



# City of Naples

City Council Chamber  
735 Eighth Street South  
Naples, Florida 34102

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## City Council Regular Meeting – March 3, 2010 – 8:29 a.m.

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Mayor Barnett called the meeting to order and presided.

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### ROLL CALL ..... ITEM 1

**Present:**

Bill Barnett, Mayor  
John Sorey, III, Vice Mayor

**Council Members:**

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

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**Also Present:**

William Moss, City Manager  
Robert Pritt, City Attorney  
Tara Norman, City Clerk  
Vicki Smith, Technical Writing Specialist  
Roger Reinke, Assistant City Manager  
Jessica Rosenberg, Deputy City Clerk  
Robin Singer, Planning Director  
Mireidy Fernandez, Planner  
Adam Benigni, Planner  
Stephen Weeks, Technology Services Director  
Robert Middleton, Utilities Director  
Denise Perez, Human Resources Director  
Lori Parsons, Risk Manager

Michael McKellar  
Michelle Avola  
Matt Kragh  
Frank Nappo  
Richard Yovanovich  
Willie Anthony  
Jim Fox  
John Callis  
Curt Anderson  
Tim Hancock

**Media:**

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

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

Pastor Michael McKellar, Naples Church of God.

### ANNOUNCEMENTS ..... ITEM 3

None.

### SET AGENDA..... ITEM 4

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

### PUBLIC COMMENT..... ITEM 5

(8:30 a.m.) **Michelle Avola, Naples Pathways Coalition**, noted that March is Bike Month and described fundraisers for the proposed “River of Grass Greenway” which is to be a 12-foot wide

multi-use corridor along US 41 from Naples to Miami. She then presented Council with a biking map for the City (a copy of which is contained in the file for this meeting in the City Clerk’s Office).

**CONSENT AGENDA**

**APPROVAL OF MINUTES** .....**ITEM 8-a**  
February 16, 2010 Workshop and February 17, 2010 Regular Meeting; as submitted.

**RESOLUTION 10-12624**..... **ITEM 8-b**  
**A RESOLUTION AUTHORIZING THE ISSUANCE OF A SITE WORK PERMIT TO ROYAL POINCIANA GOLF CLUB FOR THE EXPANSION OF TWO EXISTING LAKES AND THE CREATION OF A FILTER MARSH AS PART OF GOLF COURSE RENOVATIONS; AND PROVIDING AN EFFECTIVE DATE.** Title not read.

**RESOLUTION 10-12625**.....**ITEM 8-c**  
**A RESOLUTION AUTHORIZING THE ACCEPTANCE OF A TRAFFIC SAFETY SUBGRANT BETWEEN THE FLORIDA DEPARTMENT OF TRANSPORTATION AND THE CITY OF NAPLES TO SUPPORT A BIKE SAFETY FREE LIGHT PROGRAM, AND PROVIDING AN EFFECTIVE DATE.** Title not read.

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

**END CONSENT AGENDA**

**RESOLUTION 10-12626**.....**ITEM 9**  
**A RESOLUTION DETERMINING CONDITIONAL USE PETITION 10-CU01 PURSUANT TO SECTION 58-593(7) OF THE CODE OF ORDINANCES ALLOWING A CHURCH TO OPERATE IN THE C2, GENERAL COMMERCIAL DISTRICT, AT 849 SEVENTH AVENUE SOUTH, MORE FULLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.** Title read by City Attorney Robert Pritt (8:35 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, Price and Sorey/visited the site and spoke with the petitioner’s agent; Finlay/visited the site; Barnett and Heitmann/visited the site but no contact; and Sulick/visited the site and spoke with members of the church. Planning Director Robin Singer provided a brief overview of the petition, noting that adequate parking had been staff’s concern and therefore a parking needs analysis had been provided by the petitioner. She further explained that as the business hours of other tenants in the subject building did not coincide with church services, shared parking should not create issues. She also referenced a letter from a nearby resident (a copy of which is contained in the file for this meeting in the City Clerk’s Office) indicating being disturbed by lighting on the building. Staff recommended approval with two conditions addressing the aforementioned concerns, Ms. Singer stated, as had the Planning Advisory Board (PAB).

Attorney Richard Yovanovich, petitioner’s agent, noted attendance of the following: Pastor Curt Anderson, many church members, and Certified Planner Tim Hancock of Davidson Engineering. He then briefly addressed parking for the 190-seat church, clarifying that 48 spaces were available as required and reiterated that church service hours would not coincide with office and restaurant hours currently operating in the same building. He further stated that although the church is not responsible for the current lighting situation, he had assured the above referenced

neighbor that every attempt would be made to reduce the illumination once the restaurant closes for the evening.

**Public Comment:** (8:41 a.m.) None.

***MOTION*** by Sorey to ***APPROVE RESOLUTION 10-12626*** 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 10-12627.....ITEM 10  
A RESOLUTION DETERMINING OUTDOOR LIVE ENTERTAINMENT PETITION 09-LE8 AND RESIDENTIAL IMPACT STATEMENT PETITION 09-RIS15, WITH AN AFTER 9:00 P.M. EXTENDED HOURS WAIVER, FOR TIN CITY LOCATED AT 1200 FIFTH AVENUE SOUTH, MORE FULLY DESCRIBED HEREIN; SUBJECT TO THE CONDITIONS LISTED HEREIN; AND PROVIDING AN EFFECTIVE DATE.** Title read by City Attorney Robert Pritt (8:41 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. During ex parte disclosures, each City Council Member indicated a site visit but no contact. Planner Mireidy Fernandez briefly reviewed the petitions and Petitioner John Callis (sworn separately) explained that the requests were intended to allow Tin City to compete with other businesses with regard to offering live entertainment along the waterfront. Mr. Callis assured Council Member Sulick that while Riverwalk (a restaurant within the complex) does hold an indoor live entertainment permit, the subject location had been chosen with the intent that music would not be offered simultaneously as the entertainers would be only 30 to 40 feet from one another, and therefore was not anticipated to pose a conflict.

In response to Council Member Price, Ms. Fernandez explained that the Fire Marshal had indicated no objection to the location of the outdoor musicians as depicted on the diagram which was attached to his January 20 memorandum (Attachment 1). She also confirmed that 444 residents within the 500-foot buffer had indeed been notified by letter, offering a diagram reflecting the area within the buffer (Attachment 2) for Council’s review; Mr. Price requested that information documenting these contacts be specified in future staff reports regarding Residential Impact Statements (RIS’s).

Council then reviewed the location of the entertainment in conjunction with the Fire Marshal’s directives. Mr. Callis clarified that for the musician to be located against the wall abutting Pincher’s Crab Shack (as cited in the resolution); tables and chairs would indeed need to be moved. The Fire Marshal had indicated that this placement be maintained during performances, he pointed out, which was depicted on the aforementioned diagram (see Attachment 1, Page 2). Ms. Fernandez confirmed this report.

**Public Comment:** (9:00 a.m.) None.

***MOTION*** by Sorey to ***APPROVE RESOLUTION 10-12627*** amending as follows: ***Section 3(1): “...walkways with tables and chairs moved according to Fire Marshal’s direction during performances and only one group of entertainers may provide music at a time within the Tin City complex.”*** This motion was 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).*

**RESOLUTION 10-12628.....ITEM 11**

**A RESOLUTION DETERMINING PUBLIC ART PETITION 09-PA1 FOR PLACEMENT OF PUBLIC ART AT THE HUMANE SOCIETY OF NAPLES LOCATED AT 370 AIRPORT PULLING ROAD NORTH AND REIMBURSING THE PUBLIC ART FEE, MORE FULLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.** Title read by City Attorney Robert Pritt (9:00 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, Finlay, Barnett and Sorey/visited the site but no contact; Sulick and Heitmann/familiar with the site but no contact; and Price/no contact. Planning Director Robin Singer provided a brief review of the petition as contained in her memorandum dated February 8 (Attachment 3), noting that the Public Art Advisory Committee (PAAC) had recommended approval of the artwork and the Design Review Board (DRB) had approved its general location; staff also recommended approval, she added. Mayor Barnett commended the Humane Society and the artist, Amy Brazil, urging that all should visit the site and proffered a motion of approval.

**Public Comment:** (9:03 a.m.) None.

***MOTION by Barnett to APPROVE RESOLUTION 10-12628 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 10-12629.....ITEM 12**

**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 11<sup>TH</sup> STREET NORTH, MORE FULLY DESCRIBED HEREIN; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.** Title read by City Attorney Robert Pritt (9:03 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 /familiar with the site, spoke with the petitioner’s agent, and had discussed the petition with his wife who is President of the Lake Park Property Owners Association; Sorey/familiar with the site and spoke with the petitioner’s agent; Finlay, Price, Barnett, Sulick and Heitmann/familiar with the site but no contact; in addition, it was indicated that all had received the March 1 memorandum from Mr. Pritt (Attachment 4). Planner Adam Benigni briefly reviewed the petition, referencing the aforementioned memorandum which noted that City-owned easements currently exist; therefore the previously requested easement across the subject property for lake access would not be necessary. During the first reading of the ordinance, a section was added requiring that an easement be granted upon transfer of ownership of the property and Vice Mayor Sorey proposed that Section 3 therefore be deleted. City Attorney Pritt confirmed that the ordinance could proceed as a second reading despite this amendment.

**Public Comment:** (9:06 a.m.) None.

***MOTION by Sorey to ADOPT ORDINANCE 10-12629 amending as follows: “Section 3: Upon transfer of ...easement to facilitate lake maintenance.”;***

*seconded by Saad and unanimously carried, all members present and voting (Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sorey-yes, Sulick-yes, Barnett-yes).*

**ORDINANCE (Continued – see motion below) .....ITEM 13**  
**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 (9:07 a.m.). Planning Director Robin Singer noted that the modifications had been to clarify definitions and limitations on dwelling units and guest units as well as adding a new definition and limitations on cabanas. Council Member Price commended staff for the revisions as a reflection of the changing needs of the community. Council Member Heitmann however questioned various deletions of language regarding those structures not intended for habitation. Mr. Pritt explained that the intent had been to coordinate the ordinance with the Florida Building Code (FBC); he therefore recommended that the word “intended” be replaced with “used” should Council wish to address the habitable space issue in definitions. Mrs. Heitmann also noted the omission from the guest unit definition of the phrase “residence or any assemblage of rooms functionally detached from the primary residence.” Ms. Singer indicated that this wording should have been included per amendments at first reading of the ordinance, and Mr. Pritt recommended that the ordinance be continued to a second reading to allow further review; Council agreed.

**Public Comment:** (9:17 a.m.) None.

**MOTION by Sorey to CONTINUE THIS ORDINANCE (Second Reading) TO MARCH 17, 2010 REGULAR MEETING amending as follows: Section 44-8 Definitions: “Guest unit...residence or any assemblage of rooms functionally detached from the primary residence...” and “Guest unit...similar structures not used intended for habitation shall...”; and Section 56-91(a): “Guest unit means...similar structures not used intended for habitation shall...”.** 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).

**CLERK’S TRACKING 10-00002 .....ITEM 14**  
**APPROVE THE AWARDED OF A CONTRACT FOR THE PURCHASE OF EIGHTY PERSONAL COMPUTERS UNDER THE FLORIDA STATE TERM CONTRACT NUMBER 250-040-08-01 AND APPROVING ADDITIONAL COMPUTER RELATED EXPENDITURES AS NEEDED: \ VENDOR: DELL, INC. \ COST: \$95,484 (EIGHTY PC’s) AND \$24,515.20 (AS NEEDED COMPUTER RELATED ITEMS).** Statement read by City Attorney Robert Pritt (9:17 a.m.). Technology Services Director Stephen Weeks explained his above request, noting that the \$24,515.20 would be utilized as needed for other configurations of computers and notebooks. He further explained that the cost of the 80 desktop computers included a four-year warranty and that the computers being replaced are given to the Purchasing Department for either donation to charitable organizations or resale.

**Public Comment:** (9:18 a.m.) None.

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

**CLERK'S TRACKING 10-00003 .....ITEM 15**  
**APPROVE THE AWARDING OF A PROFESSIONAL SERVICES AGREEMENT FOR THE DESIGN OF A WASTEWATER COLLECTION SYSTEM ON 13<sup>TH</sup> AVENUE NORTH, 14<sup>TH</sup> AVENUE NORTH AND BEMBURY DRIVE: \ VENDOR: JOHNSON ENGINEERING, INC., NAPLES, FLORIDA \ COST: \$119,348 \ FUNDING: CIP 10N40 – SANITARY SEWER INSTALL – BEMBURY DRIVE.** Statement read by City Attorney Robert Pritt (9:19 a.m.). City Manager William Moss provided a brief overview of the February 9 memorandum from Utilities Director Robert Middleton (Attachment 5). Mr. Moss stressed that reimbursement to the City for the services contemplated under this agenda item would occur only with imposition of a special assessment since the project is within the City's sanitary sewer service area but outside the City's boundaries. (It was also clarified that this neighborhood is located near the Post Office on Goodlette-Frank Road and is Area 7 within the Unsewered Master Plan.) He further recommended implementing the special assessment process with a 20-year payment structure for the affected residents of the Bembury neighborhood with early payback options offered. Initial funding would be via the City's water/sewer enterprise fund, not general revenues. Mr. Moss also indicated that affected residents had been notified by mail, including an explanation of how the special assessment district would be established and other details. Mr. Moss also stated that neither a final estimate of the assessment nor any potential Big Cypress Basin Board grant funding had been established. In response to Council Member Sulick, he clarified that approval by a 51% majority of affected property owners was not necessary since the project was within the Council's purview.

Mr. Middleton referenced the feasibility study and Unsewered Master Plan that had been presented in 2009, noting that Area 7 had been deemed a priority due to its proximity to the Gordon River. Referencing the above letter, Mr. Middleton reported that while the 13<sup>th</sup> and 14<sup>th</sup> Avenues North residents, which had responded, did not support the project at that time due to current economics; many in the Bembury area had indicated support, he added. Vice Mayor Sorey said that he believed this project to be critical and noted that the Naples Zoo, located to the north of the Bembury neighborhood and also abutting the Gordon River, was moving forward with its transfer from septic tanks to the City's sanitary sewer system. As a member of the Big Cypress Basin Board, Vice Mayor Sorey indicated that the above referenced grant funding is highly likely to be provided. Mr. Middleton also clarified that while the City is not legally required to provide water and sewer to the Bembury area per the City/County sewer service agreement, the Code of Ordinances directs that should a sewer system be available within a certain distance, properties as well as any new development is required to connect at the owners expense.

Council Member Finlay voiced what he characterized as his continued support of the project, noting that high levels of fecal coliform are in the estuary and a concern. A key factor in his support, he said, is the fact that Collier County has no regulations in place for septic tank maintenance; in addition, the project would only increase property values and that construction costs tend to be lower during the current economic conditions. Mr. Finlay noted his agreement with Vice Mayor Sorey, urging flexibility in the repayment plan as well as pursuing grants.

City Manager Moss assured Council Member Heitmann that he had kept County staff abreast of the City's intentions and had received their support. He further clarified that residents had not been individually notified of the current meeting's discussion since Council is the decision-maker in this matter.

Council Member Price expressed reservations about extending the system to non-City residents and questioned whether improvements to water quality could be quantified for this particular project. City Manager Moss offered to supply studies supporting removal and prohibition of septic tanks in coastal communities, although no actual measurement of water quality improvement is available. County residents would repay their portion of the cost, including interest, and furthermore, liens could be placed against properties to guarantee repayment. Council Member Saad pointed out that higher water tables near waterways result in materials which normally leach into the soil and break down over time being flushed into those waterways, especially with tidal action. Pharmaceuticals as well as fecal coliform and other pollutants therefore directly enter waters that are used for recreation, Mr. Saad added. Council Member Finlay observed that the sandy soil further lessens the filtering of the aforementioned pollutants and that while he fully supported the project, he would be willing to delay the design phase until Council was fully supportive of the project and the special assessment process.

Mayor Barnett said that he supported the project in particular since the Bembury neighborhood, adjacent to the Gordon River, should be a major concern with regard to the current and future water quality of Naples Bay.

In response to Council Member Heitmann, City Manager Moss explained that should Council decide to proceed with the project, public hearings would be scheduled so that affected residents could offer their input. Should Council approve the contract under discussion, Mr. Moss recommended that a letter also be sent to the County.

Council Member Sulick expressed her support of the project, but with a 10-year repayment schedule; she also urged that the project be presented from the standpoint of how it would benefit consumers, particularly through increased property values. City Manager Moss indicated that he had planned workshop discussions to review repayment options, noting that early repayment and payment upon transfer of ownership of the property were to be discussed. This project is quite complex, he continued, explaining that existing septic tanks must be either removed or decommissioned via a prescribed process; the cost of this falls upon the property owner, he said, as well as the cost of connecting from the home to the City's line. Mr. Moss also noted that during his tenure as Marco Island City Manager, such a project had been undertaken and property owners entered into an agreement with that municipality to oversee the decommission and connection processes; the cost for this was then added to individual utility billing.

Council Member Price requested that in the future staff provide Council with a cost/benefit analysis on items of this sort, including any available studies; this would aid in accountability to residents, he noted. Mr. Middleton confirmed that 40% of the City's utility customers reside outside its boundaries and Mr. Moss noted that the remaining 60% would be reimbursed for costs such as this sewer project via the special assessment. In addition, Vice Mayor Sorey asked that any increase in property values be ascertained with connection to the City's sanitary system.

During the roll call below Council Members Price, Heitmann and Saad expressed concern with the process as discussed above. Council Member Finlay noted that Collier County has 40,000 septic tank systems to address therefore the 55 under discussion should be viewed as minimal. City Manager Moss clarified for Council Member Sulick that the funding of this project via special assessment would not impact the City’s bonding capacity.

**Public Comment:** (9:54 a.m.) None.

***MOTION by Sorey to APPROVE THIS ITEM as submitted; seconded by Saad and carried 6-1, all members present and voting (Sorey-yes, Price-no, Heitmann-yes, Saad-yes, Finlay-yes, Sulick-yes, Barnett-yes).***

**CLERK’S TRACKING 10-00004 .....ITEM 16 APPROVE THE AWARDING OF A CONTRACT FOR THE EAST NAPLES AND SOLANA ROAD BOOSTER PUMP STATION IMPROVEMENT PROJECTS: \ VENDOR: DOUGLAS N. HIGGINS, INC., ANN ARBOR, MICHIGAN \ COST: \$2,530,000 + \$158,550 CONTINGENCIES + \$13,000 ADDITIVE ALTERNATE “E” \ FUNDING: CIP 02K01 – SOLANA ROAD PUMP STATION UPGRADE.** Statement read by City Attorney Robert Pritt (9:58 a.m.). Utilities Director Robert Middleton briefly reviewed his February 18 memorandum (Attachment 6), explaining that the design was based on a detailed hydraulic model which was calibrated with flow and pressure data from the Water Plant as well as fire hydrants throughout the City’s distribution system; this enabled engineers to determine the exact equipment needed to meet its flow and pressure needs. He noted that the projects had been delayed from the prior year to enable them to be undertaken simultaneously and in response to Council Member Price, he said that the benefit of the project would be increased flow and pressure of potable water during periods of high demand. The East Naples pump station currently operates with technology dating back to the 1960’s (50hp pumps increased to 150hp) and the electronics to the 1950’s, therefore it does not meet current regulating codes and much of the upgrades involve automation of operation. Mr. Middleton further confirmed for Council Member Sulick that performance requirements are contained within the contract to protect the City’s investment, and agreed with Council Member Finlay’s observation concerning City-wide insurance premiums, noting that 40% of the City’s ISO (Insurance Services Office) rating (*ratings which affect overall insurance premiums within a community*) is based upon the water system of a community.

Following Vice Mayor Sorey’s motion for approval, City Attorney Pritt sought confirmation that it included the cost of contingencies and additive alternate “E” (valves and fittings / as noted in Attachment 6, Page 1) as reflected in the motion below.

**Public Comment:** (10:06 a.m.) None.

***MOTION by Sorey to APPROVE THIS ITEM as submitted, plus \$158,550 for contingencies at the sole discretion of the City plus \$13,000 for additive alternate “E” and authorizing the City Manager to execute the contract; 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).***

Following the above vote, Vice Mayor Sorey questioned the progress of the City’s ASR (aquifer storage and recovery) well program and Mr. Middleton indicated that a review of the Integrated Water Supply Plan (a copy of which is available in the City Clerk’s Office) would occur during the March 15 workshop. He continued by explaining that with regard to the ASR well program,

Well 1 construction is complete and the well completion report, which must accompany the next permitting application, is on schedule; that permit is 225 days into the future, he said and is for cycle testing. Final pressure testing of its casing had occurred on Well 1 two weeks before and the FDEP (Florida Department of Environmental Protection) continues to support the City's efforts, along with three other local governmental utilities in the state. Mr. Middleton also noted that an apparent cavity in the storage zone had been demonstrated during the drilling of Well 1 but no longer existed once the borehole was increased from 13-, to 24-inches in diameter and the casing jacketed with concrete which was pumped into the opening around the casing.

**ORDINANCE 10-12630.....ITEM 17**

**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 (10:11 a.m.). Following a brief review of the intent of the ordinance, City Manager William Moss clarified that the rate is annually adjusted by index based upon the Florida Public Service Commission (PSC) Deflator Index, which Utilities Director Robert Middleton pointed out is industry specific and designed for utilities, or the Consumer Price Index (CPI), depending upon the utility.

**Public Comment:** (10:13 a.m.) None.

***MOTION by Sorey to ADOPT ORDINANCE 10-12630 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).***

**2010 SAM NOE AWARD NOMINATION REVIEW .....ITEM 18**

(10:14 a.m.) Deputy City Clerk Jessica Rosenberg explained that three nominations had been received as follow: Murray Hendel, Lodge McKee and Lou Vlasho. Vice Mayor Sorey nominated Murray Hendel and Council Member Sulick nominated Lodge McKee. City Attorney Robert Pritt then briefly reviewed the voting process, namely, a vote in the order in which the nominations were made.

Council Member Price explained the spirit of the award as honoring residents who demonstrate the quiet leadership similar to that of Sam Noe.

During review of the nominations, Mayor Barnett commended Mr. McKee for his years of service to the City, noting his 29 years of service on the Carver Finance Board, and Mr. Hendel for his continued service to the City in numerous capacities.

**Public Comment:** (10:18 a.m.) None.

***MOTION by Sorey NOMINATING MURRAY HENDEL unanimously carried, all members present and voting (Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sorey-yes, Sulick-yes, Barnett-yes).***

**RECONSIDERATION REQUEST REGARDING RESOLUTION 10-12613.....ITEM 19 REQUEST TO RECONSIDER RESOLUTION 10-12613 REGARDING WAIVER OF DISTANCE PETITION 10-WD2 AND RESIDENTIAL IMPACT STATEMENT 10-RIS3 (EXTENDED HOURS WAIVER) FOR EVERGLADES CONVENIENCE STORE LOCATED AT 271 TENTH STREET NORTH IN ORDER TO OBTAIN A 2APS ALCOHOLIC BEVERAGE LICENSE DUE TO FEBRUARY 17, 2010 DENIAL BY CITY COUNCIL OF 10-WD2, AND TO SCHEDULE THE RECONSIDERATION, IF APPROVED, ON MARCH 17, 2010 CITY COUNCIL REGULAR MEETING.** Statement read by City Attorney Robert Pritt (10:18 a.m.). Vice Mayor Sorey explained he had made this request as due to continued discussions with interested parties, noting an upcoming meeting with the elders of a nearby church to ascertain whether a compromise could be reached to facilitate the granting of both the waiver of distance and extended hours request of the petitioner allowing the provision of an alcoholic beverage license. City Attorney Robert Pritt confirmed that both requests would be reconsidered as one petition as one resolution had initially submitted to Council for consideration.

**Public Comment:** (10:21 a.m.) None.

***MOTION by Sorey to RECONSIDER RESOLUTION 10-12613 (10-WD2 AND 10-RIS3), TIME CERTAIN; seconded by Saad and carried 5-2, all members present and voting (Finlay-yes, Heitmann-no, Price-yes, Saad-yes, Sorey-yes, Sulick-no, Barnett-yes).***

**PUBLIC COMMENT**.....  
(10:21 a.m.) None.

**CORRESPONDENCE / COMMUNICATIONS** .....

(10:22 a.m.) Vice Mayor Sorey noted that he would provide Council with a report received during the most recent Big Cypress Basin Board meeting regarding climate change and sea level rise. He also stressed his continued concern that the communities along the west coast of the state receive their fair share of funding both from the Big Cypress Basin Board and the South Florida Water Management District (SFWMD). Additionally, he requested a workshop discussion regarding the most recent noise study by the Naples Airport Authority (NAA), as well as research into the existence of easements for access to the 23 lakes located within the City's boundaries. He further expressed appreciation to staff regarding the cleanliness of the Gordon River pedestrian underpass (located at US 41 and Goodlette-Frank Road). Council Member Heitmann stated that she had been impressed with the effectiveness of various youth anti-drug programs, urging the City to work with Collier County programs. In response to Mrs. Heitmann, Vice Mayor Sorey clarified that he in fact does provide consulting services to the Naples Zoo and due to being compensated for these services, had resigned his position on its Board of Directors. Council Member Price reiterated his request that staff reports contain a cost/benefit analysis, especially for more costly expenditures. He also requested an update with regard to the proposed City-sponsored street festivals recently approved by Council, noting that one was to occur sometime in April, and recommending that one occur in October also. Mr. Price continued by commending staff and Fifth Avenue South business owners for their efforts in encouraging employees not to park on the street and referenced pending legislation regarding pensions. He then explained his willingness to serve on the Naples Art Association (NAA) and Council Member Finlay, who had recently been assigned that duty, said he would willingly relinquish the responsibility if Mr. Price wished to serve. Mayor Barnett briefly reviewed a recommended protocol for e-mail responses to residents so as to avoid duplication of services. City Clerk Tara

Norman recommended that a resolution regarding the NAA replacement be considered at the March 17 regular meeting. She also said that she was prepared to dispatch notification by mail to those who had registered to speak on February 17, during the original consideration of Item 19 above.

**Recess: 10:54 a.m. to 11:05 a.m. It is noted for the record that the same Council Members were present when the meeting reconvened.**

**EXECUTIVE SESSION (RESOLUTION 10-12631) .....ITEM 6  
A RESOLUTION CONSIDERING ACCEPTANCE OF PROPOSAL FOR SETTLEMENT  
IN THE CASE OF HELEN ZURLO VS. CITY OF NAPLES; AND PROVIDING AN  
EFFECTIVE DATE.** Title not read. City Attorney Robert Pritt explained that Council would enter an executive session to discuss the acceptance of a proposal for settlement of the third party liability claim of Helen Zurlo, Case No. 08-2338-CA.

**Executive Session: 11:06 a.m. to 11:21 a.m. It is noted for the record that the same Council Members were present when the meeting reconvened.**

(11:21 a.m.) The motion reflected below was proffered upon reconvening.

***MOTION by Saad to APPROVE RESOLUTION 10-12631 ACCEPTING \$45,000 SETTLEMENT OFFER; 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).***

**EXECUTIVE SESSION .....ITEM 7  
EXECUTIVE SESSION TO DISCUSS STATUS OF NEGOTIATIONS WITH THE  
FRATERNAL ORDER OF POLICE (FOP), LODGE 38 AND FRATERNAL ORDER OF  
POLICE (FOP) SUPERVISORS BARGAINING UNIT.**

**Executive Session: 11:22 a.m. to 12:54 p.m. It is noted for the record that the same Council Members were present when the meeting reconvened.**

12:54 p.m. No action announced.

**ADJOURN.....**  
12:54 p.m.

\_\_\_\_\_  
Bill Barnett, Mayor

\_\_\_\_\_  
Tara A. Norman, City Clerk

Minutes prepared by:

\_\_\_\_\_  
Vicki L. Smith, Technical Writing Specialist

Minutes Approved: 03/17/10



# Memo Naples Police and Fire Department

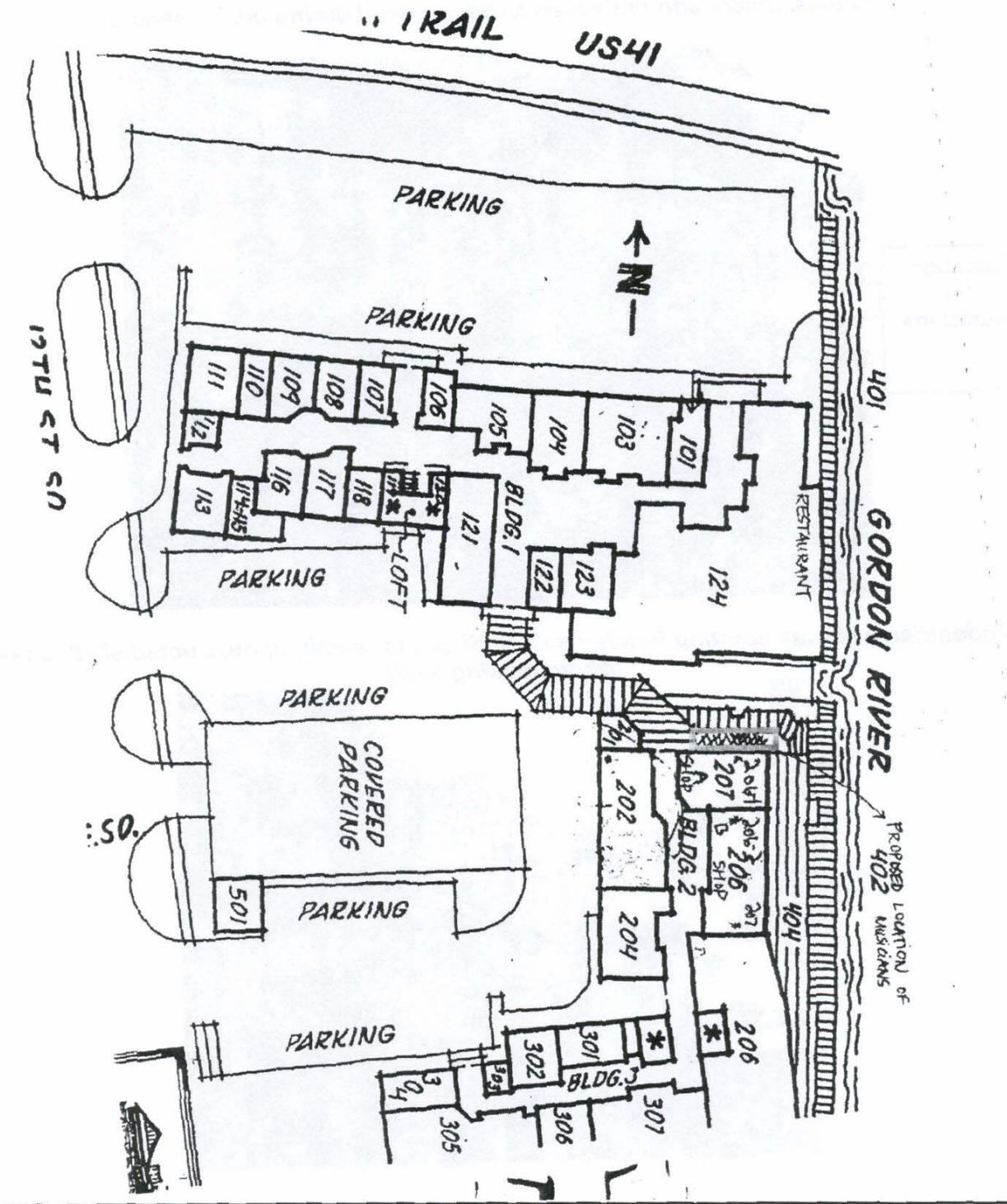
Police • Fire • Administrative Services

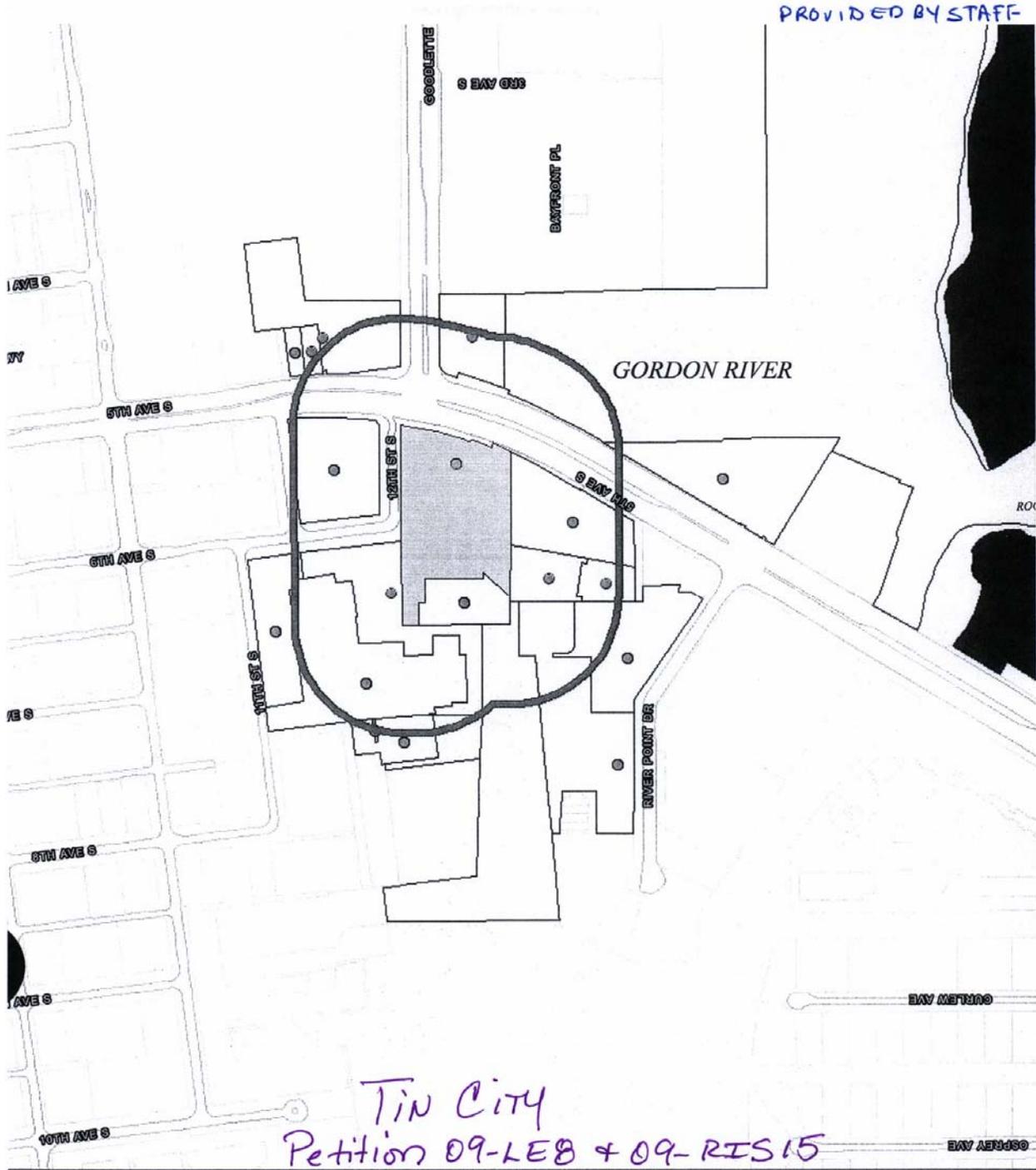
**TO:** Mireidy Fernandez  
**FROM:** Larry Bacci, Fire Marshal  
**SUBJECT:** Tin City  
Location of Musicians  
**DATE:** January 20, 2010

The Fire Department has no objection to the location of outdoor musicians submitted (copy attached).

*Ethics above all else... Service to others before self... Quality in all that we do.*

Plan approved by fire marshal







**NAPLES CITY COUNCIL AGENDA MEMORANDUM**

**Regular Meeting Date: March 3, 2010**

Agenda Section: Regular	Prepared By: Robin Singer, Director Date: February 8, 2010 Legislative <input type="checkbox"/>	Department: Planning Quasi-Judicial <input checked="" type="checkbox"/>
Agenda Item: 11		
<b>SUBJECT:</b> Resolution determining Public Art Petition 09-PA1 to authorize placement of public art and reimbursement of the public art fee for the Humane Society Naples located at 370 Airport Pulling Road North.		
<b>SUMMARY:</b> City Council is asked to consider a resolution determining Public Art Petition 10-PA1 to authorize a public art installation and reimbursement of the public art fee for the Humane Society Naples located at 370 Airport Pulling Road North. In that this is a Quasi-Judicial matter, disclosures and the swearing in of those giving testimony are required.		
<b>BACKGROUND:</b> The Humane Society Naples obtained permits for renovations consisting of 11,868 square feet of new non-residential construction and paid the required public art fee. The proposed art piece is titled "Paw Prints" and has been created by Ms. Amy Brazil. The piece is a mosaic fabricated from stone and set into the stucco face of the new building at the north east corner of the complex. It depicts one large paw print (dog) on the east face of the structure and four smaller prints (cat) on the north face. The piece is clearly visible from Airport Pulling Road. It is invoiced at \$28,000 by the artist, and appraised by Karen E. Rossi, Appraiser, at \$50,000.  The Design Review Board approved the general location of the artwork, by a vote of 3-0, at the October 22, 2008 meeting. The Public Art Advisory Committee voted 4-0 to recommend approval of the artwork at the January 26, 2009 meeting. The Committee's recommendation was based on consistency with the following public art standards:  <i>"Standards of artwork. Artwork installed in public places shall be of exceptional quality and enduring value. The relationship of artwork and site shall be considered in terms of the physical dimensions, social dynamics, local character and surrounding urban context. All public art located on private property shall be outside of any and all buildings and be completely visible from the adjacent right-of-way. To this end, public art may be placed in the required front, side or rear yard upon a determination by the city manager that the location meets the intent of this section and does not cause a safety or visibility hazard."</i>  The petitioner is requesting approval of the artwork and reimbursement of the public art fee pursuant to Section 46-42(d)(4) of the Code of Ordinances.		



**NAPLES CITY COUNCIL AGENDA MEMORANDUM**

**Regular Meeting Date: March 3, 2010**

**Page Two**

Agenda Item:

11

**RECOMMENDED ACTION:**

Adopt a resolution approving Public Art Petition 09-PA1 authorizing placement of public art and reimbursement of the public art fee for the Humane Society Naples, located at 370 Airport Pullin Road North.

Reviewed by Department Director  
Robin Singer

Reviewed by Finance  
N/A

Reviewed by City Manager  
A. William Moss

City Council Action:



850 PARK SHORE DRIVE  
TRIANON CENTRE - THIRD FLOOR  
NAPLES, FL 34103  
239.213.3861 DIRECT  
239.649.6200 MAIN  
239.261.3659 FAX  
dweidenbruch@ralaw.com

MEMORANDUM

**TO:** Robert D. Pritt, Esq.  
**FROM:** Daniel K. Weidenbruch, Esq.  
**DATE:** March 1, 2010  
**RE:** Lake Forest- Lake Access Issues  
**CLIENT** 016763.0001  
**MATTER:**

In follow-up to my prior Memorandum dated February 23, 2010, we have been provided with Stewart Title Guaranty Company's title commitment numbers 10006 and 10007 (the "Title Work") covering the West 5 feet of Lot 9, and the East 5 feet of Lot 8, Block A, a resubdivision of Block A, Lake Forest, according to the plat thereof recorded at Plat Book 3, Page 40, of the Public Records of Collier County, Florida (the "Property"). Based on the Title Work, fee simple title to the Property is vested in the City of Naples (the "City") subject, however, to deed restrictions restricting the use of the Property to a drainage easement. Based upon this, the City does, in fact, have the right to access Forest Lake from the Property.

DKW



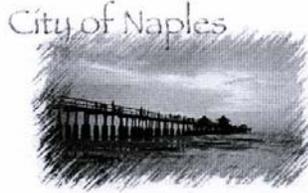
City of Naples



**NAPLES CITY COUNCIL AGENDA MEMORANDUM**

**Regular Meeting Date: March 3, 2010**

Agenda Section: Regular	Prepared By: Bob Middleton, Director Date: February 9, 2010 Department: Utilities
Agenda Item: 15	Legislative <input checked="" type="checkbox"/> Quasi-Judicial <input type="checkbox"/>
<b>SUBJECT:</b> Approve a Professional Services Agreement with Johnson Engineering to design sanitary sewer improvements on 13 <sup>th</sup> Avenue North, 14 <sup>th</sup> Avenue North and Bembury Drive in the amount of \$119,348.	
<b>SUMMARY:</b> City Council is asked to approve a Professional Services Agreement with Johnson Engineering to design, permit and provide construction management for a wastewater collection system on 13 <sup>th</sup> Avenue North, 14 <sup>th</sup> Avenue North and Bembury Drive in an amount not-to-exceed \$119,348.	
<b>BACKGROUND:</b> During the September 15, 2008 City Council Workshop, City staff presented the Unsewered Master Plan to install central sewer systems to areas within the City's sewer service area that are currently on septic tanks. Area 7 was identified in the Unsewered Master Plan as the area of 13 <sup>th</sup> Avenue North, 14 <sup>th</sup> Avenue North and Bembury Drive which is located on the Gordon River. Area 7 was ranked as the highest priority of the unsewered areas identified in the Unsewered Master Plan.  Septic systems are generally deemed to be undesirable in coastal areas and near waterways. Discharge from septic systems may migrate from the surface or through ground water to waterways. Pollutants from septic systems along the Gordon River have negative influences upon the water quality in the Gordon River and Naples Bay. The State of Florida, Collier County and the City of Naples recognize that the quality of water in Naples Bay has deteriorated over the years due to high levels of pollutants. Each is taking proactive efforts to identify and remove sources of pollutants that continue to degrade the water quality within our unique and valuable estuary.  In accordance with the Consultants Competitive Negotiations Act, (CCNA), City Council approved Resolution 09-12325 on January 14, 2009, qualifying engineering firms to perform work for the City for Water Resource Engineering Services. On January 27, 2010, staff requested Letters of Interest from pre-qualified firms detailing their qualifications to design permit and provide construction management of a wastewater collection system. On February 5, 2010, the Purchasing Division opened three (3) submittals that had been received and staff ranked the top three submittals in the following order:  <ol style="list-style-type: none"> <li>1. Johnson Engineering</li> <li>2. Wilson Miller</li> <li>3. Agnoli, Barber &amp; Brundage, Inc.</li> </ol> Staff entered into negotiations with Johnson Engineering and developed a detailed scope of services to provide the system design. The Scope of Services includes, but is not limited to, the following:	



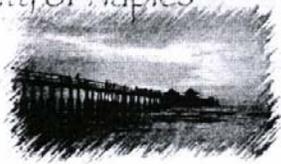
**NAPLES CITY COUNCIL AGENDA MEMORANDUM**

**Regular Meeting Date: March 3, 2010**

**Page Two**

Agenda Item:	15
<b>BACKGROUND (cont.):</b>	
<ul style="list-style-type: none"> <li>• Project management</li> <li>• Survey services</li> <li>• Design</li> <li>• Permitting</li> <li>• Construction bidding services</li> <li>• Geotechnical services</li> <li>• Construction management and oversight</li> </ul>	
<p>Staff recommends that the proposed replacement of septic systems in the Bembury area with a sanitary sewer collection system be funded through special assessments to property owners benefiting from the new system. A grant application will be submitted to the Big Cypress Basin for funding. Receipt of grants will lower the special assessment to property owners.</p>	
<p>The estimated cost of construction, prior to final design, is \$800,000. Assuming a special assessment is placed equally upon the 55 lots, the estimated assessment to each owner may be \$14,545 (assuming no grant funding). Final design will refine the estimated cost.</p>	
<p>Should City Council agree to approve the contract for engineering services, the cost may be included as a part of the project cost that may be reimbursed through a special assessment to property owners. However, if the agreement for engineering services is approved but City Council ultimately decides not to proceed with the special assessment project, then reimbursement through special assessment cannot occur.</p>	
<p>City Council may approve the agreement for engineering services, recognizing that expense to the Utility may not be recovered. Or, City Council may defer a decision and direct that the special assessment process be initiated. That process requires adoption of a preliminary assessment resolution, notification to property owners as to the maximum assessment to the property owner for the project, and adoption of a final assessment resolution. In that grants have yet to be announced, property owners would be informed of a maximum assessment cost without off-setting grant revenue.</p>	
<b>FUNDING SOURCE:</b>	
<p>Funding is budgeted in FY2010 within the Water Sewer Fund - Account 420.3043.535.6030 - CIP 10N40 (Sanitary Sewer Install – Bembury Drive) in the amount of \$125,000. The 5-year CIP provides \$1,036,000 for construction in FY 2010-11.</p>	
<b>RECOMMENDED ACTION:</b>	
<p>Motion to approve a Professional Services Agreement with Johnson Engineering to design, permit and provide construction management for a wastewater collection system on 13<sup>th</sup> Avenue North, 14<sup>th</sup> Avenue North and Bembury Drive in an amount not-to-exceed \$119,348.</p>	
Reviewed by Department Director Bob Middleton	Reviewed by Finance Ann Marie Ricardi
	Reviewed by City Manager A. William Moss
City Council Action:	

City of Naples



**NAPLES CITY COUNCIL AGENDA MEMORANDUM**

**Regular Meeting Date: March 3, 2010**

Agenda Section:	Regular	Prepared By: Bob Middleton, Director
Agenda Item:	16	Date: February 18, 2010 Department: Utilities
		Legislative <input checked="" type="checkbox"/> Quasi-Judicial <input type="checkbox"/>
<b>SUBJECT:</b>		
Award of contract to Douglas N. Higgins, Inc. for the East Naples and Solana Road Booster Pump Station Improvement Projects in the amount of \$2,530,000.		
<b>SUMMARY:</b>		
City Council is asked to consider an award of a contract to Douglas N. Higgins, Inc. to provide construction services for improvements to the East Naples and Solana Road Booster Pump Stations in an amount not to exceed \$2,530,000.		
<b>BACKGROUND:</b>		
<p>On November 7, 2007, City Council authorized a design contract to upgrade the Solana Road and East Naples Water Storage Pump Stations. The design was based on a detailed hydraulic model that was calibrated with flow and pressure data from the Water Plant and fire hydrants throughout the distribution system. The hydraulic model provides the design engineers the ability to accurately match the proper equipment to meet the flow and pressure needs of the distribution system.</p> <p>These pump stations are used to store water in outlying areas of the City's water distribution system to meet increases in water pressure and demand. The design includes pump and piping replacements and electrical service upgrades at both tank sites. Upgrades at the East Naples site will include improvements to the existing pump house to enclose and separate the larger pumps and electrical components. The Solana Road site improvements will include minor pump house modifications to enclose the new equipment.</p> <p>Bid 046-09 was publicly advertised on September 23, 2009. Ninety-five (95) vendors were mailed notices. The City's web service, DemandStar, sent eight hundred sixty-seven (867) notices to potential vendors and sixty-three (63) to plan holders, in addition to the bid being advertised in the local newspaper. Five (5) vendors responded to the bid with Douglas N. Higgins, Inc. being the lowest vendor meeting specifications with a base bid of \$2,358,450.</p> <p>Staff recommends an award of contract that includes Schedule 4, a \$175,000 contingency for additional expenditures at the direction of the City, and Additive Alternative "E" in the amount of \$13,000 for valves and fittings. These two items increase the cost to \$2,546,450. Reducing the Schedule 4 bid line item for the \$175,000 contingency to \$158,550 lowers the project cost to \$2,530,000, which is equal to the amount budgeted for this project.</p> <p>References provided by Douglas N. Higgins, Inc. provided satisfactory ratings for their performance. In addition, Douglas N. Higgins, Inc. is currently providing construction services for improvements to the Cove Stormwater Pump Station and staff has been satisfied with their performance.</p>		
<b>FUNDING SOURCE:</b>		
Funding is allocated in the FY 2010 budget within the Water Sewer Fund - Account 420.2033.533.6030 - CIP 02K01 Solana Road Pump Station Upgrade - in the amount of \$2,530,000.		

City of Naples



**NAPLES CITY COUNCIL AGENDA MEMORANDUM**

**Regular Meeting Date: March 3, 2010**

**Page Two**

Agenda Item:

16

**RECOMMENDED ACTION:**

Motion to award a contract to Douglas N. Higgins, Inc. in an amount not-to-exceed \$2,530,000 for the provision of construction services for improvements to the East Naples and Solana Road Booster Pump Stations. This request is based on a low bid of \$2,358,450 per Schedules 1, 2, 3, and 5 of Bid 046-09; PLUS \$158,550 for contingencies at the sole discretion of the City, per Schedule 4 of the Bid; PLUS \$13,000 for Additive Alternative "E". Authorization for the City Manager to execute the contract.

Reviewed by Department Director  
Bob Middleton

Reviewed by Finance  
Ann Marie Ricardi

Reviewed by City Manager  
A. William Moss

City Council Action: