, and long-term projects. One is to examine the zoning regulations of the “D” Downtown Zoning District. The District is intended to provide uses including commercial, medical, office, service, restaurant, cultural, institutional, and residential. The discussion will include: permitted conditions and uses; density, parking; and building design and placement. Planner Adam Benigni explained that “D” Downtown District (generally bounded by Fifth Avenue South, Seventh Avenue North, Eighth Street on the west and Goodlette-Frank Road on the east) zoning regulations were to be reviewed as one of the short-term goals identified in the 2008 CRA (Community Redevelopment Agency) Plan Update. Utilizing an electronic presentation (a printed copy of which is contained in the file for this meeting in the City Clerk's Office), he reviewed the topics of discussion as detailed in his memorandum dated February 2 (Attachment 9) and as follows:

- Permitted uses;
- Conditional uses;
- Residential Density – a total of 1,416 units can be built in the above described District, limited to 12 units per acre with open space provisions; up to 30 units per acre can be allowed via conditional use approval wherein public open space through dedication of an easement to the City, or payment into the open space fund or a combination of both, although this lowers the amount available for future allocation. (See Attachment 9, Page 2 for details of bonus density approvals; however it was noted that the property known as Trails End, located at 309 Ninth Street North, was inadvertently omitted and should be reflected as lapsed approval as well as the PD Planned Development zoning having reverted to its prior designation). Currently the Open Space Fund contains \$592,519.05 and is to be used for purchasing land, engineering, design and maintenance of parks

within the District, Mr. Benigni said. Council Member Sorey suggested development of a basic master plan to determine the proper location for parking garages and greenspace, noting that current economic conditions and real estate prices would favor acquisition of land. Council Member Sulick requested that a future discussion involve the number of residential units allocated to the District, that perhaps commercial development should be the focus. Planning Director Robin Singer indicated that the 30 units per acre maximum could in fact be lowered and that marketing should then become a guiding force of the area;

- Parking – commercial uses require three parking spaces per 1,000 gross square feet; dwelling units as part of a mixed-use development require two spaces per unit. Each commercial space may contribute equally as a residential space for 50% of the residential required parking (shared parking concept). Three incentives with regard to required on-site parking spaces are also available in the District: 1) On-street parking may be allocated to meet the requirement for private property that is 100,000 square feet or less per the table found in Attachment 9, Page 3; 2) Payment in Lieu of Parking (PILOP) allows a developer to fund up to 25% of required parking spaces for nonresidential uses at \$26,801.91 per space (this fee increases 5% annually), paying into the fund which is used to construct or reconstruct parking spaces within the District; and 3) Reimbursement is available for developments who provide dedicated, public parking spaces over and above the minimum required but subject to the review of Council as to meeting the criteria of the option; and
- Building design and placement – setback requirements are designated per zone as reflected in the chart contained in Attachment 9, Page 4. Ms. Singer pointed out that should build-out of the District occur according to the setbacks, the appearance and character of the area would resemble Third Street South. Council Member Sulick cautioned that outdoor dining must be incorporated into the design of a structure and not allowed to occur on the sidewalks; she also recommended that the minimum 4:12 roof slope be increased to at least 8:12.

Mr. Benigni concluded by recommending that staff be directed to review the regulations for possible amendment, adding that the architectural elements could be further reviewed by the Design Review Board (DRB); Council agreed. Council Member Sorey reiterated his suggestion of a basic master plan and Council Member Price added that marketing and economic gardening elements be included as well as a prior listing of parcels available for purchase within the City be provided. Ms. Singer noted that local architects had offered to provide a rooftop study of the area depicting its appearance at total build-out. Council Member Sulick cautioned that future developers should anticipate containing parking on site and not to depend upon another City-funded parking garage in light of current economic conditions..

Consensus that staff provide further input with regard to possible amendment of “D” Downtown District zoning regulations; develop a basic master plan regarding parking garage and open space sites with recommendations to include marketing and economic gardening elements; pursue a rooftop study reflecting maximum build-out of the area; and provide the prior list of available parcels for purchase as greenspace for the City.

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 monthly financial report as well as the Annual 2009 Uniform Crime Report.

REVIEW OF ITEMS ON THE 02/17/10 REGULAR MEETING AGENDAITEM 12

Item 23 (resolution regarding legislative relief from life safety retrofit code) was added per discussion of Item 5 (see above). Council Member Sorey requested that Item 9-c (budget amendment to fund 50% of connectivity design project for redevelopment area) be removed from the Consent Agenda for separate discussion.

CORRESPONDENCE / COMMUNICATIONS

(3:42 p.m.) Council Member Sorey requested that the open space fund balance be provided for use in the possible acquisition of parcels for greenspace. He also recommended that decisions regarding the use of City-owned property at the terminus of the Gordon River Greenway crossing be re-evaluated; that the development of codes requiring seawalls be replaced with riprap around Naples Bay be drafted; and that flow studies from the Golden Gate Canal be undertaken to determine the amount of future flow necessary to maintain salinity level in Naples Bay. Council Member Sulick suggested that a program be developed to guide homeowners in establishing special districts to facilitate lake maintenance. Council Member Saad expressed appreciation for the opportunity to serve on City Council.

ADJOURN

3:48 p.m.

Bill Barnett, Mayor

Tara A. Norman, City Clerk

Minutes prepared by:

Vicki L. Smith, Technical Writing Specialist

Minutes Approved: 03/03/10



CHARLIE CRIST
GOVERNOR

June 1, 2009

Secretary Kurt S. Browning
Secretary of State
Department of State
R.A. Gray Building
500 S. Bronough Street
Tallahassee, Florida 32399

Dear Secretary Browning:

By the authority vested in me as the Governor of Florida, and under the provisions of Article III, Section 8, of the Constitution of Florida, I do hereby withhold my approval of and transmit to you my objections to, Committee Substitute for Committee Substitute for Senate Bill 714, enacted during the 41st Session of the Legislature of Florida, convened under the Constitution of 1968, during the Regular Session of 2009 and entitled:

An act relating to Condominiums...

This bill makes several changes to laws that are important to Floridians residing in condominiums, including modifying the requirement that condominium unit owners maintain property insurance coverage on items located within the boundaries of their units. The bill generally clarifies insurance provisions as they relate to unit owners and condominium associations and the requirements governing board members of condominium associations. However, the bill also includes changes that give me, as they did my predecessor, great concern.

This bill, similar to House Bill 391 passed during the 2006 Session and vetoed by Governor Bush, extends the date after which local authorities may require the retrofit of applicable residential common areas with a fire sprinkler system from 2014 to 2025. I share Governor Bush's concerns that this delay presents an unacceptable safety risk, especially to Florida's elderly condominium residents. I am sensitive to the costs associated with installing the fire sprinkler systems, especially in these challenging economic times. However, in the event of a fire, public safety for residents and for the firefighters and emergency medical personnel who lay their lives on the line to provide services greatly outweigh all other considerations.

For this reason, I withhold my approval of Committee Substitute for Committee Substitute for Senate Bill 714, and do hereby veto the same.

Charlie Crist

Sincerely,



RESOLUTION NO. 2010-_____

**A RESOLUTION OF THE BOARD OF COUNTY
COMMISSIONERS OF COLLIER COUNTY FLORIDA
SUPPORTING LEGISLATIVE EFFORTS TO EXTEND
LIFE SAFETY RETROFIT RELIEF TO COMMUNITY
ASSOCIATIONS.**

WHEREAS, there are approximately 57,000 mandatory community associations in the State of Florida; and

WHEREAS, the NFPA-1 and NFPA-101 (aka Life Safety Code) has been adopted by all 50 states; and

WHEREAS, most states made exceptions and accommodations for existing residential structures when adopting the Life Safety Code but the State of Florida failed to do so; and

WHEREAS, the State of Florida currently leads the country in terms of residential foreclosure filings and devaluation of property values; and

WHEREAS, the Collier County Commission has received valuable input from private residential communities within its borders who are impacted by many of the costly life safety (sprinkler, fire alarm, elevator, etc) retrofits currently being requested by local authorities having jurisdiction; and

WHEREAS, the Florida Legislature has twice before unanimously passed legislation to extend retrofit relief to the millions of impacted Floridians and twice before such legislation has been wiped out by gubernatorial veto; and

WHEREAS, the Collier County Commission appreciates and understands the economic tsunami that will ensue should such relief not be forthcoming and finally passed during the 2010 Regular Legislative Session; and

WHEREAS, there has been no verifiable data that requiring common area sprinklers alone in concrete block construction buildings will save the lives of owners inside their units; and

WHEREAS, there are two bills currently pending, HB561 sponsored by Representative Ellyn Bogdanoff and Representative Matt Hudson, and SB 1222 sponsored by Senator Jeremy Ring, that will allow a community's membership the right of self determination with regard to whether or not their premises should be subject to certain retrofit requirements; and

WHEREAS, the Collier County Commission supports the efforts of these legislators to help millions of financially struggling citizens of this State; and

WHEREAS, other states have recognized the importance of distinguishing between existing buildings that met Code requirements at the time of their construction and new construction.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED BY THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA, that:

Section 1: The Board of County Commissioners of Collier County recognizes, and asks Governor Charlie Crist and the Florida State Legislature to acknowledge the economic hardship created by enforcing Life Safety Code retrofits at a time in history when community associations are least able to survive such projects.

Section 2: The Board of County Commissioners of Collier County asks Governor Charlie Crist and the Florida State Legislature to return this issue to the will of the people most vested in its outcome: the individual members of the impacted communities.

Section 3: The Board of County Commissioners of Collier County does hereby declare, and urge Governor Charlie Crist to adhere to the will of the Florida Legislature and the millions of impacted Floridians and allow HB561 and SB 1222 (as same may be amended or renumbered) to pass safely into law.

This Resolution adopted this _____ day of _____, 2010, after motion, second and majority vote.

ATTEST:
DWIGHT E. BROCK, CLERK

BOARD OF COUNTY COMMISSIONERS
COLLIER COUNTY, FLORIDA

By: _____

By: _____
Fred Coyle, CHAIRMAN

Approved as to form and legal sufficiency:

Jeffrey Klatzkow
County Attorney

**NAPLES CITY COUNCIL AGENDA MEMORANDUM****Workshop Meeting Date: February 16, 2010**

Agenda Item: 6	Prepared By: David M. Lykins, Director Date: February 4, 2010 Department: Community Services	
SUBJECT: Discussion regarding creation of a dog park.		
BACKGROUND: On June 17, 2009, Vice Mayor Penny Taylor proposed and City Council agreed that a group of citizens may contact staff to review opportunities for the creation of a dog park within the City. Over the past six months, primarily through the voluntary assistance of local citizens, staff reviewed available public properties suitable for such use, and provided input for a preliminary design, funding, rules, and maintenance. The group of citizens and staff seek the opinion of City Council as to support for a proposed dog park, acceptability of a proposed location, potential funding, implementation, etc. Basic dog park needs included identifying a property of sufficient size for use as an off-leash facility, a property that would limit impact to adjacent property owners, a strategy or plan for establishing and enforcing etiquette or rules for use, project funding, site improvements, fundraising, cost recovery of basic maintenance, and liability. A proposed site, owned by the City and considered suitable for creation of a dog park is located off Central Avenue on Riverside Circle immediately south of the City building housing the departments of Planning, Building, Technology Services and Streets and Stormwater. The property is zoned Public Service. Deed restrictions limit the potential use of this property, although staff believes use as a park is acceptable. Should City Council indicate support for a dog park at the proposed site (or other sites), project advancement will require an administrative site review, design review by the Design Review Board and a Conditional Use approval by the Planning Advisory Board and City Council. A review by the Community Services Advisory Board (CSAB) is recommended. A conceptual plan has been drafted and is presented to City Council for consideration. City staff and dog park committee volunteers will provide a brief overview of project location, purpose, management and funding needs.		
Reviewed by Department Director Dave Lykins	Reviewed by Finance N/A	Reviewed by City Manager A. William Moss
Council Action:		



Budget A- PHASE I (ESTIMATED)

1/5/2010

Site Size 1.5 Acres 65,340 sq.ft.

Site Work:	
5' High Fence:	15,000.00
Water Meter:	20,000.00
Irrigation:	3,500.00
Sod:	15,000.00
Mulch:	11,700.00
Benches: 4 ea.	14,500.00
Side Walks:	4,000.00
Signage:	12,000.00
	\$ 1,000.00
	<u>\$ 96,700.00</u>

Budget B PHASE II (ESTIMATED)

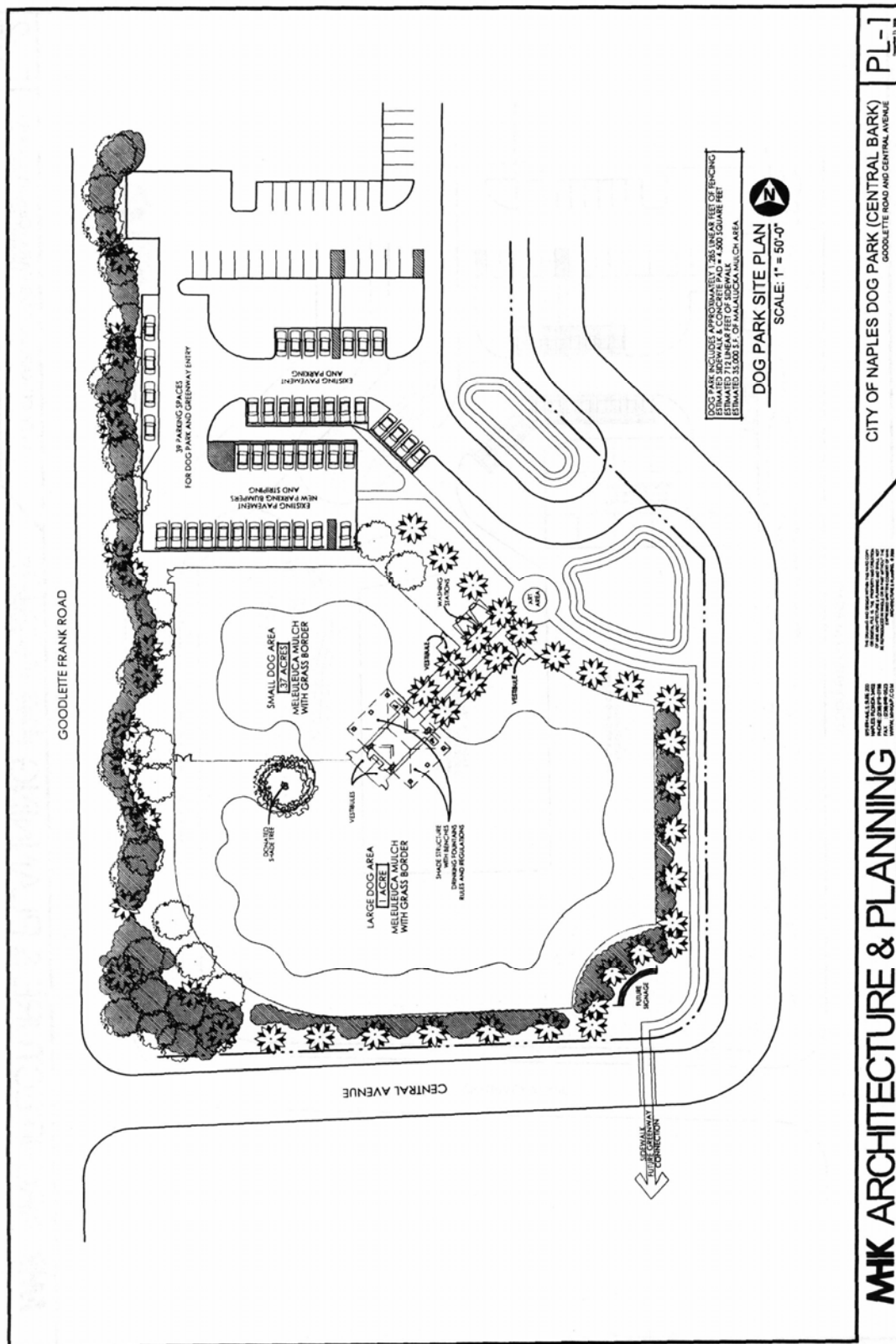
1/5/2010

Site Size 1.5 Acres 65,340 sq.ft.

Site Work:		
5' High Fence:	15,000.00	
Water Meter:	20,000.00	
Irrigation:	3,500.00	
Landscape Arch:	15,000.00	*
Sod:	4,500.00	
Mulch:	11,700.00	
Trees & Palms:	14,500.00	*
Plantings:	22,000.00	*
Shade Structure:	18,000.00	*
Benches: 8 ea.	30,000.00	*
Drinking Fountains: 4 ea.	8,000.00	*
Wash Stations:	10,000.00	*
Side Walks:	5,000.00	*
Signage:	23,000.00	*
	\$ 5,000.00	*
	<u>\$ 205,200.00</u>	

* changes or modifications from budget "A"





Five Years From Now: THE RESULTS

- One third of Golden Gate Canal water diverted to Henderson Creek.
- City's ASR well reduces flows another 10%.
- Floating islands and aerators are located in 10 of the City's lakes.
- Outreach Coordinator working with residents:
 - To build rain gardens; and
 - To plant shorelines
- Water quality of the Bay is improving and healthy habitat is increasing.
- Oyster reefs have expanded to the north.
- Five new artificial oyster reefs have been created and seeded by "oyster farmers".
- Outreach program established:
 - Providing education about mangroves; and
 - How to plant and trim.
- Bayview Park is lined with mangroves.
- Gordon River shoal island restored.
- Residents replacing seawalls with riprap.
- Golden Gate Canal diversions lower salinity and seagrasses expand.
- A new seagrass bed has become established north of Bayview Park.
- Required mitigation provides funds and materials for habitat islands.
- First island built in the southeastern part of Bay.
- Trawling reveals increased species richness.
- Fish once found only near Gordon Pass now caught up to US 41.

Ten Years From Now: THE CRITICAL POINT

- Marco Island ASR takes another 10% of the flow.
- Water reaching Bay reduced to 50% of current levels.
- Two new filter marshes:
 - Broad Avenue South; and
 - Goodlette-Frank Road.
- Goal of 1,000 rain gardens attained.
- Spring Lake dredged - Plan to dredge remainder.
- Most lakes have aerators and floating islands.
- Shorelines have native wetland vegetation.
- Residents are beginning to replace sod with native vegetation.
- Stormwater runoff has declined by 50%; and
- Irrigation use is down by 30%
- The Bay meets all state standards -- "unimpaired".
- Oyster reefs have increased to 50% of pre-development level.
- Healthy, diverse ecosystem in and around oyster reefs.
- No new seawalls permitted.
- Outreach program has homeowners voluntarily planting mangroves.
- More than half the Bay is now lined with mangroves.

- Bayview seagrass bed has merged with new one.
- Two successful seagrass beds planted.
- Five small habitat islands built on southeast side of Bay.
- The Naples Bay Habitat Islands are favorite close-in fishing spots.
- Shorebird nesting occurs on islands.
- Trawling done only twice a year -- once in rainy season and once in dry season.
- Healthy, natural population from Gordon Pass to City limits up the Gordon River.

Twenty Years From Now: THE LEGACY

- Bay is fishable and swimmable.
- The Bay's oysters are edible.
- Licenses are available for seasonal harvesting.
- Naples Bay oysters are featured on the menus of local restaurants.
- Mangroves line the shores of Naples Bay.
- All private properties have mangrove fringes with unobstructed views of the Bay.
- Piers coexist with mangroves, extending through and beyond mangrove fringes.
- Residents catch fresh fish for dinner along their mangrove shorelines.
- Seagrass beds exist all the way to US 41 bridge.
- Dense beds of multiple species found at Windstar, Bayview Park, south end of Port Royal, and Cowpens area.
- Naples Bay Habitat Islands support nesting shorebirds and edible oysters.
- Seagrass beds have formed behind them.
- Islands provide environmental education and recreation -- an urban access point to the "wild."
- Trawling no longer occurs as observations of fish being caught by people all over Naples Bay reveals that the diversity, quantity, and health of animal species in the Naples Bay estuary are comparable to those found in the Rookery Bay estuary.

CONCLUSIONS

A non-obstructing, low-lying mangrove fringe lines the Bay.

Small islands, oyster bars, and fishing boats dot its surface.

Seagrasses visibly sway in the current.

Fish jump and dolphins play in the Gordon River.

Locals and visitors sample the local oysters at waterfront restaurants.

The State of Florida uses Naples Bay as an example to other municipalities.

The people of Naples take great pride in their Bay and its restoration.



Memo

Planning Department

TO: A. William Moss, City Manager
THROUGH: Robin D. Singer, Planning Director
FROM: Adam A. Benigni, Senior Planner
DATE: February 2, 2010
SUBJECT: D-Downtown Discussion

Below is a list of the topics to be discussed during the City Council Workshop of February 16, 2010 regarding the D-Downtown zoning district.

Permitted Uses in the D-Downtown zoning district include the following:

- | | |
|---|--|
| (1) Art and photography studios. | (17) Printing. |
| (2) Auto rental (office only; no lots). | (18) Radio/TV studio. |
| (3) Bakery. | (19) Rental business. |
| (4) Child care center. | (20) Residential units above a commercial 1st floor. (2) |
| (5) Church. | (21) Residential-only building not fronting U.S. 41, Central Ave, 10th Street or Goodlette-Frank Road. (2) |
| (6) Convenience store. | (22) Restaurant, with or without cocktail lounge. |
| (7) Cultural facilities. | (23) Retail sales. |
| (8) Financial institution. | (24) School/college. |
| (9) Hospital. | (25) Small appliance repair. |
| (10) Laundry/dry cleaning. | (26) Theater, live or motion picture. |
| (11) Locksmith shop. | (27) Warehousing, as accessory to permitted use only. |
| (12) Medical office. | |
| (13) Office. | |
| (14) Personal service establishment. (15) | |
| Pet shop. | |
| (16) Plant nursery. | |

Conditional Uses in the D-Downtown zoning district include the following:

- | | |
|---|---|
| (1) Assisted living facilities. | (8) Clothing fabrication. |
| (2) Auto repair (east of U.S. 41 only). (1) | (9) Drive-up windows. |
| (3) Auto sales (office only; no lots). | (10) Funeral home. |
| (4) Bed and breakfast inn (16 units per acre). | (11) Gas station on Goodlette-Frank Road only. |
| (5) Boat sales (office only; no lots). | (12) Maintenance business. |
| (6) Building supplies with outside storage (east of U.S. 41 only). | (13) Manufacturing. |
| (7) Carwash (not on U.S. 41 frontage and north of 1st Avenue South only). | (14) Nursing home. |
| | (15) Outdoor display of merchandise accessory to a permitted use. |

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(16) Parking structure on lot of 30,000 square feet or more, as accessory to a permitted or conditional use having materials, design, and architecture consistent with the principal structure, or otherwise fully screened from view.
(17) Recreational uses.

(18) Residential-only building fronting U.S. 41, Central Ave, 10th Street, or Goodlette-Frank Road. (2)
(19) Transportation, excluding vehicle storage and depots.
(20) Veterinarians.

Residential Density

The maximum residential density in the District is 12 units per acre; however, residential density can exceed 12 units per acre, but not greater than 30 units per acre by conditional use. In order to exceed 12 units per acre a project must either provide public open space through dedication of an easement to the City, payment into the Open Space Fund or a combination of both.

As of October 1, 2009, the fee per residential unit in excess of the allowable density is \$44,625. Fee is paid into Open Space Trust Fund. Money in Fund is to be used by the City for the purpose of paying for land and construction of public open space. Currently, there is \$592,519.05 in the Fund. If a developer chooses to dedicate open space to the City at least 500 square feet of contiguous open space per unit must be provided. The Code requires a minimum of 1,000 square feet of contiguous open space to be eligible for dedication option. The only project that was approved using this option was Renaissance Village. It is City Council's decision whether to accept dedication and/or payment into Fund.

The Future Land Use designation of the D-Downtown zoning district is Downtown Mixed Use. The Comprehensive Plan states, "Residential Density for area within 5th Ave S, 8th Street, 7th Ave N, and Goodlette Rd is limited to 12 units per acre with open space provisions." A total of 1,416 units can be built in the area bounded by 8th Street, 7th Avenue North, 5th Avenue South and Goodlette Road of which 807 units to the North of Central Avenue and 609 units to the South of Central Avenue. The projects which have been approved for density increases are as follows:

DENSITY BONUS APPROVALS – D-DOWNTOWN DISTRICT

PROJECT	BONUS UNITS	TOTAL UNITS	DENSITY
Enterprise Plaza**	20 units	36 units	27.69 units/acre
610 Building	5 units	12 units	19.35 units/acre
101 Building**	4 units	8 units	21.62 units/acre
Supreme Bldg.	8 units	14 units	29.17 units/acre
Renaissance Village	48 units	300 units	14.28 units/acre

**Approvals have lapsed.

Parking

Commercial Uses in the District require 3 parking spaces per 1,000 gross square feet. Dwelling units as part of mixed use development – 2 spaces per unit except that, for every parking space provided by the commercial use, the commercial parking may also count equally as a residential parking space for 50% of the required parking for the residential use. For instance, if a proposed development had 5,000 square feet of commercial space and 6 residential units only 21 parking spaces would be required. In other zoning districts, the same project would be required to have 31 parking spaces.

Page 3

The District also provides three incentives to developers or owners in regards to the number of parking spaces required on-site. The first option is a parking allocation. On-street parking may be allocated to meet the required parking for private property that is 100,000 square feet or less according to the table below. The second table shows the projects that have been allocated parking spaces.

Size of Land Parcel (square feet)	On-Street Per-Space Payment	% Allowable of Required Parking
0 to 15,000	0	100%
15,001 to 30,000	0	50%
30,001 to 60,000	\$2,500.00	25%
60,001 to 100,000	\$5,000.00	15%
100,001 and above	Not applicable	0%

North Of Central				
387 Spaces Available				
Name of Applicant		# of Spaces Requested	# of Spaces Approved	Date Approved
Fun Time Child Development Center		9	0	12/28/2004
City Center PD (TIB)		42	42	
Matt Joyner (6th Ave N. & US-41)		22	0	2/28/2006
Sean Hussey (US-41 & 6th Ave N.)		21	21	6/27/2005
Dan Summers 955 Central Ave		9	9	3/27/2006
Dan Summers 945 Central Ave		5	5	3/27/2006
Adam Smith (10th ST N. & 6th Ave N.)		20	20	1/28/2008
Adam Smith (8th ST S & 1st Ave S)		11	0	11/27/2006
Naples Academy of Ballet		4	3	6/25/2007
Enterprise Plaza LLC (1st Ave. N.)		27	0	10/23/2006
Stephen Farrington 508-536 9Th St.N.		5	3	4/01/2009
TOTAL REQUESTED/APPROVED		175	103	
TOTAL REMAINING		284		
South Of Central				
159 Spaces Available				
Name of Applicant		# of Spaces Requested	# of Spaces Approved	Date Approved
Trails End		20	0	
Dale & Nick Chlumsky		18	0	1/23/2006
TOTAL REQUESTED/APPROVED		38	0	
TOTAL REMAINING		159		
GRAND TOT. REMAINING		443		

The second option is Payment into Payment in-lieu-of Parking Fund. A Developer can pay for up to 25% of required parking spaces for nonresidential uses. The city shall use monies deposited into said account for the exclusive purpose of paying the cost of construction or reconstruction of parking spaces in the district. The fee per parking space is \$26,801.91 – the fee increases 5% per year. Currently, there is \$132,649.95 in this Fund.

The third option is reimbursement. For developments that provide dedicated, public parking spaces over and above the required minimum parking, the developer will be reimbursed from the payment-in-lieu-of parking trust fund a sum of money equal to the product of the excess spaces and the current reimbursement cost. The public parking spaces shall be readily apparent to the public and have direct access to a public way. A reasonable minimum number

Page 4

of contiguous public spaces, sufficient to be easily interpreted as a public parking amenity, shall be provided. This reimbursement is not intended for the odd one or two excess spaces that may result in a particular development layout, but rather, is intended to reimburse a concerted effort to add to the public parking pool. The quantity and suitability of such excess public parking spaces is subject to the review and determination of City Council.

Building Design and Placement

The D-Downtown District dictates many different building design requirements such as build-to lines, roofing and projection requirements, façade design and material usage. The District utilizes five different setback zones, each with different requirements – see chart below.

Setback Zone	Setback Requirement
A	20 ft. minimum, 30 ft. maximum
B	Build-to line 10 feet from property line
C	10 ft. minimum, 20 ft. maximum
D	10 ft. minimum, 25 ft. maximum
G	As required by the Corridor Management Overlay

Based upon setback zone, the Code also requires buildings to address the street with the entire façade of the building, arcades, porticos or decorative walls. Some setback zones allow arcades, awnings or overhangs to shelter the sidewalk while other zones do not allow any projections past the setback line.

In regards to design of structures, the District requires that sloped roofs be within a 4:12 to 12:12 slope range. Flat roofs must have parapet walls that are at least 2 feet in height. The District also regulates the floor to ceiling height of commercial first floors and the amount of glazed glass on the second and third floors. The District does not allow corporate architecture (predesigned or standardized designs – custom-designed architecture for corporations is allowed).

Recommendation

City Council review the D-Downtown District regulations and provide staff direction to draft any changes to the Code.