



City Council Chamber
735 Eighth Street South
Naples, Florida 34102

City Council Regular Meeting – February 17, 2010 – 8:30 a.m.

Mayor Barnett called the meeting to order and presided.

ROLL CALLITEM 1

Present:

Bill Barnett, Mayor
John Sorey, III, Vice Mayor

Council Members:

Douglas Finlay
Teresa Heitmann
Gary Price, II
Samuel Saad, III
Margaret Sulick (left 11:00 a.m.)

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
Christa Carrera, Floodplain Coordinator
Paul Bollenback, Building Services Director
Ann Marie Ricardi, Finance Director
Adam Benigni, Planner
Mireidy Fernandez, Planner
Robin Singer, Planning Director
Michael Bauer, Natural Resources Manager
Monique Krist, Admin Coord Natural Resources
Roger Jacobsen, Code & Harbor Manager
Tyrone Davis, Police Officer
Chelon Perez-Benitoa
Penny Taylor

Douglas Pareti
Willie Anthony
Matt Kragh
Jim Boula
Carol Losacco
Kay Ryon
Don Stevenson
Helen Stephens
Chris Bohn
Ellin Goetz
Harry Jordan
Kassem Bannout
Erminio Iantosca
Josephine Iantosca
Wayne Arnold

Media:

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

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

Reverend Douglas Pareti, First United Methodist Church.

ANNOUNCEMENTSITEM 3

Mayor Barnett proclaimed February 23rd as Mama Mia's Pizza Anniversary Celebration Day in honor of its 35 years of operation; owners Erminio and Josephine Iantosca were in attendance to accept the proclamation, along with their family.

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

MOTION by Sorey to ***SET THE AGENDA*** adding ***Item 23 (Life-Safety Code legislation relief resolution)*** and removing ***Item 9-c (downtown connectivity design services budget amendment)*** from the Consent Agenda for separate discussion. This motion was seconded by Sulick 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 5

(8:35 a.m.) **Don Stevenson, 649 Fifth Avenue South**, questioned the prohibition of veterinary offices within the C1 Retail Shopping District, noting his belief that such services are indeed needed, suggesting that a conditional use provision be added to the Code of Ordinances. Mayor Barnett asked Mr. Stevenson to contact him via e-mail so that the matter could be forwarded to the City Manager for consideration.

.....ITEM 6

CANVASS RESULTS OF THE GENERAL ELECTION OF FEBRUARY 2, 2010 AND DECLARATION OF RESULTS. City Clerk Tara Norman, who is also the Chief Election Official for the City, cited the certified results as reflected in Attachment 1, following which she thanked Collier County Supervisor of Elections, Jennifer Edwards, and her staff for their assistance. Council also recognized the City Clerk's Office and in particular Deputy City Clerk Jessica Rosenberg who had been in charge of candidate filing.

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

RESOLUTION 10-12605.....ITEM 7

A RESOLUTION ELECTING A VICE MAYOR, PURSUANT TO SECTION 2.4 OF THE CHARTER OF THE CITY OF NAPLES; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Robert Pritt (8:40 a.m.). Mayor Barnett nominated Council Member John Sorey and Council Member Sulick nominated Council Member Gary Price. Voting occurred in the order of nomination as reflected below.

MOTION by Barnett ***NOMINATING JOHN SOREY FOR VICE MAYOR*** carried 5-2, all members present and voting (Saad-yes, Heitmann-yes, Price-no, Sorey-yes, Sulick-no, Finlay-yes, Barnett-yes).

MOTION by Barnett to ***APPROVE RESOLUTION 10-12605*** electing John Sorey as Vice Mayor unanimously carried, all members present and voting (Finlay-yes, Heitmann-Yes, Price-yes, Saad-yes, Sorey-yes, Sulick-yes, Barnett-yes).

SWEARING IN OF NEW VICE MAYORITEM 8

Chief Election Official Tara Norman administered the oath of office to the newly elected Vice Mayor John Sorey.

CONSENT AGENDA

APPROVAL OF MINUTESITEM 9-a

February 3, 2010 Regular meeting; as submitted.

RESOLUTION 10-12606..... ITEM 9-b

A RESOLUTION APPROVING A LOCAL MITIGATION STRATEGY (FORMERLY THE COLLIER COUNTY HAZARD MITIGATION PLAN) FOR THE CITY OF NAPLES; AND PROVIDING AN EFFECTIVE DATE. Title not read.

MOTION by Price to **APPROVE CONSENT AGENDA** except **Item 9-c**; seconded by Finlay and unanimously carried, all members present and voting (Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sorey-yes, Sulick-yes, Barnett-yes).

END CONSENT AGENDA

RESOLUTION 10-12607.....ITEM 9-c
A RESOLUTION AMENDING THE 2009-10 BUDGET ADOPTED BY ORDINANCE 09-12519 TO FUND 50 PERCENT OF THE COST OF DESIGN SERVICES REGARDING CONNECTIVITY IN THE NAPLES DOWNTOWN AREA, INCLUDING PORTIONS OF THE COMMUNITY REDEVELOPMENT AREA; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (8:43 a.m.). Vice Mayor Sorey sought assurance from staff that the two firms being considered, JRL Design and PK Studios Landscape Architecture, were the most qualified. Assistant City Manager Roger Reinke explained that the companies had demonstrated their capabilities with recent pro bono design recommendations, however, should Council wish to issue a Request for Qualifications (RFQ) the cost may be greater than the currently allocated \$25,000. Mr. Reinke further indicated that the Gibbs Planning Group, as well as Kimley Horn & Associates, had indicated an interest in the project. City Manager William Moss also pointed out that the RFQ process may nevertheless become necessary once this phase of the project is completed. Both Council Member Heitmann and Mayor Barnett expressed their confidence that the two firms would be fully capable of formulating a design.

Council Member Sulick received clarification from Mr. Reinke that the project limit under this approval, including project related expenses noted in the proposal, is \$25,000; otherwise it would fall under the Consultant's Competitive Negotiations Act (CCNA). He said that a contract was yet to be negotiated.

Concurring with Vice Mayor Sorey's line of questioning, Council Member Price nevertheless indicated that he could support the two firms since he viewed the connectivity and placemaking as similar to the marketing effort recently undertaken in the redevelopment area by Paradise Advertising. He further observed that these local companies, who are intimately involved with the community, had brought forward proposals which Council had accepted.

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

MOTION by Sorey to **APPROVE RESOLUTION 10-12607** as submitted; seconded by Price and unanimously carried, all members present and voting (Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sorey-yes, Sulick-yes, Barnett-yes).

RESOLUTION 10-12608.....ITEM 10-a
A RESOLUTION APPOINTING ONE COUNCIL MEMBER EX OFFICIO, AS A RESIDENT MEMBER, TO THE BOARD OF TRUSTEES OF THE FIREFIGHTERS' RETIREMENT TRUST FUND FOR A TERM COMMENCING FEBRUARY 17, 2010, AND EXPIRING FEBRUARY 16, 2012; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (8:52 a.m.).

Public Comment: (8:53 a.m.) None.

MOTION by Barnett to **APPROVE RESOLUTION 10-12608 APPOINTING GARY PRICE** *unanimously carried, all members present and voting (Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sorey-yes, Sulick-yes, Barnett-yes).*

RESOLUTION 10-12609.....ITEM 10-b

A RESOLUTION APPOINTING ONE CITY COUNCIL MEMBER TO THE NAPLES (COLLIER COUNTY) METROPOLITAN PLANNING ORGANIZATION; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (8:53 a.m.).

Public Comment: (8:53 a.m.) None.

MOTION by Sorey to **APPROVE RESOLUTION 10-12609 APPOINTING SAMUEL SAAD** *(four-year term) unanimously carried, all members present and voting (Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sorey-yes, Sulick-yes, Barnett-yes).*

RESOLUTION 10-12610.....ITEM 10-c

A RESOLUTION APPOINTING ONE CITY COUNCIL MEMBER TO THE BOARD OF DIRECTORS OF THE NAPLES ART ASSOCIATION; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (8:54 a.m.).

Public Comment: (8:54 a.m.) None.

MOTION by Heitmann to **APPROVE RESOLUTION 10-12610 APPOINTING DOUGLAS FINLAY** *(four-year term) unanimously carried, all members present and voting (Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sorey-yes, Sulick-yes, Barnett-yes).*

RESOLUTION 10-12611.....ITEM 10-d

A RESOLUTION APPOINTING ONE CITY COUNCIL MEMBER TO THE PUBLIC ART ADVISORY COMMITTEE; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (8:55 a.m.).

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

MOTION by Sorey to **APPROVE RESOLUTION 10-12611 APPOINTING DOUGLAS FINLAY** *unanimously carried, all members present and voting (Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sorey-yes, Sulick-yes, Barnett-yes).*

.....ITEM 11

SELECTION OF CHAIR AND VICE CHAIR OF COMMUNITY REDEVELOPMENT AGENCY (CRA). Statement read by City Attorney Robert Pritt (8:56 a.m.). Mayor Barnett nominated Council Member Sulick as Chair of the Community Redevelopment Agency (CRA), following which Vice Mayor Sorey nominated Council Member Heitmann for Vice Chair.

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

MOTION by Barnett to **ELECT COUNCIL MEMBER SULICK AS CRA CHAIR** *unanimously carried, all members present and voting (Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sorey-yes, Sulick-yes, Barnett-yes).*

MOTION by Sorey to **ELECT COUNCIL MEMBER HEITMANN AS CRA VICE CHAIR** *unanimously carried, all members present and voting (Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sorey-yes, Sulick-yes, Barnett-yes).*

ORDINANCE (First Reading).....ITEM 12
AN ORDINANCE RELATING TO THE BILLING CYCLE FOR WATER, SEWER, IRRIGATION, STORMWATER AND SOLID WASTE RATE CHANGES; AMENDING SECTIONS 30-33(g), 30-177(b), 30-343, 30-259(2), AND 32-71(c) OF THE CODE OF ORDINANCES, CITY OF NAPLES, FOR THE PURPOSE OF MODIFYING THE EFFECTIVE DATE OF FUTURE INDEXED WATER, SEWER, IRRIGATION, STORMWATER AND SOLID WASTE RATE INCREASES TO BECOME EFFECTIVE WITH THE FIRST FULL BILLING CYCLE FOR SERVICE RENDERED ON OR AFTER OCTOBER 1ST OF EACH FISCAL YEAR INDICATED; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (8:57 a.m.). City Manager William Moss clarified that the ordinance applies to only the annual Consumer Price Index (CPI)-based increases in utility rates.

Public Comment: (8:59 a.m.) None.

MOTION by Sorey to APPROVE THIS ORDINANCE on First Reading, as submitted; seconded by Sulick and unanimously carried, all members present and voting (Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sorey-yes, Sulick-yes, Barnett-yes).

ORDINANCE (First Reading).....ITEM 13
AN ORDINANCE DETERMINING REZONE PETITION 10-R1 TO REZONE A 0.39 ACRE PROPERTY FROM PS, PUBLIC SERVICE TO R1-7.5 RESIDENCE DISTRICT ON PROPERTY LOCATED AT 1092 11TH STREET NORTH, MORE FULLY DESCRIBED HEREIN; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (8:59 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: Saad and Heitmann/visited the site and spoke with residents of the Lake Park neighborhood; Finlay/no contact; Price/visited the site but no contact; Barnett/familiar with the site and spoke with residents of the Lake Park neighborhood; Sulick/visited the site but no contact; and Sorey/visited the site, spoke with Lake Park residents and the petitioner's agent. Planner Adam Benigni provided a brief overview of the rezone petition as contained in his memorandum dated January 21 (Attachment 2), wherein he pointed out that in 1984, the City had granted the property owner's requested rezoning to PS Public Service, the original designation being R1-7.5; this had been in anticipation of use as overflow parking. The church currently has an excess of seven parking spaces in conjunction with a parcel to the north of the main structure, he said, adding that staff recommended approval.

Architect Matt Kragh (sworn separately), represented the petitioner indicating that the church had apparently planned to expand the fellowship hall, but since this had not taken place the church wishes to sell the parcel as two residential lots to fund improvements to existing facilities. In response to Vice Mayor Sorey, Mr. Kragh confirmed that the two lots would indeed meet all minimum requirements with regard to size.

Vice Mayor Sorey suggested that the City seek an access easement to the adjacent lake to facilitate its upkeep as a condition of the rezone, and Mr. Pritt indicated that this should be achieved with agreement by the petitioner. Mayor Barnett further explained that such an access

would be utilized by the Natural Resources staff for water quality testing and lake maintenance. Mr. Kragh however pointed out that an easement may hinder the marketability of the lots due to their size if not located within setbacks. Vice Mayor Sorey suggested that an easement be granted on the property line between the two lots, five feet on each, which would preclude encroachment on the buildable area of either; Mr. Pritt cautioned that the easement must be voluntarily given by the petitioner.

Council Member Sulick questioned the ownership of the lake, and Mr. Kragh stated that the surrounding properties stop at the lake edge although he said that he was unsure of the lake ownership. City Manager Moss further clarified that if the City currently accesses the lake, permission must be obtained from a lakefront property owner. Assistant City Manager Roger Reinke (sworn separately), stated that he had spoken with Natural Resources Manager Michael Bauer who confirmed that, while the City does not currently have an easement, permission is granted by the surrounding property owners who supported the City's recent installation of two aerators to aid in the improvement of water quality.

Vice Mayor Sorey proffered a motion of approval of the ordinance with the inclusion of Section 4 granting a ten-foot non-exclusive easement to the City for lake maintenance; he further proposed that the language be determined by the City Attorney following consultation with the property owner and that the conveyance be effective upon the transfer of the property. Mr. Kragh pointed out that should the buyer wish to build one structure utilizing the two lots, a 7.5-foot easement might be considered along one exterior property line. Council Member Sulick also said that no fencing or landscaping could be installed if an easement is configured along the line between the two lots; the property should not be encumbered prior to establishing its use, she cautioned. Ownership of the lake should also be determined prior to second reading, Mr. Pritt concluded, and Mr. Kragh requested that recording of the easement be funded by the City should it be granted.

Public Comment: (9:20 a.m.) None.

MOTION by Sorey to APPROVE THIS ORDINANCE on First Reading amending to add Section 4 granting to the City a non-exclusive easement to facilitate lake maintenance, effective upon transfer of the property (petitioner to confer with City Attorney regarding final wording of amendment). This motion was seconded by Barnett and carried 6-1, all members present and voting (Finlay-yes, Heitmann-yes, Price-no, Saad-yes, Sorey-yes, Sulick-yes, Barnett-yes).

Council Member Price explained that he did not agree with the manner in which the easement was to be obtained and therefore his negative vote.

RESOLUTION 10-12612.....ITEM 14

A RESOLUTION DETERMINING PETITION 10-WD1 FOR A WAIVER OF DISTANCE FOR TONY'S C PLACE, LOCATED AT 842 NEAPOLITAN WAY, IN ORDER TO OBTAIN AN ALCOHOLIC BEVERAGE LICENSE TYPE 2COP TO SERVE BEER AND WINE WITHIN 500 FEET OF OTHER ESTABLISHED LICENSEES THAT SERVE ALCOHOL IN THE PARKSHORE PLANNED DEVELOPMENT ZONING DISTRICT, MORE FULLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (9:20 a.m.). This being a quasi-judicial proceeding, Notary Public Vicki Smith administered an oath to those

intending to offer testimony but who had not been previously sworn; all responded in the affirmative. City Council Members then made the following ex parte disclosures: Saad/visited the site and spoke with the petitioner and neighborhood residents; Finlay/visited the site but no contact; Price/visited the site and spoke with a member of the public; Barnett/familiar with the site but no contact; Sulick/visited the site but no contact; Heitmann/familiar with the site and spoke with members of the public; and Sorey/visited the site and spoke with the petitioner. Planner Mireidy Fernandez provided a brief overview of the petition, noting that staff recommended approval and that the petitioner's agent, Carol Losacco, was present to respond to any questions. Ms. Losacco explained for Council Member Saad that the site had formerly housed Le Bistro Restaurant which had indeed served alcoholic beverages.

Public Comment: (9:23 a.m.) None.

MOTION by Sorey to APPROVE RESOLUTION 10-12612 as submitted; seconded by Heitmann and unanimously carried, all members present and voting (Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sorey-yes, Sulick-yes, Barnett-yes).

RESOLUTION 10-12613.....ITEM 15
A RESOLUTION DETERMINING WAIVER OF DISTANCE PETITION 10-WD2 AND RESIDENTIAL IMPACT STATEMENT PETITION 10-RIS3, WITH AN AFTER 9:00 P.M. EXTENDED HOURS WAIVER, IN ORDER FOR EVERGLADES CONVENIENCE STORE TO OBTAIN A TYPE 2APS ALCOHOLIC BEVERAGE LICENSE TO SELL PACKAGED BEER AND WINE WITHIN 500 FEET OF OTHER ESTABLISHED LICENSEES THAT SERVE ALCOHOL AND 200 FEET FROM A CHURCH IN THE D-DOWNTOWN ZONING DISTRICT LOCATED AT 271 TENTH STREET NORTH, MORE FULLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.
Title read by City Attorney Robert Pritt (9:23 a.m.). This being a quasi-judicial proceeding, Notary Public Vicki Smith administered an oath to those intending to offer testimony but who had not been previously sworn; all responded in the affirmative. City Council Members then made the following ex parte disclosures: Saad/visited the site and spoke with the petitioner and members of the public; Finlay/visited the site but no contact; Price/familiar with the site and received a letter of opposition from a nearby church congregation; Barnett/visited the site and spoke with the petitioner; Sulick/visited the site and spoke with nearby business owners; Heitmann/familiar with the site but no contact; and Sorey/visited the site, spoke with the petitioner, with residents Johnny Nocera and Willie Anthony, and received the aforementioned letter. (It is noted for the record that a copy of the letter is contained in the file for this meeting in the City Clerk's Office.) Planner Mireidy Fernandez provided a brief overview of the petitions as contained in her memorandum dated February 3 (Attachment 3), noting that staff had recommended denial due to failure to meet extended hours permit criteria 4, 5 and 6 as detailed in the staff report (excerpted as Attachment 4). She also indicated that Police Officer Tyrone Davis was present should law enforcement questions arise.

Petitioner Kassem Bannout requested that his business partner Kay Ryon be allowed to speak on his behalf; Council agreed. Ms. Ryon began by challenging distance measurements, saying that per her measurements, the establishment's main door is 445 feet from the nearby church's main door, well over the necessary 200 feet required in the "D" Downtown Zoning District; the establishment is also 633 feet from a restaurant (Under the Shady Palm Pub) which has an

alcoholic beverage license requiring a distance of 500 feet from another establishment serving alcohol. She then presented Council with information appended hereto as Attachment 5:

- Petitioner's Exhibit #1 / licensee information for the subject property detailing past alcoholic beverage licenses held by the owners;
- Petitioner's Exhibit #2 / letters of support from nearby apartment complexes River Park and George Washington Carver, and Jasmine Cay had indicated neutrality on their part;
- Petitioner's Exhibit #3 / story relating to closure of prior business operating on subject premises; and
- Petitioner's Exhibit #4-A through 4-D / petitions expressing support of the establishment seeking the above cited petitions.

She then noted a recent stop-work order issued on remodeling of the premises, explaining that Mr. Bannout had been assured by the contractor that permits would not be necessary. Ms. Ryon further explained that their request for extended hours was for the convenience of patrons and addressed apparent loitering concerns by stating that this would be consistently monitored and dealt with by management. She asked that they be given the opportunity to prove their effectiveness by operating their business in a safe and secure manner.

In response to Council Member Price, Ms. Ryon explained that the above measurements had been taken along the route a pedestrian would take between entrances, but Planning Director Robin Singer noted that staff had measured from the entrance of the subject establishment to the closest building associated with the church (per Code), and to the Shady Palm, both distances being under 500 feet. She further supported staff's recommendation of denial due to the proximity of residential properties directly across the street from the subject establishment, noting this distance is measured from property line to property line. Ms. Ryon continued to disagree with staff's measurements, requesting that they be repeated, and Ms. Singer reiterated that the petitions had indeed been brought forward properly, especially in light of the close proximity of residential property.

Public Comment: (9:42 a.m.) **Willie Anthony, 559 14th Street North**, explained that while he supported the store, he could not support the selling of alcoholic beverages, that in the past this practice at that location had proven to have a negative impact upon the community. In response to the petitioner, he further explained that his main concern is the proximity of the residential properties directly across the street, especially with regard to loitering and littering, although he has no issue with residents drinking on private property. **Harry Jordan, 1300 Fifth Avenue North, Helen Stephens, 1015 Second Avenue North, Apt. A-5, and Chris Bohn, 450 11th Street North, Apt. J-21**, expressed support for the establishment, voicing the opinion that, without the alcoholic license, it would most probably not succeed. They also cited the friendliness of the owners and said that the property was well maintained and should be given the opportunity to be successful.

With regard to the above referenced stop-work order, Roger Jacobson, Code & Harbor Manager (sworn separately) explained that he had met with the owner and several general contractors three months prior to discuss the work to be done, noting that it required permits. A report had been subsequently filed that work was indeed being performed without a permit. This work was confirmed to be removal and reconstruction of a wall. Currently, the contractor who performed the work cannot be located by City or Collier County Code Enforcement staff, Mr. Jacobson said, and the County is also actively seeking this individual with regard to working without a

contractor license. In response to Council Member Sulick, he stated that no permits had been obtained for either of the two business locations within the structure. Petitioner Bannout maintained that he had hired the contractor with the understanding that he was properly licensed and had stated that no permit was needed for the wall renovation; no other work had been undertaken, he said. Therefore, he explained, all contractor names had been removed from the stop-work order except the plasterer's who had done the actual wall work without a permit. Mayor Barnett cautioned him to make certain that any future work is done by a licensed contractor and that the proper permits are indeed obtained.

Council Member Heitmann proffered a motion to deny based on the staff recommendation as well as her opinion that it was in the best interest of the community; Council Member Finlay seconded. Council Member Saad cited consideration of the fact that the petitioner appeared to be attempting to attain economic viability balanced against the wellbeing of the community in regard to sale of alcoholic beverages. After confirming the business backgrounds of the petitioner (handbag designer) and his partner (housewife as well as work in retail and clothing stores), Mr. Saad stated that due to lack of business experience, it was therefore not determined whether an alcoholic beverage license would indeed guarantee success. Ms. Ryon reiterated her request that they be given the tools for the opportunity to prove themselves as business owners/operators, and said that the local residents appear to appreciate the neighborhood store; the license to sell alcoholic beverages is indeed supported by a majority of the nearby residents, she added.

Mayor Barnett stated that he had observed a tiny, well-kept establishment when he visited the site and that he supported the petitions. He also said he believed that with the location, loitering would not be an issue; nevertheless, he urged the petitioner to shorten hours of alcoholic beverage sales, especially on Sundays due to the nearby church; should any of staff's concerns become a reality, then the approval could be rescinded, he added. Council Member Price agreed, noting that the business is located within zoning that allows the sale of alcohol. Mr. Price also took issue with the assertion in the staff report that cautioned of noise issues cited under criteria 2 and 4 (see Attachment 4), pointing out that the police are responsible for enforcing the law, not the business owner. Although he remained concerned with the impact to the residential neighborhood, Mr. Price said that he would not base a denial upon the content of the staff report with which he took issue. Council Member Heitmann acknowledged Mr. Price's perspective; she said she believed that the business would succeed without an alcoholic beverage license, adding that other businesses in the "D" Downtown which sell alcohol are restaurants with consumption on site. She reiterated that her key issue is safety with the residential properties so close to the establishment and therefore her motion of denial.

In response to Vice Mayor Sorey, City Attorney Pritt indicated that he believed that once granted at the local level, the state then grants its permit for the sale of alcohol and therefore local permission could not be given on a trial basis. Ms. Singer suggested that the waiver of distance be granted but that the extended hours permission be limited initially; the petitioner could then seek additional hours of operation once successful operation, without complaints, had been demonstrated. Mr. Pritt agreed that this would be acceptable. Ms. Singer also pointed out that the waiver of distance could be denied but the extended hours petition could in fact be approved.

Council Member Heitmann agreed to amend her motion and Council Member Finlay, as the seconder, agreed as well.

MOTION by Heitmann to APPROVE RESOLUTION 10-12613 amended to reflect DENIAL of waiver of distance (10-WD2) based upon the staff report and APPROVAL of RIS3 for extended hours waiver. This motion was seconded by Finlay and carried 4-3, all members present and voting (Saad-yes, Price-no, Finlay-yes, Sorey-yes, Sulick-no, Heitmann-yes, Barnett-no).

Recess: 10:23 a.m. to 10:36 a.m. It is noted for the record that the same Council Members were present when the meeting reconvened.

RESOLUTION 10-12614.....ITEM 16

A RESOLUTION DETERMINING PUBLIC ART PETITION 10-PA1 FOR PLACEMENT OF PUBLIC ART ON-SITE AT THE NAPLES BEACH HOTEL AND GOLF CLUB LOCATED AT 851 GULF SHORE BOULEVARD NORTH AND REIMBURSING THE PUBLIC ART FEE, SAID PROPERTY BEING MORE FULLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (10:36 a.m.). This being a quasi-judicial proceeding, Notary Public Vicki Smith administered an oath to those intending to offer testimony but who had not been previously sworn; all responded in the affirmative. City Council Members then made the following ex parte disclosures: all indicated familiarity with the site but no contact other than casual conversation with the petitioner during the preceding recess being cited by Mayor Barnett and Council Member Price. Planning Director Robin Singer briefly reviewed the petitioner's request, explaining that the Public Art Advisory Committee (PAAC) had indicated approval of the artwork and the Design Review Board (DRB) had reviewed the general location for the piece, supporting the petitioner's intended site. Ms. Singer further stated that Ellin Goetz, petitioner's agent, was available for questioning.

Public Comment: (10:38 a.m.) None.

MOTION by Sorey to APPROVE RESOLUTION 10-12614 as submitted; seconded by Price and unanimously carried, all members present and voting (Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sorey-yes, Sulick-yes, Barnett-yes).

ORDINANCE (First Reading / cont. / see below)ITEM 17

AN ORDINANCE RELATING TO PROPERTY MAINTENANCE; AMENDING SECTION 16-284(b)(2) OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES FOR THE PURPOSE OF ALLOWING DOCKS, FENCES AND WALLS TO REMAIN ON VACANT LOTS; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (10:39 a.m.). Planner Adam Benigni briefly outlined the amendments contained in the subject ordinance, the intent of which is to allow docks, fences and walls, in good condition, to remain on vacant lots as well as adding driveways to the list of improvements that must be cleared from vacant lots. He also noted discussion during the January 13 Planning Advisory Board (PAB) meeting regarding the definition of driveway contained in the Code of Ordinances; namely: "Driveway means the paved area leading from the edge of a street pavement to the access way at the property line." Council Member Saad, formerly a PAB member, confirmed that driveways had indeed been added to clarify the Code in that the portion of a driveway located in the right-of-way must also be removed. (It is noted for the record that a copy of the minutes outlining the referenced PAB discussion is contained in the file for this meeting in the City Clerk's Office.)

Mr. Benigni confirmed for Council Member Sulick that electrical service at a dock is to be disconnected when the lot is vacated and is not to be used until a new structure is constructed. He further explained that it is not a requirement that future building plans be submitted for the dock to remain. Council Member Finlay noted use of docks in his neighborhood following demolition of main structures and City Manager William Moss indicated that this would be an issue for Code Enforcement to address.

Council Member Finlay then expressed concern with the required removal of all driveways, saying that some are attractive and should be allowed to remain if kept in good repair. Council Member Sulick agreed, questioning whether discretion could be used when requiring even certain well-kept, aesthetically pleasing driveways to remain. Mr. Benigni indicated that a variance could indeed be sought in this regard. City Manager Moss further noted that the Presidents' Council had recommended the Code be amended to allow property owners to retain driveways in good repair on the site. Mr. Price suggested that the "old pavement" language be used to enforce removal of unsightly driveways. Council Member Saad added that should the variance process be utilized a condition be added requiring that, if approved, the driveway must be maintained for it to remain. Mrs. Sulick recommended that driveway provisions be moved from Section 16-284(b)(2)(b) to 16-284(b)(2)(c) thereby allowing them to remain, again, if in good repair. City Manager Moss suggested that the item be continued to allow proper revisions as well as review of the driveway definition cited above; Mr. Pritt agreed. A prior motion of approval was withdrawn and the motion reflected below was forthcoming.

Public Comment: (10:51 a.m.) None.

MOTION by Sorey to CONTINUE THIS ORDINANCE to allow revision of driveway definition and develop conditions under which a driveway would be deemed in good repair and permitted to remain on a site. This motion was seconded by Price and unanimously carried, all members present and voting (Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sorey-yes, Sulick-yes, Barnett-yes).

It is noted for the record that Council Member Sulick left the meeting at 11:00 a.m. during consideration of Item 18 below, and did not return.

ORDINANCE (First Reading).....ITEM 18
AN ORDINANCE RELATING TO DWELLING UNITS AND GUEST UNITS; AMENDING SECTION 44-8, DEFINITIONS, TO MODIFY THE DEFINITION OF AND LIMITATIONS ON DWELLING UNITS AND GUEST UNITS, AND AMENDING SECTION 56-91, GUEST UNITS, OF THE CODE OF ORDINANCES, CITY OF NAPLES, TO PROVIDE A NEW DEFINITION AND LIMITATIONS ON CABANAS; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (10:52 a.m.). Planning Director Robin Singer briefly reviewed the amendments as reflected in her memorandum dated February 1 (Attachment 6), noting that the Planning Advisory Board, during its January 13 meeting, had recommended additional language with regard to the definition of guest unit (see Attachment 6, Page 2, double underlined portion). The amended language would define detached living space that does not qualify as a cabana as guest space, she clarified. She further noted that local architect Jon Kukuk had suggested that the 200 square foot limitation for cabanas be increased to 400 square feet as this is the average size of a two-vehicle garage and often these accessory

spaces are located over a garage; this change is reflected in Section 2, 56-91(a), definitions, of the ordinance. Staff and the PAB therefore recommends approval, she concluded.

Ms. Singer confirmed that the ordinance was drafted to deal with building plans indicating two or three dwelling units connected by a common entry in a single-family zoning district, thereby attempting to circumvent the conditional use process for guest units or to build multi-family structures. She also explained that additional guest units could be approved via conditional use permits, based upon the size of the property, and that these guest units are prohibited from being utilized as rentals unless the main structure is under the same rental agreement. Ms. Singer then clarified for Council Member Price that guest units are not allowed to have cooking facilities, otherwise the structure would be considered a dwelling unit.

A brief discussion of the modified guest unit definition followed wherein Ms. Singer pointed out that the language did indeed allow staff a greater latitude with regard to interpreting whether a unit would be considered a dwelling unit or guest unit and that this had been the intent. Vice Mayor Sorey agreed, saying that staff faces such challenges every day and this ordinance would provide another tool with additional guidelines.

Public Comment: (11:03 a.m.) None.

MOTION by Sorey to APPROVE THIS ORDINANCE on First Reading, as submitted; seconded by Barnett and carried 6-0 (Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sorey-yes, Sulick-absent, Barnett-yes).

RESOLUTION 10-12615.....ITEM 19

A RESOLUTION APPROVING A PUBLIC ART PROJECT AT THE NAPLES PIER CONSISTING OF MOSAIC SEA TURTLES CREATED BY NAPLES HIGH SCHOOL STUDENTS IN CONJUNCTION WITH THE 2010 CITY OF NAPLES SEA TURTLE HOMECOMING FESTIVAL; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (11:03 a.m.). Natural Resources Manager Michael Bauer provided a brief overview of the public art project consisting of mosaic representation of individual sea turtles placed among the existing pavers at the entrance to the Fishing Pier. The artwork is to be created by Naples High School students and should be completed and installed prior to the first annual City of Naples Sea Turtle Homecoming Festival scheduled on March 20. He explained that former Vice Mayor Penny Taylor had guided the project, along with the high school's art director, Chelon Perez-Benitoa. Ms. Perez-Benitoa presented renderings of the artwork (photographs of which are contained in the file for this meeting in the City Clerk's Office), explaining that the five turtles will vary in size and color, and be constructed of small pieces of glass, installed flush with the pavers. Dr. Bauer added that he had been working closely with the Planning and Community Services Departments to guarantee an installation that would be safe and relatively maintenance free; Cox Tile, he said, was donating materials and the Big Cypress Basin Board had provided a \$1,000 contribution.

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

MOTION by Price to APPROVE RESOLUTION 10-12615 as submitted; seconded by Heitmann and carried 6-0 (Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sorey-yes, Sulick-absent, Barnett-yes).

RESOLUTION 10-12616.....ITEM 20
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. Title read by City Attorney Robert Pritt (11:11 a.m.). City Manager William Moss briefly explained the amendments contained in the agreement with the Naples Zoo (see Item 21 below), which had been at the direction of Council on February 3rd. These amendments are outlined in the memorandum dated February 3 by Engineering Manager Gregg Strakaluse appended hereto as Attachment 7. Council Member Sorey indicated his intent to abstain due to a consulting agreement with the Naples Zoo.

Public Comment: (11:12 a.m.) None.

MOTION by Barnett to APPROVE RESOLUTION 10-12616 as submitted; seconded by Price and carried 5-0-1 (Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sorey-abstain, Sulick-absent, Barnett-yes). (See Attachment 8, Form 8-B Memorandum of Voting Conflict for County, Municipal, and Other Local Public Officers.)

RESOLUTION 10-12617.....ITEM 21
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. Title read by City Attorney Robert Pritt (11:13 a.m.). Council Member Price thanked staff for addressing Council's prior concerns with the agreement. Council Member Sorey then indicated his intent to abstain due to a consulting agreement with the Naples Zoo.

Public Comment: (11:13 a.m.) None.

MOTION by Price to APPROVE RESOLUTION 10-12617 as submitted; seconded by Finlay and carried 5-0-1 (Finlay-yes, Heitmann-Yes, Price-yes, Saad-yes, Sorey-abstain, Sulick-yes, Barnett-yes). (See Attachment 9, Form 8-B Memorandum of Voting Conflict for County, Municipal, and Other Local Public Officers.)

RESOLUTION 10-12618.....ITEM 22-a(1)
A RESOLUTION APPOINTING ONE MEMBER TO THE PLANNING ADVISORY BOARD FOR THE BALANCE OF A THREE-YEAR TERM CONCLUDING APRIL 30, 2012; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (11:14 a.m.).

Public Comment: (11:14 a.m.) None.

MOTION by Sorey to APPROVE RESOLUTION 10-12618 APPOINTING JAMES KRALL carried 6-0 (Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sorey-yes, Sulick-absent, Barnett-yes).

RESOLUTION 10-12619.....ITEM 22-a(2)
A RESOLUTION APPOINTING ONE MEMBER TO THE PLANNING ADVISORY BOARD FOR THE BALANCE OF A THREE-YEAR TERM CONCLUDING APRIL 30, 2012; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (11:14 a.m.).

Public Comment: (11:15 a.m.) None.

MOTION by Price to APPROVE RESOLUTION 10-12619 APPOINTING WAYNE ARNOLD carried 6-0 (Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sorey-yes, Sulick-absent, Barnett-yes).

RESOLUTION 10-12620.....ITEM 22-a(3)
A RESOLUTION APPOINTING ONE ALTERNATE TO THE PLANNING ADVISORY BOARD FOR THE BALANCE OF A THREE-YEAR TERM CONCLUDING APRIL 30, 2011; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (11:15 a.m.).

Public Comment: (11:15 a.m.) None.

MOTION by Barnett to APPROVE RESOLUTION 10-12620 APPOINTING JOHN CARDILLO carried 6-0 (Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sorey-yes, Sulick-absent, Barnett-yes).

RESOLUTION 10-12621.....ITEM 22-b
A RESOLUTION RECOMMENDING ONE CITY RESIDENT FOR APPOINTMENT TO THE COLLIER COUNTY CONTRACTORS LICENSING BOARD FOR THE BALANCE OF A THREE-YEAR TERM IN THE CATEGORY OF CONTRACTOR; DIRECTING THE CITY CLERK TO PROVIDE SAID RECOMMENDATION TO THE COLLIER COUNTY COMMISSION FOR APPOINTMENT; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (11:16 a.m.).

Public Comment: (11:16 a.m.) None.

MOTION by Barnett to APPROVE RESOLUTION 10-12621 APPOINTING ROBERT MEISTER carried 6-0 (Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sorey-yes, Sulick-absent, Barnett-yes).

RESOLUTION 10-12622.....ITEM 22-c
A RESOLUTION APPOINTING A CITY RESIDENT TO THE BOARD OF TRUSTEES OF THE POLICE OFFICERS' RETIREMENT TRUST FUND FOR A TERM COMMENCING FEBRUARY 20, 2010, AND EXPIRING FEBRUARY 19, 2012; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (11:16 a.m.).

Public Comment: (11:16 a.m.) None.

MOTION by Price to APPROVE RESOLUTION 10-12622 APPOINTING WILLIAM MACILVAINE carried 6-0 (Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sorey-yes, Sulick-absent, Barnett-yes).

RESOLUTION 10-12623 (Added Item).....ITEM 23
A RESOLUTION SUPPORTING LEGISLATIVE EFFORTS TO EXTEND LIFE-SAFETY CODE RELIEF TO COMMUNITY ASSOCIATIONS; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (11:17 a.m.). Vice Mayor Sorey thanked Council Member Price for bringing the resolution forward for consideration and proffered a motion for approval. Mr. Price questioned whether information requested during that week's workshop had as yet been provided with regard to the number of fire deaths in 2009 as well as the background of the NFPA (National Fire Protection Association) membership. Mr.

Sorey stated that he had additionally requested that the report include which deaths had occurred in structures meeting the current pertinent fire codes and which had not. Council Member Saad reported that he had researched the NFPA members responsible for drafting the codes and ascertained that the group was comprised of union officials and fire prevention equipment/device manufacturers.

Council Member Finlay thanked Ewing Sutherland for his efforts statewide in supporting the legislative effort in seeking relief for Florida residents from the economic hardship of the codes.

Public Comment: (11:19 a.m.) None.

MOTION by Sorey to APPROVE RESOLUTION 10-12623 as submitted; seconded by Finlay and carried 6-0 (Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sorey-yes, Sulick-absent, Barnett-yes).

PUBLIC COMMENT.....
(11:18 a.m.) None.

CORRESPONDENCE AND COMMUNICATIONS.....

(11:19 a.m.) Referencing Item 15 above, Council Member Saad noted that when a member of the Planning Advisory Board (PAB) he had found the staff reports at times to be lacking. Reports must present all known facts pertaining to an item, he said, and the Item 15 staff report had not indicated past alcoholic beverage licenses issued for that property. With regard to the same item, Vice Mayor Sorey expressed the hope that the petitioner could reach a compromise with nearby residents and church members; Mayor Barnett agreed. Council Member Heitmann reiterated her concern with regard to school children having to travel directly in front of the store discussed in Item 15, adding that incidences had occurred under past alcoholic licenses for that address which would have been inappropriate to bring forward under the new owner's application. Council Member Price expressed appreciation to residents who supported his re-election to City Council and welcomed new Council Members, as well as newly elected Vice Mayor Sorey and Community Redevelopment Agency (CRA) Chair Sulick.

ADJOURN.....
11:24 a.m.

Bill Barnett, Mayor

Tara A. Norman, City Clerk

Minutes prepared by:

Vicki L. Smith, Technical Writing Specialist

Minutes Approved: 03/03/10

** Official **

CERTIFICATE OF CITY OF NAPLES CANVASSING BOARD

STATE OF FLORIDA

City of Naples

We, the undersigned, Tara Norman, Bill Barnett, and Mary Ellen Hawkins, constituting the City of Naples Canvassers in and for said City, do hereby certify that we met on the 4th day of February, A.D., 2010, and proceeded publicly to canvass the votes given for the City of Naples Election on the 2nd day of February, A.D., 2010 as shown by the returns on file in the office of the Supervisor of Elections. We do hereby certify from said returns as follows:

City Council (Vote for no more than Three)

Doug Finlay 3,085 votes

Dorothy Hirsch 1,276 votes

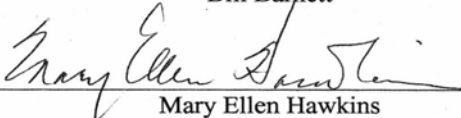
Gary B. Price II 3,250 votes

Sam Saad 2,273 votes

Bill Willkomm 1,991 votes


Tara Norman


Bill Barnett


Mary Ellen Hawkins

We certify that pursuant to Section 102.112, Florida Statutes, the canvassing board has compared the number of persons who voted with the number of ballots counted and that the certification includes all valid votes cast in the election.

Total ballots cast in the City of Naples was 4,401 for a 29.13 percent turnout.

** Official **



NAPLES CITY COUNCIL AGENDA MEMORANDUM

Regular Meeting Date: February 17, 2010

Agenda Section: Regular	Prepared By: Adam A. Benigni, Senior Planner Date: January 21, 2010 Department: Planning	
Agenda Item: 13	Legislative <input type="checkbox"/>	Quasi-Judicial <input checked="" type="checkbox"/>
SUBJECT: Consideration of an Ordinance on First Reading to rezone a 0.39 acre property located at 1092 11 th Street North from PS, Public Service to R1-7.5 Residence District.		
SUMMARY: City Council is asked to consider an Ordinance on First Reading to determine Rezone Petition 10-R1 to rezone a 0.39 acre property from PS, Public Service to R1-7.5, Residence District for the property located at 1092 11 th Street North. In that the Rezone Petition is a Quasi-Judicial matter, disclosures and the swearing in of those giving testimony are required.		
BACKGROUND: In 1984, City Council approved Rezone Petition 84-R6 which rezoned the parcel under consideration in this request from R1-7.5 to PS, Public Service and approved Special Exception Petition 84-S13 to allow parking on the parcel for the church. It was clearly stated in the staff report that the parking on this property was not required for the Church to meet the parking requirements of the City's zoning ordinance. The petitioner wishes to rezone the property from PS, Public Service to R1-7.5, Residence District. The Church, upon successful rezoning, is planning on selling the two platted lots. Since the rezone would put the properties into the R1-7.5 zoning district, only single-family homes would be able to be constructed on the lots. On January 13, 2010, the Planning Advisory Board voted 7-0 to recommend approval of the rezoning.		
PUBLIC NOTIFICATION: On December 10, 2009, the Planning Department mailed notice of the subject petition to property owners within 500 feet of the Church properties. An adjoining property owner, Mr. Tom Gordon, called the Planning Department on December 14, 2009 to voice his support of the request. He was in favor of the properties being rezoned to a single family zoning.		
RECOMMENDED ACTION: Approve the Ordinance on First Reading to rezone a 0.39 acre property from PS, Public Service to R1-7.5 Residence District for the property located at 1092 11 th Street North.		
Reviewed by Department Director Robin Singer	Reviewed by Finance N/A	Reviewed by City Manager A. William Moss
City Council Action:		



NAPLES CITY COUNCIL AGENDA MEMORANDUM

Regular Meeting Date: February 17, 2010

Agenda Section: Regular	Prepared By: Mireidy Fernandez, Planner II Date: February 3, 2010 Department: Planning
Agenda Item: 15	Legislative <input type="checkbox"/> Quasi-Judicial <input checked="" type="checkbox"/>
<p>SUBJECT: Resolution determining Waiver of Distance Petition 10-WD2 and Residential Impact Statement Petition 10-RIS3, with an after 9:00 p.m. extended hours waiver, in order for Everglades Convenience Store, located at 271 10th Street North, to obtain a Type 2APS alcoholic beverage license.</p>	
<p>SUMMARY: City Council is asked to consider a resolution determining Waiver of Distance Petition 10-WD2 and Residential Impact Statement Petition 10-RIS3, with an after 9:00 p.m. extended hours waiver, in order for Everglades Convenience Store, located at 271 10th Street, to obtain a Type 2APS alcoholic beverage license within 500 feet of an established alcoholic beverage licensee and 200 feet from a church in the D-Downtown Zoning District. In that this is a Quasi-Judicial matter, disclosures and the swearing in of those giving testimony are required.</p>	
<p>BACKGROUND: Everglades Convenience Store is a new retail establishment selling food, tobacco and beverages in the River Park neighborhood. The owner wishes to obtain an alcoholic beverage license Type 2APS in order to sell packaged beer and wine at the establishment for consumption off the premises. The Waiver of Distance is necessary because there is one establishment with an alcoholic beverage license within 500 feet of the site and Macedonia Missionary Baptist Church is located within 200 feet. The owner intends to have the hours of operation for Everglades Convenience Store to be Monday through Sunday from 7:00 a.m. to midnight. Kaseem Bannout is the new owner of the convenience store. Previously, the tenant space was occupied by Everglades Café, under a different ownership, and the restaurant was open weekdays until 5:00 p.m., as per staff's knowledge. Everglades Café did not have an alcoholic beverage license and did not sell alcoholic beverages to its patrons. The new convenience store will occupy half of the building space (approximately 850 square feet) from what the restaurant occupied. The tenant space to the south of the building is currently vacant and will likely be leased out to another tenant, according to Mr. Bannout. A Residential Impact Statement is required with this petition because there are residences within 500 feet of the establishment and the hours of operation for the store extend past 9:00 pm.</p> <p>Naples police have expressed their concerns regarding this request, given the close proximity that the store has to the residential area and the potential for loitering and other issues.</p> <p>On February 2, 2010, Code Manager Roger Jacobsen issued a stop work order to the business because the owner, Mr. Bannout, was conducting interior remodeling on the south side of the building without a permit (attached). The south side of the building is slated for a restaurant in the near future, as per Mr. Bannout's conversation with staff. The City's addressing official is in the process of issuing a separate address for the restaurant portion of the building.</p>	

City of Naples

**NAPLES CITY COUNCIL AGENDA MEMORANDUM****Regular Meeting Date:** February 17, 2010**Page Two**

Agenda Item:

15

BACKGROUND (cont.):**File Reference:** 10-WD2 and 10-RIS3**Petitioner:** Everglades Convenience Store**Agent:** Kassem Bannout**Location:** 271 10th Street North**Zoning:** D, Downtown**PUBLIC NOTICE:**

On January 25, 2010 and again on February 1, 2010, a total of 44 letters were mailed to all property owners located within 500 feet of the subject property. Notification letters were also sent to Macedonia Missionary Baptist Church and to Under the Shady Palm Pub, pursuant to Section 56-122(f)(3) of the Code of Ordinances.

Planning staff also made contact with the property managers of River Park Apartments, George Washington Carver Apartments and Jasmine Cay Apartments to inform them of this request. Additionally, staff contacted Rev. Warren Adkins of Macedonia Missionary Baptist Church, River Park Neighborhood Association President Warren Adkins, Jr. and Association Vice President Willie Anthony to inform them as well. On February 9, 2010, Mr. Anthony submitted a letter of opposition on behalf of the River Park Neighborhood Association (attached). Also on February 9, 2010, staff spoke on the telephone with Rev. Warren Adkins who expressed his concerns about the potential sale of beer and wine at the convenience store. Rev. Adkins stated that the store is too close in proximity to the church and objected to the fact that the petitioner wishes to stay open seven days a week until midnight.

RECOMMENDED ACTION:

Deny request for Waiver of Distance Petition 10-WD2 and Residential Impact Statement Petition 10-RIS3, with an after 9:00 p.m. extended hours waiver, for Everglades Convenience Store located at 271 10th Street North. The reasons for denial are based on extended hours permit criteria Numbers 4, 5 and 6 found in staff's analysis.

Reviewed by Department Director

Robin Singer

Reviewed by Finance

N/A

Reviewed by City Manager

A. William Moss

City Council Action:

EXCERPT OF ITEM 15 STAFF REPORT

- **Analysis – Extended Hours Permit Criteria**

- (1) *Illumination.* Illumination levels shall not exceed 0.5 footcandles at the lot lines of the subject parcel.

The owner does not intend to change or add lighting to the property.

- (2) *Noise Levels.* Noise levels shall be consistent with those identified in Section 22-37.

The convenience store will attract vehicle and pedestrian traffic, thereby the possibility for noise in the area is likely to increase as some patrons may frequent the store for the sole purpose of purchasing beer or wine.

- (3) *Landscape buffer.* All lot lines adjoining a residential zoning district shall require a continuous landscape buffer 15 feet in width. The buffer may be a combination of berm and landscaping, but shall be a minimum of 8 feet in height and 75 percent opaque when viewed horizontally 3 feet above the ground. Based on the project design and surrounding development patterns, additional landscaping and screening may be required to provide adequate buffering as determined necessary for compatibility by the City Council.

The landscape in the area will not be disturbed.

- (4) *Reduction of noise impacts.* The building design is enhanced or soundproofing material used to minimize the noise impacts.

The building is constructed out of concrete. All activity will be occurring indoors and there is no outdoor dining or indoor seating associated with this request. However, the owner would not be able to control the activity occurring outside the store, which neighbors residential.

- (5) *Security personnel.* Security personnel (or a substitute service as approved by the building official) are used to monitor the parking area between the hours of 10:00 p.m. and 2:00 a.m. A copy of the contract for specified services shall be provided.

Naples police patrol 10th Street and the River Park neighborhood on a regular basis. The petitioner's request is to open from 7:00 a.m. until midnight and to provide the sale of alcoholic beverages (specifically beer and wine). Staff believes this will have a negative impact in the neighborhood.

- (6) *Mitigation of hazards and adverse impacts.* All hazards and/or adverse impacts shall be adequately addressed in the mitigation plan to minimize or eliminate such impacts and to assure compatibility with the adjacent residential zoning. The city reserves the right to require additional mitigation when it finds the identified hazards or adverse impacts are not adequately addressed to ensure such compatibility.

The store's operation is limited to retail sales inside of the establishment, which sells packaged food, drinks and tobacco. The consumption of alcoholic beverages is not permitted on the premises but that would not deter anyone from loitering in the area and near the residences in the area. Naples police is concerned that officers would likely be called to the locale more frequently if problems start arising as a result of the sale of beer and wine at the establishment.

FROM

<http://us.mg2.mail.yahoo.com/dc/launch?gx=1&rand=9nqm04o85nprd>

From: kay ryon (kkryon@gmail.com)
To: kpzn54@yahoo.com
Date: Tue, February 16, 2010 8:54:52 PM
Subject: copy and paste to microsoft word and print 10 copies

ITEM 15 - 021710r
PETITIONERS EXH #1

Licensee Details

Licensee Information

Name: EVERGLADES CAFE INC (Primary Name)
EVERGLADES CAFE (DBA Name)
Main Address: 3561 10TH AVE NE
NAPLES Florida 34120
County: COLLIER

License Mailing:

LicenseLocation: 271 10TH STREET N
NAPLES FL 34112
County: COLLIER

License Information

License Type: Retail Beverage
Rank: 2APS
License Number: BEV2104352
Status: Null and Void
Licensure Date: 05/07/2008
Expires: 03/31/2009

Special Qualifications	Qualification Effective
Invoice Sent	05/10/2008
Temporary	05/07/2008
Fingerprint (Div of Alcoholic Beverages & Tobacco)	05/05/2008

Licensee Details

Licensee Information

Name: **GONZALEZ, SALVADORE** (Primary Name)
TENTH STREET GROCERY (DBA Name)
Main Address: **271 -10TH STREET NORTH**
NAPLES Florida 34102
County: **COLLIER**

License Mailing:

LicenseLocation: **271 -10TH STREET NORTH**
NAPLES FL 34102
County: **COLLIER**

License Information

License Type: **Retail Beverage**
Rank: **2APS**
License Number: **BEV2103979**
Status: **Null and Void**
Licensure Date: **03/30/2004**
Expires: **03/31/2008**

Special Qualifications	Qualification Effective
Dual Beverage and Tobacco License	03/30/2004
Enforcement Alert	10/01/2007
Invoice Sent	04/20/2004

DBPR – RODRIGUEZ RODRIGO ROMAN; Doing Business As: TENTH STREET GROCERY, Retail Beverage

7/12/09 4:01 AM

✓ Johnson -
6/25/12

Business Professional

Log On

Public Services

Search for a Licensee
Apply for a License
View Application Status
Apply to Retake Exam
Find Exam Information
File a Complaint
AB&T Delinquent
Invoice & Activity
List Search

User Services

Renew a License
Change License Status
Maintain Account
Change My Address
View Messages
Change My PIN
View Continuing Ed



4:01:22 AM 7/12/2009

Licensee Details

Licensee Information

Name: RODRIGUEZ RODRIGO
ROMAN (Primary Name)
TENTH STREET GROCERY (DBA Name)
Main Address: 271 10TH ST
NAPLES Florida 33940
County: COLLIER
License Mailing: 271 10TH ST
NAPLES FL 33940
County: COLLIER
LicenseLocation: 271 10TH ST
NAPLES FL 33940
County: COLLIER

License Information

License Type: Retail Beverage
Rank: 2APS
License Number: BEV2100167
Status: Null and Void
Licensure Date:
Expires: 03/31/2004

Special Qualifications Qualification Effective
Dual Beverage and Tobacco License

[View Related License Information](#)

<https://www.myfloridalicense.com/LicenseDetail.asp?SID=&id=BA26F4DB15D8E93C9F39A781F48DC131>

Page 1 of 2

PC - Everglades

ITEM 15 - 021710r

PETITIONER'S EXH # 2

From: Everglades Convenience Store

271 10th Street N.

Naples, FL 34102

To: River Park Apartments

402 11th Street North

Naples, FL 34102-5828

Recently, we submitted a petition requesting Waiver of Distance Petition 10-WD2 and Residential Impact Statement Petition 10-RIS3 which would allow our store to sell beer and wine. The store contributes many positive attributes to the community.

Grocery item, tobacco, baby items, medicines and toiletries are some of the item we now carry. A variety of the items sold by us ensures higher traffic to the store resulting in higher sales, which means the store has a high probability of not going out of business. The ability to sell alcohol as well will contribute to higher traffic to the store and therefore its success.

This convenience store offers the residence of River Park Apartments the ability to purchase needed items within walking distance. The location of the Everglades Convenience Store ensures safety for its local customers, adults as well as children, since it is now possible to avoid crossing of the major streets, Goodlette and U.S. 41.

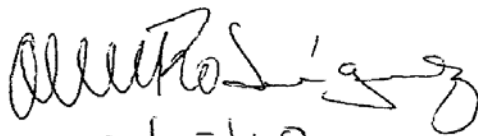
As well as immediate safety, the occupancy of the building deters the threat vandals coming into the neighborhood, another safety feature.

Thank you for your help by supporting our petitions to ensure your neighborhood store stays open to serve your residence.

Kassem Bannout & Kay Ryon



As owner/manager of River Park Apartments, I fully support the petition 10-WD2 and 10-RIS3 requested by Everglades Convenience Store.



2/15/10

From: Everglades Convenience Store

271 10th Street N.

Naples, FL 34102

To: *neutral*
Jasmine Cay Apts.
100 Jasmine Circle

Naples, FL 34102-5828

Recently, we submitted a petition requesting Waiver of Distance Petition 10-WD2 and Residential Impact Statement Petition 10-RIS3 which would allow our store to sell beer and wine. The store contributes many positive attributes to the community.

Grocery item, tobacco, baby items, medicines and toiletries are some of the item we now carry. A variety of the items sold by us ensures higher traffic to the store resulting in higher sales, which means the store has a high probability of not going out of business. The ability to sell alcohol as well will contribute to higher traffic to the store and therefore its success.

This convenience store offers the residence of River Park Apartments the ability to purchase needed items within walking distance. The location of the Everglades Convenience Store ensures safety for its local customers, adults as well as children, since it is now possible to avoid crossing of the major streets, Goodlette and U.S. 41.

As well as immediate safety, the occupancy of the building deters the threat vandals coming into the neighborhood, another safety feature.

Thank you for your help by supporting our petitions to ensure your neighborhood store stays open to serve your residence.

Kassem Bannout & Kay Ryon



As owner/manager of River Park Apartments, I fully support the petition 10-WD2 and 10-RIS3 requested by Everglades Convenience Store.

Pro-Everglades

From: George Washington Carver Apartments
350 10th Street North
Naples, FL 34102

To: Members of Naples City Council

Re: 271 10th Street North, Naples, FL 34102 and the requested Waiver of Distance Petition 10-WD2
and Residential Impact Statement Petition 10-RIS3

As owner/manager of the George Washington Carver Apartments, I support both of the above petitions for the following reasons.

1. All convenience stores sell grocery items, tobacco and beer & wine. The variety of the items sold ensures higher traffic to the store resulting in higher sales, which means the store has a high probability of not going out of business. Having the sale of beer & wine near the church will not adversely affect the church or the neighborhood but, will in fact, be a positive addition to the community.
2. This convenience store offers the residence of George Washington Carver Apartments the ability to purchase needed items within walking distance.
3. The location of the Everglades Convenience Store ensures safety for its local customers since it is now possible to avoid crossing of the major streets, Goodlette and U.S. 41.
4. Having businesses occupy the empty buildings near our neighborhood, helps keep crime limited.

Please take into account these reason when making your decision.
This store is needed, will be used, and we are happy it is open once again.

Adele H. of - Site Manager

Cuban grocery and cafeteria in Naples closes its doors : Local : Naples Daily News

7/12/09 3:32 AM

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ITEM 15 - 021710r
PETITIONER'S EXH # 3

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Cuban grocery and cafeteria in Naples closes its doors

By KATY BISHOP (Contact)

7:38 p.m., Friday, September 28, 2007

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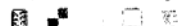
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It's the end of an era on 10th Street North.

Photo Gallery

CUBAN GROCERY AND CAFETERIA IN NAPLES CLOSES ITS DOORS



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A decades-old Cuban grocery and cafeteria closed this week, and the Naples neighborhood is lamenting the loss of its grocery staples, traditional food and strong,

http://www.naplesnews.com/news/2007/sep/28/cuban_grocery_and_cafeteria_naples_closes_its_door/

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Cuban grocery and cafeteria in Naples closes its doors : Local : Naples Daily News

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hot coffee.

Customers, most of them neighbors and friends, kept owners Salvador and Candida Gonzalez busy ringing up merchandise Thursday and Friday, their last days open. The husband-and-wife team, who emigrated from Cuba to the United States after the revolution, have owned the Tenth Street Grocery and Cafeteria at 271 10th St. N. for more than 30 years. X

The building's owners, the Hammond family of Knoxville, Tenn., initially offered to sell the building to the Gonzalezes for about \$230,000, they said, but then rescinded the offer. The issue went to a hearing, but the Gonzalezes lost.

"To me, everything that happened was an injustice," Salvador Gonzalez said in Spanish. "I wanted to buy the building because my life is here."

Again and again, customers said that they'd miss the grocery, and asked Salvador Gonzalez — they call him "Kojak" because he is bald and has glasses similar to a TV show character from the 1970s by that name — why he was closing.

Gonzalez, who puffed on a cigar between ringing people up, explained again and again that they don't want to leave.

He picked up the nickname in Brooklyn, where he and Candida lived for about six years after they fled Cuba with their young children. The couple grew up in the same small town and met in their late teens. They've been married nearly 47 years.

Her family owned a grocery store in Cuba, so the business was a natural choice for their family, she said. They owned one in Brooklyn, which they sold when they moved to Naples and bought the store on 10th Street North.

Candida and Salvador ran their store like her family did in Cuba, she said. Customers could purchase on credit and pay later, when they had the money.

Not everyone paid them back, but most did, they said.

"We need Kojak to be here," said Jean Fabien, who lives nearby in River Park. "He's not too expensive for us, and he helps us. If you need food for your baby, you get it, even if you can't pay right away."

X The closing has been hard on the people who used to spend time at the store, Candida Gonzalez said.

Every day, eight or 10 people, most originally from Cuba, would gather to sit, drink coffee, eat and spend time together, Salvador Gonzalez said.

"Most of the Cuban people who live here in Naples, they know (Salvador)," said Manny Gonzalez, who lives nearby and has known him for about 20 years. "They came here every day and sat around, talking, telling stories about Cuba and living here."

X Now they have lost their gathering place, so the local families will have to cross U.S. 41 or Goodlette-Frank Road to shop.

Five teenagers stopped in Thursday afternoon on their way home from Gulfview Middle School.

X "We come in every day," said Shanynthia Altidor, 14. "After school, after Bible study, for drinks and snacks."

They'll miss the 35-cent Honey Buns and the 25-cent juice, said Hendrick Sella, 13.

The couple don't have plans to open a new grocery, they said. Candida Gonzalez, 70, might apply for a part-time job and Salvador Gonzalez, 74, plans to relax and work on their Naples Park home and yard.

They aren't sure of the Hammond family's plans for the building, they said.

http://www.naplesnews.com/news/2007/sep/28/cuban_grocery_and_cafeteria_naples_closes_its_door/

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Cuban grocery and cafeteria in Naples closes its doors : Local : Naples Daily News

Attempts to contact the owners by phone were unsuccessful. According to the Collier County Property Appraiser, the property's market value is \$350,647.

On Friday morning, Candida Gonzalez sat in a chair in the corner, surveying the nearly empty store. It was hard for her to look at the bare shelves, and to think about Sunday when she'll have to leave the property for the last time, she said.

The Cuban cafe attached to the grocery store already has been closed for a few weeks.

"You grow fond of the place where you work, where you spend so much time," she said. "... There are many good people here in this neighborhood."

For Salvador Gonzalez, closing the store is like losing a member of his family, he said.

"Because of the years I've spent in this here, I feel great affection for all of the people," he said. "This store is a part of my life. I am happy here."

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wow.. what do you say about this? what ever happened to that 41-10 deal? guess hes a little to far north, bunch of B.S.

#1 Posted by [here_since_seventy_one](#) on September 28, 2007 at 7:53 p.m. (Suggest removal)

wait.. it just dawned on me.. obviously the little man was left out of that deal too!!

#2 Posted by [here_since_seventy_one](#) on September 28, 2007 at 7:54 p.m. (Suggest removal)

Fifteen or so years ago I went to this little store near the black housing off tenth with a Cuban friend of mine. I thought it was some kind of inside joke that the whitish owner/manager/whomever was called Kojak. I loved this little place run by a bald Cuban always chewing a cigar in company of a couple of stray looking dogs sleeping on the grocery market floor. My buddy let me in that Kojak would cook a pork shoulder for you for only 11 dollars (total) and though it took a day or so it was the best I have ever put my teeth in. Adios Kojak, we love you and will dearly miss you.

#3 Posted by [JhuZhu](#) on September 28, 2007 at 8:10 p.m. (Suggest removal)

This store exemplified what the real Naples was about before, money hungry, greedy developers found us and took us over. This is one more example that the Naples that once was is gone forever! Best of Luck Kojak and Candida.

#4 Posted by [ChancellorKitty](#) on September 28, 2007 at 10:39 p.m. (Suggest removal)

Naples needs more little mom and pop places like these.....SAY NO TO CORPORATE AMERICA!!!!

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Cuban grocery and cafeteria in Naples closes its doors : Local : Naples Daily News

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#5 Posted by Pigsaw on September 28, 2007 at 10:41 p.m. (Suggest removal)

Bald men suffer from premature Kojaculation

#6 Posted by Biff on September 29, 2007 at 12:41 a.m. (Suggest removal)

Mom and Pop places will soon all be gone and big chain names will open up in their place, those that don't even know what your name is.

#7 Posted by youreallcrazy on September 29, 2007 at 8:11 a.m. (Suggest removal)

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ITEM 15 - 021710r
PETITIONER'S EXH #4-A

Petition from: George Washington Carver Apartments
350 10th Street North
Naples, FL 34102

To: Members of Naples City Council

Re: 271 10th Street North, Naples, FL 34102 and the requested Waiver of Distance Petition 10-WD2
and Residential Impact Statement Petition 10-RIS3

As a resident of the George Washington Carver Apartments, I support both of the above petitions for the following reasons.

1. All convenience stores sell grocery items, tobacco and beer & wine. The variety of the items sold ensures higher traffic to the store resulting in higher sales, which means the store has a high probability of not going out of business. Having the sale of beer & wine near the church will not adversely affect the church or the neighborhood but, will in fact, be a positive addition to the community.
2. This convenience store offers the residence of George Washington Carver Apartments the ability to purchase needed items within walking distance.
3. The location of the Everglades Convenience Store ensures safety for its local customers since it is now possible to avoid crossing of the major streets, Goodlette and U.S. 41.
4. Having businesses occupy the empty buildings near our neighborhood, helps keep crime limited.

Please take into account these reason when making your decision.
This store is needed, will be used, and we are happy it is open once again.

NAME

ADDRESS

PHONE

Deandra	350 10th North D-2	239-384-2998
350-10TH N NAPLES FL 34102		239/3317219
Francis Joseph		
Kenel Montoban	Naples FL 34104	
Pierrela Leiman	350 10th St. N.	384-4508

Asdrubal Melis 350 10th St N Apt F-3
Barbara Ferro 350 10th St N Apt H-2 239-200-5270
Aixa Gonzalez 350 10th St N Apt F-1 239-601-7030
Emelyn Rodryg 350 10th St N B-2
Maria Vega 350 10th St N Q 4
Israel enando 350 10th St N B-2
Margareta Rodryg 350 10th St P 3
Jane Braser 350 10th St N I 2
Aislaite More 350 10th St N J 4
Carlos Julio Acuña 350 10th St J 4
Christine Migliore 350 10th St N Apt J 3 (239) 601-9026
Schirier Leccini 350 10th St N J 2
ISACC GONZALEZ 350 10th St N F 2
YUDENIS CABEZA 350 10th St N F 2
YADER VILLAFIA 1015 2nd Ave NE Apt AI 239 200 2955

ITEM 15 - 0217101
PETITIONER'S EXH #4-B

Petition from: Jasmine Cay Apartments
100 Jasmine Circle
Naples, FL 34102-5825

To: Members of Naples City Council

Re: 271 10th Street North, Naples, FL 34102 and the requested Waiver of Distance Petition 10-WD2 and Residential Impact Statement Petition 10-RIS3

As a resident of the Jasmine Cay Apartments, I support both of the above petitions for the following reasons.

1. All convenience stores sell grocery items, tobacco and beer & wine. The variety of the items sold ensures higher traffic to the store resulting in higher sales, which means the store has a high probability of not going out of business. Having the sale of beer & wine near the church will not adversely affect the church or the neighborhood but, will in fact, be a positive addition to the community.
2. This convenience store offers the residence of Jasmine Kay Apartments the ability to purchase needed items within walking distance.
3. The location of the Everglades Convenience Store ensures safety for its local customers since it is now possible to avoid crossing of the major streets, Goodlette and U.S. 41.
4. Having businesses occupy the empty buildings near our neighborhood, helps keep crime limited.

Please take into account these reason when making your decision.
This store is needed, will be used, and we are happy it is open once again.

NAME	ADDRESS	PHONE
Elaine	104 Jasmine Cir	239-601-4055
Rosemary Revitan	178 Jasmine Circle	(239) 200-1733
Kenny Forges	183 Jasmine circle	(239) 213-0380
Jason DORSAINVII	152 Jasmin Circle	239 692-5262
Earle Thimotee	120 Jasmine	239 3840783

Jedaine Orange
148 Jasmine Circle 34102

Roseme Andre 10603 Rd A/V/Aptc #8, 601-0443
DESSALNESPIERRE 162

Eveline petit pere 104 Jasmine Cir

~~Josefina Dias~~

Sourtte Alexandre

Paulette Mousseau
149 JASmine Cir
NAPLES FL 34102

Magareth Goulier
137 JASmine Cir

NAPLES FL 34102

~~BOB Sanchez~~

106 Jasmine
NAPLES FL 34102

TERESA CARINO
139 Jasmine Cir
NAPLES FL 34102

Bill Cron

Vanessa Joseph 173 Jasmine Circle

Olivia Timothee 166 Jasmine Circle.

ITEM 15 - 021710r
PETITIONER'S EXH #4-C

Petition from: River Park Apartments
402 11th Street North
Naples, FL 34102-5828

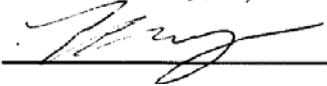
To: Members of Naples City Council

Re: 271 10th Street North, Naples, FL 34102 and the requested Waiver of Distance Petition 10-WD2
and Residential Impact Statement Petition 10-RIS3

As a resident of the River Park Apartments, I support both of the above petitions for the following reasons.

1. All convenience stores sell grocery items, tobacco and beer & wine. The variety of the items sold ensures higher traffic to the store resulting in higher sales, which means the store has a high probability of not going out of business. Having the sale of beer & wine near the church will not adversely affect the church or the neighborhood but, will in fact, be a positive addition to the community.
2. This convenience store offers the residence of River Park Apartments the ability to purchase needed items within walking distance.
3. The location of the Everglades Convenience Store ensures safety for its local customers since it is now possible to avoid crossing of the major streets, Goodlette and U.S. 41.
4. Having businesses occupy the empty buildings near our neighborhood, helps keep crime limited.

Please take into account these reason when making your decision.
This store is needed, will be used, and we are happy it is open once again.

NAME	ADDRESS	PHONE
KEVIN KING 	1080 3 AVE D-10	313-544-6806
Islande Liberus	10685 Noah's car.	786-970-7242
JAMES MAISONNERVE	1057 2 nd Aven. APT. B3	786-470-5247
Jean R Bien-Aimé		
Ellie Mills		

Serena Casme 1060 3rd Ave N. Apt C7 Naples FL 34102
(239) 465-2122

Jessie Davis Apt A-2 Naples, FL 34102 239-300-5908

Rogin Fernandez 1015 2nd Ave N. Apt A-10 239 465 8611

ANN DAVIS 330 11th St N FL 11-435-9883

Shannon Delanie 1600 3rd Ave N / D-3

Chris Bohn CB 450 11th St N Apt J21 239 784 1883

Reggie Gavin
Reggie Gavin 855 11th St N
LUC J. NICOLAS
239-200-1965 239-537-7761

Patricia Bailey 450 11th St. N. # J-5

Quin Vickerman 450 11th St N # J2

Alexis Tuentz 450 11th St North # J22

Michael Barnicle 430 11th St. North Apt H07 (239) 384-0448

Harlene Joseph 430 11th St North Apt #24

Thelma Brown 350 11th St North Apt G1

Michel Andre 350-11th St N. Apt G-3

Maryol Luna 350 11th Street N. Apt G-12

Wil doide MacC 350 11th Street N. Apt G6

Dani Constant 350 11th North Apt C8 (239) 601-3157

Levy SAINTIL 1057-2nd AV North Apt E11
NAPLES - FL 34102 - TEL - 239-8958596

Junior Munroe 11th St. North apt. G7

Johnny Ferraro's 1057 2nd AV N APT E5

~~John~~ 1070 16th St. South. apt C-5

Scindino Crescenzo 330 11th North Apt FOG
239-692-2531

ITEM 15 – 0217101

PETITIONER'S EXH #4-D

Petition from: Area businesses with close proximity to the Everglades Convenience Store

To: Members of Naples City Council

Re: 271 10th Street North, Naples, FL 34102 and the requested Waiver of Distance Petition 10-WD2 and Residential Impact Statement Petition 10-RIS3

As a part of the local businesses which will patronize this establishment, I support both of the above petitions for the following reasons.

1. All convenience stores sell grocery items, tobacco and beer & wine. The variety of the items sold ensures higher traffic to the store resulting in higher sales, which means the store has a high probability of not going out of business. Having the sale of beer & wine near the church will not adversely affect the church or the area but, will in fact, be a positive addition.
2. This convenience store offers the local business employees the ability to purchase needed items within walking distance.
3. The location of the Everglades Convenience Store ensures safety for these employees since it now makes it possible to avoid crossing of the major streets, Goodlette and U.S. 41.
4. Each business which occupies an empty building contributes to the economic growth and development of the area.
5. Having businesses occupy the empty buildings, helps limit crime.

Please take into account these reason when making your decision.

This store is needed, will be used, and we are happy it is open once again.

NAME

ADDRESS

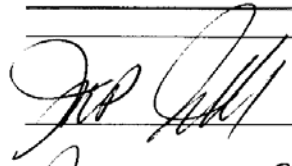
PHONE

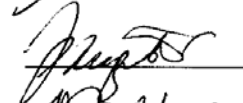
Nick Bertoni 190 10th St. N Naples, FL 34102 262-7109


Ly. [Signature] 170 10th St N Naples 34102 272-6712
Auto-Tech of Naples
P. Bochen 160 10th St N. 34102 263-7211

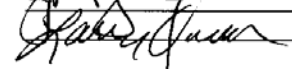
Don Ruffalo 110 10th St N 34102 263-6997

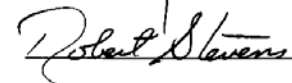
R. Caputo 108 10th St. N. 34102 262-3343


 Audrey's Home 104 10th St. N. 403-8322

 Frank's Time 1080 1st Ave NW 263-6072

 Rex Johnson's 996 CENTRAL AVE 263-8423

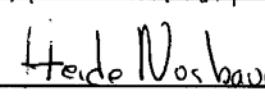
 Tucker Station 960 Central 261-7753

 Robert Stevens Tucker Station 960 Central Ave 776-2489


 Dottie Simpson Treasure Island 950 Central Ave 434-7684

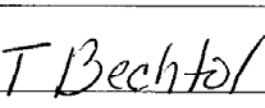
Charles Gardella Scypress Pt. Dr. Naples 34105 572-0904

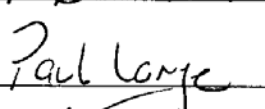
Amber Adamczyk 949 Central Ave Naples 34102 643-3103

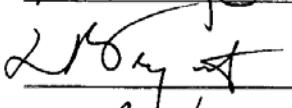
 Heidi Nosbavin Sommerfield 953 Central Ave Naples 34102 430-2505

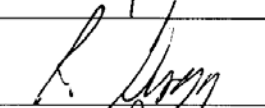
G. CANTOR 995 CENTRAL Ave Naples 262-5535

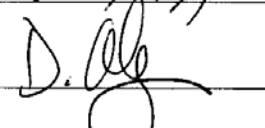
 D. HINSPIER KELLY BLUE PRINTERS 977 1ST AVE. N 262-4755

 T. Bechtel Grooming & More 979 1st Ave N 434-2287

 Paul Lange Lawn Equipment Center 969 2ND AVE N 649-5995

 Ageless Treasures 995 2nd Ave N 213-4227

 GREGORY FRAME 950 3RD AVE. S 262-8195

 D. Alb DAVIN ALBY Whitman Design's 990 3rd Ave No. 263-9448

Jenny DePetro Your Pool Specialist 987 Third Ave N. 430-3980

J. Noe J+J Brake + Auto Parts 351 10th St N 434-8322

J. Noe Supreme Collision 351 10th St N 262-0405

J. Miller Jays Fabrics
Naples 937 4th Ave N. 435-7222

J. Nall NAPLES DOG CENTER
967 4th Ave N 530-3647

Shirley St. Antiques
500 2nd Left Rd. CR 2396614991



NAPLES CITY COUNCIL AGENDA MEMORANDUM

Regular Meeting Date: February 17, 2010

Agenda Section:	Prepared By: Robin Singer, Director	
Regular	Date: February 1, 2010	Department: Planning
Agenda Item:	Legislative <input checked="" type="checkbox"/>	Quasi-Judicial <input type="checkbox"/>
18		
<p>SUBJECT: First Reading of an Ordinance considering Text Amendment Petition 10-T3 amending Section 44-8, Definitions and Section 56-91, Guest Units of the Code of Ordinances to modify the definition and limitations on dwelling units and guest units and to provide a new definition and limitations on cabanas.</p>		
<p>SUMMARY: City Council is asked to consider an Ordinance on First Reading amending Section 44-8, Definitions, and Section 56-91, Guest Units, of the Code of Ordinances, to modify the definition of and limitations on dwelling units and guest units and to provide a new definition and limitations on cabanas.</p>		
<p>BACKGROUND: The proposed text addressing guest units was discussed at the December 14, 2009 City Council Workshop. The amendment is intended to address two main issues with guest units. The first issue is that guest units, by definition, are <i>detached</i>. What qualifies as <i>detached</i> is not clear and implies that any living space that is <i>attached</i> is not considered a guest unit and would therefore not be limited as to size and number of units. This may result in several “units” in the same house, each with its own bathroom and kitchen. Where staff has seen this occur, changes have been required to prevent multiple guest units, but amendments to the Code of Ordinances would facilitate prevention of multiple guest units. The second issue is that under the guest unit definition, any assemblage of living space that is detached would be considered a guest unit. This definition prohibits small cabanas, exercise rooms, offices, or studios that are separate from the home because these uses generally include enclosed air conditioned space which is considered living space and detached living space has been deemed to be a guest unit.</p> <p>Alternate definitions for dwelling unit and guest unit were presented to both the City Council and the Planning Advisory Board and the chosen definitions are included in the attached ordinance. The dwelling unit definition was taken from the Florida Building Code. The guest unit definition is intended to clarify that any assemblage of rooms qualifying as a dwelling unit in addition to the primary dwelling would be considered a guest unit regardless of how it may be connected to the primary residence. In order to allow for additional units on larger lots (as is permitted in the R1-E), text is proposed to be added to Subsection (b)(2) to allow additional units through the conditional use process on lots larger than 30,000 square feet.</p> <p>The amendment also includes a new definition and regulations for detached living space or “cabanas” which could be used as pool side cabanas, office space, studio space, exercise rooms or to support similar activities separate from the main house. A cabana would be limited in size and would not contain cooking facilities as that would qualify it as a dwelling unit.</p>		

City of Naples

**NAPLES CITY COUNCIL AGENDA MEMORANDUM****Regular Meeting Date: February 17, 2010****Page Two**

Agenda Item:

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BACKGROUND (cont.):

The Planning Advisory Board voted 7-0 to recommend approval of the amendment with the definitions as they appear in the ordinance. Subsequent to the PAB's hearing, staff spoke with Mr. Jon Kukk, Architect, who suggested that rather than the 200 square foot limitation on cabanas, City Council may want to consider a 400 square foot limitation as that is the average size of a two car garage and often these accessory spaces are located over a garage. The proposed ordinance incorporates the 400 square foot limitation. Staff has also had the opportunity to test the proposed text in two applications for additions and proposes that the text be further modified as shown below. The double underline indicates changes since the PAB hearing. This change will define detached living space that does not qualify as a cabana as guest space.

"Guest unit means an accessory dwelling unit on the same property as a permitted primary residence or any assemblage of rooms functionally detached from the primary residence which is detached from a principal dwelling, limited to 1 habitable story, and which consists of 1 or more habitable rooms including any combination of living rooms, bedrooms, dens, studios, play rooms, wet bars, or kitchens. Garages, utility sheds, open air shelters, pool baths, cabanas and similar structures ~~not intended for habitation~~ shall not be considered guest units."

RECOMMENDED ACTION:

Approve an Ordinance on First Reading relating to dwelling units and guest units; amending Section 44-8, Definitions, to modify the definition of and limitations on dwelling units and guest units, and amending Section 56-91, Guest Units, of the Code of Ordinances to provide a new definition and limitations on cabanas.

Reviewed by Department Director
Robin Singer

Reviewed by Finance
N/A

Reviewed by City Manager
A. William Moss

City Council Action:



NAPLES CITY COUNCIL AGENDA MEMORANDUM

Regular Meeting Date: February 17, 2010

Agenda Section:	Prepared By: Gregg Strakaluse, Engineering Manager	
Regular	Date: February 3, 2010	Department: Streets and Stormwater
Agenda Item:	Legislative <input checked="" type="checkbox"/>	Quasi-Judicial <input type="checkbox"/>
21		

SUBJECT:
Resolution to approve a revised 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 a revised 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:
City Council continued this item from the February 3, 2010 Regular meeting following concerns related to Section 4(c) of the proposed Agreement. This section implied that the City represented and warranted that the subject Naples Zoo property has and is in compliance with all Federal, State, and Local environmental laws. The language of concern was removed from Section 4 and transferred to Section 6 of the revised Agreement in which the Naples Zoo makes such representation. The Naples Zoo has agreed to this amendment.

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.

In order to formalize the City's role, staff has developed the attached revised 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.

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

Regular Meeting Date: February 17, 2010

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Agenda Item:

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RECOMMENDED ACTION:

Adopt a resolution approving a revised 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:

ITEM #20

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS	
LAST NAME—FIRST NAME—MIDDLE NAME <i>Sorey John F III</i>	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <i>City Council</i>
MAILING ADDRESS <i>220 Gulfshore Blvd No Collie</i>	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: <input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
CITY <i>Naples FL</i> COUNTY <i>34102</i>	NAME OF POLITICAL SUBDIVISION: <i>City of Naples</i>
DATE ON WHICH VOTE OCCURRED <i>Feb 17, 2010</i>	MY POSITION IS: <input checked="" type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTEE

WHO MUST FILE FORM 8B

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

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

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

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

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

ELECTED OFFICERS:

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

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

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

APPOINTED OFFICERS:

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

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

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

APPOINTED OFFICERS (continued)

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

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

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

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, John F. Long III, hereby disclose that on Feb 17, 20 10:

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

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

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

*I have a consulting agreement with
The Naples Zoo.*

20 & 21

Feb 17, 2010
Date Filed

John F. Long III
Signature

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

ITEM #21

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS	
LAST NAME—FIRST NAME—MIDDLE NAME <i>Gorey John F III</i>	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <i>City Council</i>
MAILING ADDRESS <i>220 Gulfshore Blvd Naples</i>	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: <input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
CITY <i>Naples FL</i> COUNTY <i>34102</i>	NAME OF POLITICAL SUBDIVISION: <i>City of Naples</i>
DATE ON WHICH VOTE OCCURRED <i>Feb 17, 2010</i>	MY POSITION IS: <input checked="" type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTIVE

WHO MUST FILE FORM 8B

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

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

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

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

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

ELECTED OFFICERS:

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

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

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

APPOINTED OFFICERS:

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

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

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

APPOINTED OFFICERS (continued)

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

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

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

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, John F. Sorensen, hereby disclose that on Feb 17, 20 10.

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

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

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I have a consulting agreement with the Zoo.
20 & 21

Feb 17, 2010
Date Filed

[Signature]
Signature

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