



City Council Chamber
735 Eighth Street South
Naples, Florida 34102

City Council Regular Meeting – June 16, 2010 – 8:30 a.m.

Mayor Barnett called the meeting to order and presided.

ROLL CALL..... ITEM 1

Present:

Bill Barnett, Mayor
John Sorey, III, Vice Mayor

Council Members:

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

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
Adam Benigni, Planner
Paul Bollenback, Building Services Director
David Lykins, Community Services Director
Christine Carrera, Floodplain Coordinator
Joe Boscaglia, Parks & Parkways Superintendent
Robin Singer, Planning Director
Mireidy Fernandez, Planner
George Archibald, Traffic Engineer
Denise Perez, Human Resources Director
Lori Parsons, Risk Manager
Linda Tanner-Bevard, Sr HR Specialist
Tom Grady
Jacob Pewitt
Robert Hueter
Christian Andrea

Michael Harper
Lisa Swirda
John Passidomo
David Suero
Sue Smith
Sean Gucken
Freddy Velez
Frank Donohue
Randy Smith
Marvin Easton
Francis Papps
Bill May
Eve May
Judith Chirgwin
Glen Harrell
Robert Iamurri
Wayne Ramsey
Wayne Wisher

Media:

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

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

Reverend Michael Harper, Naples Community Hospital.

ANNOUNCEMENTS..... ITEM 3

Mayor Barnett presented the following:

- Proclamation designating June 13 to 19 as Mote Marine Laboratory Week, accepted by Dr. Robert Hueter;
- Certificate of completion of Advanced Institute of Elected Municipal Officials Program to Council Member Gary Price; and
- Key to the City to Naples High School Coach Robert Iamurri who was named National Softball Coach of the Year.

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

MOTION by Price to SET THE AGENDA continuing Item 9-a (approval of minutes) and adding Item 6-g (submerged lands easement) to the Consent Agenda. This motion was seconded by Finlay and carried 6-0 (Finlay-yes, Heitmann-absent, Price-yes, Saad-yes, Sorey-yes, Sulick-yes, Barnett-yes).

Council Member Sulick reiterated her question regarding Item 6-b(1) as to the reasoning of the location of the street closure for the October Fest. City Manager William Moss indicated that a memorandum from Community Services Director David Lykins had been sent via e-mail (a printed copy of which is contained in the file for this meeting in the City Clerk's Office).

PUBLIC COMMENT ITEM 5

(8:40 a.m.) **Bill and Eve May, 1525 Gordon Drive**, noting that the terms of two Naples Airport Authority (NAA) members were soon to expire, urged that those living within the areas affected by aircraft noise be considered for these positions. **Judith Chirgwin, Naples**, cautioned that the proposed extension of runway 5/23 not be allowed characterizing it as neither necessary nor safe. **Sue Smith, 11th Avenue South**, expressed support for police officers and criticized the wage decrease recently enacted by Council. She further contended that other areas of the City's budget could be further reduced and that recent annexations were placing additional stress on the City's financial status. In conclusion, she strongly disagreed with the proposed U.S. Customs facility at Naples Airport. **State Representative Tom Grady**, provided a brief presentation regarding the need for pension reform. (It is noted for the record that a printed copy of his electronic presentation is contained in the file for this meeting in the City Clerk's Office.)

CONSENT AGENDA

APPROVAL OF MINUTES (Continued – see Item 4 above)..... ITEM 6-a
May 17, 2010 Workshop.

SPECIAL EVENTS ITEM 6-b

- 1) October Fest – City Fest Fall 2010 – Downtown Naples Association – Fifth Avenue South from Third Street South to Ninth Street South and Park Street – 10/16/10.
- 2) Stone Crab Fest – City Fest Fall 2010 – Naples Backyard History / Naples Waterfront District – various Waterfront District locations (Tin City, Port-O-Call, Cove Inn, Crayton Cove, Kelly's Fish House, Marine Max, Naples Bay Resort and Bayfront Inn) – 10/23/10 and 10/24/10.
- 3) Naples History "Films" – City Fest Fall 2010 – Naples Cultural Landscape / Naples Backyard History – Third Street South – 10/29/10.
- 4) "Films and Flavors" Festival – City Fest Fall 2010 – Downtown Naples Association / Naples International Film Festival – Fifth Avenue South and Cambier Park – 10/30/10.
- 5) Naples Own Artisan Festival – City Fest Fall 2010 – Downtown Naples Association / Tenth Street / Design District along Third Avenue North and River Park Community Center – 10/30/10.

RESOLUTION 10-12699 ITEM 6-c

A RESOLUTION APPROVING AN AMENDED POLICY FOR THE SELECTION OF TREE SPECIES FOR CITY STREETS AND MANAGEMENT OF THE CITY'S URBAN FOREST; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 10-12700ITEM 6-d
A RESOLUTION AMENDING THE 2009-10 BUDGET APPROVED BY ORDINANCE 09-12519 TO PROVIDE FUNDING FOR A CONTAINMENT BOOM AND OTHER EMERGENCY OIL RELATED CLEANUP SUPPLIES; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 10-12701ITEM 6-e
A RESOLUTION APPROVING THE STATE HOUSING INITIATIVES PARTNERSHIP (SHIP) PROGRAM INTERLOCAL AGREEMENT BETWEEN THE CITY OF NAPLES AND THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY; ACCEPTING THE HOUSING ASSISTANCE PLAN FOR FISCAL YEARS 2010-11, 2011-12, AND 2012-13; AUTHORIZING THE MAYOR TO EXECUTE THE INTERLOCAL AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 10-12702ITEM 6-f(1)
A RESOLUTION APPOINTING ONE MEMBER TO THE EAST NAPLES BAY CITIZENS ADVISORY COMMITTEE FOR A THREE-YEAR TERM COMMENCING JUNE 18, 2010, AND EXPIRING JUNE 17, 2013; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 10-12703ITEM 6-f(2)
A RESOLUTION APPOINTING ONE MEMBER TO THE EAST NAPLES BAY CITIZENS ADVISORY COMMITTEE FOR A THREE-YEAR TERM COMMENCING JUNE 18, 2010, AND EXPIRING JUNE 17, 2013; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 10-12704 (Added Item – see Item 4 above)ITEM 6-g
A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A SOVEREIGNTY SUBMERGED LANDS EASEMENT FROM THE BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA; AND PROVIDING AN EFFECTIVE DATE. Title not read.

MOTION by Sorey to APPROVE CONSENT AGENDA except Item 6-a (see Item 4 above); seconded by Sulick and carried 6-0 (Finlay-yes, Heitmann-absent, Price-yes, Saad-yes, Sorey-yes, Sulick-yes, Barnett-yes).

END CONSENT AGENDA

It is noted for the record that Item 7 below was considered by City Council seated as the City of Naples Board of Appeals.

RESOLUTION 10-12705 ITEM 7
A RESOLUTION OF THE NAPLES CITY COUNCIL, SITTING AS THE CITY OF NAPLES BOARD OF APPEALS, DETERMINING VARIANCE PETITION FA10-01 FROM SUBSECTIONS 16-82(3) AND 16-151(2) OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES, IN ORDER TO ALLOW THE PARK SHORE ASSOCIATION TO BUILD A MEN’S AND WOMEN’S BEACH RESTROOM AT 4061 GULF SHORE BOULEVARD NORTH, AND WILL BE NO MORE THAN 389 SQUARE FEET AND APPROXIMATELY 18 INCHES ABOVE THE EXISTING GRADE, WHICH IS BELOW THE REQUIRED BASE FLOOD ELEVATION OF 12.0 NAVD, MORE FULLY DESCRIBED HEREIN; PROVIDING FINDINGS; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (9:08 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 ex parte disclosures to the effect that each had visited the site and had been in contact with Park Shore Association Board Members. Council Members Price, Sulick and Saad also reported conversations with residents; Council Member Finlay reported that he had been a past member of the Association; and Vice Mayor Sorey stated that he had attended annual meetings of the Association. Christine Carrera, Flood Plain Coordinator, provided a brief overview of the proposed project as contained in her memorandum dated May 28 (Attachment 1), stating that staff recommended approval.

Architect David Suero, agent for the petitioner, explained that this project had been held in abeyance until funding was available, noting that design approval had been received from both the FDEP (Florida Department of Environmental Protection) and the property donors, the Lutgert family. Construction could move forward upon approval of this variance, Mr. Suero added.

Public Comment: (9:12 a.m.) None.

MOTION by Sorey to APPROVE RESOLUTION 10-12705 as submitted; seconded by Finlay and carried 6-0 (Finlay-yes, Heitmann-absent, Price-yes, Saad-yes, Sorey-yes, Sulick-yes, Barnett-yes).

RESOLUTION 10-12706 ITEM 8

A RESOLUTION DETERMINING INDOOR AMPLIFIED LIVE ENTERTAINMENT PETITION 10-LE4 FOR VIVI OF NAPLES LOCATED AT 1728 NINTH STREET NORTH, SUITE A-2, MORE FULLY DESCRIBED HEREIN; SUBJECT TO THE CONDITIONS LISTED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (9:13 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 and Finlay/familiar with the site but no contact; and Price, Barnett, Sulick and Sorey/visited the site but no contact. Planner Adam Benigni introduced the item, noting that the petitioner had requested entertainment from 8:00 p.m. until 2:00 a.m., Wednesday through Saturday. Staff had however recommended approval of amplified live entertainment on Wednesday from 8:00 p.m. to 11:30 p.m. and Thursday through Saturday until 12:00 a.m. which is consistent with other indoor live entertainment permits. The location of a disc jockey or up to a maximum of five musicians is to be as reflected in the floor plan. Freddy Velez, agent for the petitioner, agreed to the amended hours.

Council Member Sulick, however, characterized the number of entertainers as excessive, but Planner Benigni pointed out that there are no residential units within 850 feet of the establishment and, furthermore, the establishment is completely inside Coastland Mall. Vice Mayor Sorey noted the hope that the entertainment would attract patrons to the Mall. Council Member Price requested that future submittals depict the subject area more clearly, especially the location of the front door.

Public Comment: (9:19 a.m.) None.

MOTION by Saad to APPROVE RESOLUTION 10-12706 as submitted; seconded by Sorey and carried 5-1 (Saad-yes, Heitmann-absent, Price-yes, Sorey-yes, Sulick-no, Finlay-yes, Barnett-yes).

RESOLUTION 10-12707 ITEM 9

A RESOLUTION DETERMINING VARIANCE PETITION 10-V5 FROM SECTION 50-35(a)(1) OF THE CODE OF ORDINANCES, CITY OF NAPLES, TO ALLOW A SIGN TO HAVE 8 TENANT NAMES WHERE 4 ARE ALLOWED TO BE LOCATED WITHIN A 10-FOOT FRONT YARD SETBACK AT THE CORNER OF TENTH AVENUE SOUTH AND TENTH STREET SOUTH FOR OLDE NAPLES SEAPORT CONDOMINIUM ASSOCIATION INC., LOCATED AT 1001 TENTH AVENUE SOUTH IN THE "PD" PLANNED DEVELOPMENT ZONING DISTRICT, MORE FULLY DESCRIBED HEREIN, SUBJECT TO THE CONDITIONS LISTED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (9:19 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 but no contact; Finlay, Price and Barnett/familiar with the site but no contact; Sulick/visited the site and spoke with residents; and Sorey/visited the site and spoke

with the petitioner's agent. Planner Mireidy Fernandez provided a brief overview of the request and noted conditions of approval as contained in her memorandum dated May 24 (Attachment 2); the Planning Advisory Board (PAB) had also recommended approval during its May 12 meeting, she added. Mr. Pritt pointed out that condition #2 reflected in the aforementioned memorandum was not reflected in condition #2 of the resolution (Section 2-2) and therefore recommended revised language reflected in the motion below, Mr. Pritt also suggested the amendment to Section 2-3 in response to concerns voiced by Vice Mayor Sorey that the new signage be installed immediately following the removal of the existing.

Frank Donohue, agent for the petitioner, explained that the current sign had been intended to be temporary when placed between the sidewalk and the street, while the proposed sign would be placed in the setback within a planting bed between the sidewalk and a building to afford a clearer view of oncoming traffic.

Following the motion for approval below, Council Member Price requested that language be included regarding the variance having met the prescribed criteria.

Public Comment: (9:30 a.m.) None.

MOTION by Sorey to APPROVE RESOLUTION 10-12707 amending as follows: Section 2-2: "The dimensions...sign-plan sign shall be installed per the plans submitted;" and Section 2-3: "...removed prior to contemporaneously with the installation...."; affirmative vote indicates agreement that variance criteria have been met. This motion was seconded by Sulick and carried 6-0 (Finlay-yes, Heitmann-absent, Price-yes, Saad-yes, Sorey-yes, Sulick-yes, Barnett-yes).

**RESOLUTION 10-12708 ITEM 10
A RESOLUTION DETERMINING VARIANCE PETITION 10-V6 FROM SECTION 56-45(b) OF THE CODE OF ORDINANCES, CITY OF NAPLES, WHICH REQUIRES SWIMMING POOLS IN MULTIFAMILY DISTRICTS TO MEET THE MINIMUM YARDS FOR STRUCTURES IN THE ZONING DISTRICT IN WHICH IT WILL BE CONSTRUCTED IN ORDER TO ALLOW ELEVEN OF THE TWELVE SWIMMING POOLS TO ENCROACH 4 FEET 1¾ INCHES TO 9 FEET 4¾ INCHES INTO THE REQUIRED FRONT AND REAR YARDS AT 1720-1764 GULF SHORE BOULEVARD NORTH, MORE FULLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.** Title read by City Attorney Robert Pritt (9:30 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, spoke with the petitioner's agent and the petitioner; Sulick/visited the site and spoke with the petitioner's agent; Finlay and Barnett/familiar with the site and spoke with the petitioner's agent; Price/visited the site, spoke with the petitioner's agent and received multiple e-mails from both the property owners and neighbors; and Sorey/visited the site various times and spoke with the petitioner's agent and residents. Planner Adam Benigni provided an overview of the petition as contained in his memorandum dated June 3 (Attachment 3), noting that the Planning Advisory Board (PAB) had however recommended approval.

Attorney John Passidomo, agent for the petitioner, utilized an electronic presentation of the Naples Casamore development, explaining that the request is to place portions of individual swimming pools in required yards. (It is noted for the record that a printed version of this presentation is contained in the file for this meeting in the City Clerk's Office.) He then explained that the adjacent structures are condominiums developed at the maximum density and height permitted, which is 15 units per acre and 35 feet. The project under discussion

however is at 6 units per acre containing detached villas each featuring an individual swimming pool and deck. He also pointed out that pool decks and other structures less than 30 inches in height may be located within required front and rear yards, except that pools are not allowed within required front and rear yards in multifamily districts.

Although construction had commenced, Mr. Passidomo said that pools and decks were redesigned as a marketing strategy, although it resulted in a total net reduction of 25 square feet of pool area. Nevertheless, the majority of the pools would extend into the required front and rear yards. He further said that he did not find it reasonable to require a 25-foot front and rear yard setback for open swimming pools when decks, having a similar effect, may essentially be positioned anywhere. Furthermore, he said, swimming pools in the single-family rear yards across the waterway are allowed to within 15 feet from the property line while the requirement for the subject property is 25 feet.

Council Member Sulick received confirmation from Planner Benigni that sufficient fencing would be allowed to comply with pool safety requirements; however, she further questioned the additional coverage of impervious surface and the advisability of granting a variance to increase the developer's chance of successful marketing of the villas. Landscape Architect Christian Andrea cited a net reduction of paved surfaces, and Vice Mayor Sorey pointed out that the project had met South Florida Water Management District (SFWMD) requirements and a permit had been granted.

While a diagram comparing the original and current site plans had not been required, Mr. Passidomo agreed with Council Member Finlay's observation that the project is a single-family development retrofit into a multifamily zoning district; prior to Code amendments, this complex would have been submitted as a "PD" Planned Development, he added. Vice Mayor Sorey maintained that the subject variance had been necessitated by unintended consequences of altering PD standards, despite there being no unique circumstances in this instance. He further cited positive impacts of such hybrid projects.

Mr. Benigni confirmed for Council Member Saad that, as designed, the subject pools would spatially appear no different from decks at neighboring properties; the placement of these pools would not affect the seawalls structurally, he further indicated. Mr. Saad said that he supported the lower density and height along the shoreline albeit the Code does not address a hybrid development.

Council Member Price said that a variance should not be granted to render the development more marketable and cautioned that variances erode both the Code and the character of the City. This had been reflected in withdrawal of support by the Gulf Shore Property Owners Association, via its May 10 letter, on the grounds that conforming to zoning requirements would have resulted in no unanticipated hardship to the developer (a copy of which is contained in the file for this meeting in the City Clerk's Office). Council Member Sulick further stated that a pool is a structure no matter its height and should be installed according to required standards.

Attorney Passidomo pointed out that the Gulf Shore Property Owners Association had in fact indicated that no position was being taken and that the above referenced correspondence had not been a letter of opposition. Council Member Sulick observed that while she had supported the concept of the development, she believed it could have been accomplished under the provisions of the Code

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During a review of the specific criteria, Vice Mayor Sorey and Council Member Finlay also characterized the project as being more appropriate to the surrounding neighborhood than that which could have been proposed. Council Member Price agreed but maintained that the variance criteria had nevertheless not been met.

Following a brief review of the original consideration, Council Member Sulick proffered the motion reflected below.

Public Comment: (10:20 a.m.) None.

MOTION by Sulick to DENY RESOLUTION 10-12708 due to failure to meet variance criteria 1, 2, 3, 4, and 7 (as reflected in the staff report). This motion was seconded by Price and FAILED 2-4 (Saad-no, Heitmann-absent, Price-yes, Sorey-no, Sulick-yes, Finlay-no, Barnett-no).

Council Member Saad then proffered a motion for approval. City Attorney Pritt clarified for Council Member Price that the City can regulate land use but not ownership thereby precluding imposition of a condition prohibiting a future subdivision to accommodate fee simple ownership within the development.

MOTION by Saad to APPROVE RESOLUTION 10-12708 as submitted; affirmative vote indicates agreement that variance criteria have been met. This motion was seconded by Sorey and carried 4-2 (Saad-yes, Sulick-no, Heitmann-absent, Finlay-yes, Price-no, Sorey-yes, Barnett-yes).

Recess: 10:28 a.m. to 10:43 a.m. It is noted for the record that the same Council Members were present when the meeting reconvened.

RESOLUTION 10-12709 ITEM 11
A RESOLUTION DETERMINING CONDITIONAL USE PETITION 10-CU5 FROM SECTION 58-503(7) AND RESIDENTIAL IMPACT STATEMENT PETITION 10-RIS7 FROM SECTION 56-151(7) OF THE CODE OF ORDINANCES IN ORDER TO OPERATE A DRIVE-UP WINDOW FOR WAYNE’S WORLD BP INC., A COMMERCIAL PROPERTY LOCATED WITHIN 300 FEET OF A RESIDENTIAL AREA AT 2201 NINTH STREET NORTH, IN THE “HC” HIGHWAY COMMERCIAL ZONING DISTRICT, MORE FULLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (10:43 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 and Barnett/familiar with the site but no contact; Price and Sulick/visited the site but no contact; and Sorey/visited the site and spoke with the petitioners. Planner Mireidy Fernandez then provided a brief overview of the request, noting that both the Planning Advisory Board (PAB) and staff had recommended approval, subject to the conditions reflected in the resolution. In response to concerns that alcoholic beverages should not be sold from the drive-through window, the petitioners agreed to the additional condition reflected in the motion below.

Public Comment: (10:57 a.m.) None.

MOTION by Sorey to APPROVE RESOLUTION 10-12709 amending as follows: Section 2: adding “7.: Beer and alcoholic beverages shall not be sold from the drive-through window.”. This motion was seconded by Barnett and carried 4-2 (Finlay-yes, Heitmann-absent, Price-no, Saad-yes, Sorey-yes, Sulick-no, Barnett-yes).

ORDINANCE 10-12710 ITEM 12-a
AN ORDINANCE RELATING TO OUTDOOR DOG DINING; ADDING SECTION 56-130, DOGS IN FOOD SERVICE ESTABLISHMENTS, TO THE CODE OF ORDINANCES, CITY OF NAPLES, FOR THE PURPOSE OF ESTABLISHING A LOCAL EXEMPTION PROCEDURE TO CERTAIN PROVISIONS OF THE FOOD AND DRUG ADMINISTRATION FOOD CODE,

PURSUANT TO SECTION 509.233 FLORIDA STATUTES, IN ORDER TO ALLOW PATRONS' DOGS WITHIN CERTAIN DESIGNATED OUTDOOR PORTIONS OF PUBLIC FOOD SERVICE ESTABLISHMENTS; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (10:57 a.m.). Vice Mayor Sorey proffered a motion for approval which Council Member Saad seconded.

Public Comment: (10:58 a.m.) **Sue Smith, 11th Avenue South**, opposed allowing dogs in public dining areas due to safety concerns for both patrons and the dogs themselves. Vice Mayor Sorey clarified that the ordinance would not require that dogs be allowed but would provide establishments the opportunity to apply for such a permit.

Council Member Sulick reported conversations with restaurateurs concerned that patrons owning dogs would gravitate to establishments that supported the concept. In addition, she pointed out that the ordinance under consideration had resulted from a request by a single establishment whose insurance company had taken the position that local permitting was required over and above state law which already allows it. She further recommended an increase in fees to between \$25 and \$50 to cover the cost of enforcement; Council Member Finlay agreed.

MOTION by Sorey to ADOPT ORDINANCE 10-12710 as submitted; seconded by Saad and carried 4-2 (Finlay-yes, Heitmann-absent, Price-no, Saad-yes, Sorey-yes, Sulick-no, Barnett-yes).

RESOLUTION 10-12711 ITEM 12-b

A RESOLUTION AMENDING APPENDIX "A", FEES AND CHARGES SCHEDULE, TO ESTABLISH PERMIT AND ADMINISTRATIVE FEES FOR FOOD ESTABLISHMENTS ALLOWING DOGS IN OUTDOOR AREAS PURSUANT TO SECTION 56-130 OF THE CODE OF ORDINANCES; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (11:04 a.m.). Planning Director Robin Singer explained that an initial fee, as well as an annual renewal fee, should be established. She then clarified that the intent was to recover the City's cost of staff application review and a site inspection; renewal fees would address any further inspections and enforcement as necessary, she added. Council Member Price cited concerns regarding accountability to taxpayers and recovering of costs incurred in this process, Council Member Saad recommended \$100 for the initial permit and \$50 for annual renewals.

Public Comment: (11:10 a.m.) **Sue Smith, 11th Avenue South**, questioned the City's potential for liability with the above action and City Attorney Pritt indicated that the City would nevertheless be liable with regard to any pedestrian passing on a sidewalk.

Council Member Price stated that in his opinion, this legislation is another example of unnecessary government and that the recommended fees would in fact not recover the cost of the permitting.

MOTION by Sorey to APPROVE RESOLUTION 10-12711 amending as follows: 56-130: "... initial permit fee \$100.00 and an annual administrative fee \$50.00 ~~15.00~~." This motion was seconded by Saad and carried 4-2 (Finlay-yes, Heitmann-absent, Price-no, Saad-yes, Sorey-yes, Sulick-no, Barnett-yes).

It is noted for the record that Items 13-a and 13-b were read concurrently. Items 13-a, 13-b and 13-c were considered concurrently.

RESOLUTION 10-12712 ITEM 13-a

A RESOLUTION APPROVING A NON-EXCLUSIVE FRANCHISE AGREEMENT BETWEEN NAPLES TRANSPORTATION AND TOURS LLC AND THE CITY OF NAPLES RELATING TO THE ESTABLISHMENT OF SIGHTSEEING BUS STOPS AND ROUTES ON CITY STREETS;

AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

RESOLUTION (Continued – see motion below)..... ITEM 13-b
A RESOLUTION APPROVING A NON-EXCLUSIVE FRANCHISE AGREEMENT BETWEEN DOLPHIN TRANSPORTATION SPECIALIST, INC., AND THE CITY OF NAPLES RELATING TO THE ESTABLISHMENT OF SIGHTSEEING BUS STOPS AND ROUTES ON CITY STREETS; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. Titles read by City Attorney Robert Pritt (11:13 a.m.).

.....**ITEM 13-c**
CONSIDER RECOMMENDATION THAT CITY’S RESTRICTED TRUCK / COMMERCIAL VEHICLE ROUTE BE AMENDED TO INCLUDE GORDON DRIVE ALTHOUGH WOULD NOT PROHIBIT USE OF GORDON DRIVE FOR DESTINATION TRIPS. Traffic Engineer George Archibald provided a brief overview of the issues which had been identified during the April 19 workshop discussion as well as the following staff recommendations:

- The addition of Gordon Drive to the City’s listing of restricted truck-commercial vehicle routes;
- Revision of the City’s non-exclusive agreement for sightseeing bus stops and bus routes to include an operation plan, an increase in insurance coverage (minimum of \$5-million liability / \$500,000 property damage or a combined coverage of \$10-million), reduction of loading/unloading time from 5 to 3 minutes (off-street loading zone times remain 5 minutes), and an increase in the notice of termination from 10 to 60 days (Should safety and/or other public welfare issues be involved, the City would reserve the right to terminate with a 10-day notice.), and the agreement period amended from three to five years and subject to annual review and renewal; and
- Agreements prepared for Naples Transportation & Tours, LLC, and Dolphin Transportation, Inc. addressing the three areas of issue with regard to operation as follows: 1) bus stop conflicts; 2) route conflicts; and 3) residential route conflicts.

Mr. Archibald then reviewed the service provided by each vendor pointing out that only two common stops occur in the public right-of-way although the routes do replicate one another in several instances. No changes to Naples Transportation’s route had been recommended as it focuses its stops within the downtown area, but Dolphin’s route, which currently includes Gordon Drive, should be amended to access Gulf Shore Boulevard from the north via Mooringline Drive, then south on Gulf Shore Boulevard to 18th or 20th Avenue South, west to Gordon Drive, north to 13th Avenue South, and then east to Third Street South for travelling north, he explained.

Mr. Archibald confirmed that Dolphin would indeed pick up passengers within the downtown area. Council Member Sulick expressed concern with regard to this company’s intent to utilize public parking to satisfy requirements, especially at the City Dock where parking is already limited; Naples Transportation however has provided parking at its Sixth Avenue South office location. She further disagreed with Dolphin being permitted to travel so far south into a residential area and recommended that its vehicles turn west onto 12th Avenue South as no sidewalk is available from that point south on Gulf Shore Boulevard and the roadway narrows. Furthermore, she said, the route recommended above is difficult to navigate and the size of the vehicle utilized by Dolphin will only increase this navigation problem as well as create additional safety issues; Council Member Finlay agreed. Mr. Archibald confirmed for Mr. Finlay that the recommended restriction of Gordon Drive would not lessen truck traffic but would curtail repeated use by sightseeing tour vehicles. City Attorney Pritt further advised that should the agreement be violated by use of Gordon Drive, any provisions granted by the City via the agreement would no longer be valid, such as the use of

the bus stops. Mr. Finlay reiterated his concern that such a restriction could in fact be enforced and recommended that the \$500 franchise fee be reviewed for possible increase.

Vice Mayor Sorey agreed with the Gordon Drive restriction and Mr. Archibald explained that staff had considered 13th Avenue South for the turn to the east off of Gulf Shore Boulevard South; Council agreed. Vice Mayor Sorey further questioned parking for both companies and Mr. Archibald noted that no Code provisions exist that relate parking requirements to sightseeing transit as in the instant case, noting that neither company had indicated a stop at the City's two garages which would provide ample parking.

Public Comment: (11:41 a.m.) **Sue Smith, 11th Avenue South**, cautioned that as a resident living just north of the Fishing Pier who utilizes Gulf Shore Boulevard South, the issue is not the sightseeing service itself but where it is allowed. She pointed out that her area is inundated with vehicles, pedestrians and bicyclists and Council should therefore direct staff to develop the tour routes with care. **Randy Smith, representing Naples Transportation**, pointed out that service had been provided within the City for the past 22 years by his family's company, noting that its insurance coverage is a total combined coverage of \$10-million, per current industry standards, and cautioned that the City should require the same coverage of similar tour providers due to the size of vehicles and seating capacity. He further explained that his service provides 56 tours per week, with the majority of passengers directed to its downtown office for boarding, while the City right-of-way stops are utilized for dropping off passengers for shopping and dining. In contrast, he pointed out, Dolphin has only 12 tours per week, provides no parking, and the City right-of-way stops are in fact used to pick up passengers. Mr. Smith then reiterated his concern that the duplication of routes will continue to create confusion for customers, noting that although Dolphin had been directed to develop a route differing from Naples Transportation, the current submittal in fact more closely mirrors his firm's route. Separate stops should therefore be provided, he recommended. **Francis Papps, representing Dolphin Transportation**, differed with the prior speaker in that he said he believed the industry standard for insurance to be between \$3- and \$5-million. He further asserted that, while routes are similar, stops made by his vehicles within the downtown area are for pickup only and create no burden on public parking; the majority of customers are boarded at hotels, he added. The service provided by his company is a dedicated tour with no opportunity for shopping or dining being offered. Council Member Price expressed concern that Dolphin utilizes the City Dock as its first stop, but Mr. Papps stated that this location is closest to the company's office, reiterating that the majority of passengers are boarded at hotels. (Later in the discussion he agreed that this practice could be changed and concurred with a suggestion by Council Member Finlay that the Chamber of Commerce site might be used.) Mr. Price equated the requirement for charter captains at the City Dock to provide parking with the need for parking by sightseeing services. In addition, he said he strongly opposed the proposed stop at the alley located on Eighth Street South, just south of Fifth Avenue South, due to seasonal congestion, further acknowledging that Dolphin was to have returned with an alternate design.

Having experienced both tours, Vice Mayor Sorey explained that he had observed no confusion at the joint boarding sites and that both services board passengers at the City Dock relying only on public parking spaces. Furthermore, he said that to enjoy the main attractions around the City, duplication of routes must occur. Council Member Finlay agreed but said that he did not believe the City could mandate routes. Council Member Saad voiced similar concern with regard to restricting the use of Gordon Drive, but Mr. Archibald stated that the intent of the truck/commercial route designation was to limit indiscriminate use of residential streets which is also the intent of the agreement under discussion. Nevertheless, should tours be allowed to use Gordon Drive, only 12 trips per day would be added to the routine average of 4,000 to 6,000 daily trips.

Further discussion of the restriction of streets to truck/commercial traffic followed during which Mr. Archibald pointed out that the number of restricted streets in the downtown area far outnumber those open to such traffic. (It is noted for the record that a map used in Mr. Archibald's response is contained in the file for this meeting in the City Clerks' Office.) After further discussion, Vice Mayor Sorey proffered a motion for approval which Council Member Price seconded, requesting that on Page 2 of the agreement, Item 6 (#3) be deleted due to his concern previously noted regarding the southwest corner of the Fifth Avenue South alley and Eighth Street South. City Attorney Pritt recommended that the wording of this item, first paragraph, last sentence, begin with the word "initially" thereby allowing possible modifications to permitted stops with approval of the City Manager as provided in the second paragraph of the same item.

MOTION by Sorey to APPROVE RESOLUTION 10-12712 amending agreement as follows: Item 6 (first paragraph, last sentence): "Initially approved trolley stop..."; and deleting under Item 6 (#3) the third loading zone location. This motion was seconded by Price and carried 5-1 (Finlay-no, Heitmann-absent, Price-yes, Saad-yes, Sorey-yes, Sulick-yes, Barnett-yes).

Council Member Finlay pointed out that while he supported the trolley service, his negative vote was prompted by the \$500 franchise fee for the five year term of the agreement which he said is not fiscally responsible for the City and should be increased.

Although a motion for denial was proffered by Council Member Price and seconded by Council Member Sulick, Vice Mayor Sorey recommended that the item be continued so that Council's concerns could be addressed. This motion was subsequently withdrawn, and Mrs. Sulick expressed the opinion that Dolphin should also carry insurance with a total combined amount of \$10-million due to possible liability by the City; she also said that stops remain an issue, as well as the distance allowed south on Gordon Drive.

MOTION by Price to CONTINUE THIS RESOLUTION TO AUGUST 18, 2010 OR SEPTEMBER 1, 2010 REGULAR MEETING; seconded by Barnett and carried 6-0 (Finlay-yes, Heitmann-absent, Price-yes, Saad-yes, Sorey-yes, Sulick-yes, Barnett-yes).

MOTION by Sorey to APPROVE TRUCK ROUTE AMENDMENT ADDING GORDON DRIVE, BEGINNING AT 13TH AVENUE SOUTH TO PROHIBITED STREETS. This motion was seconded by Sulick and carried 6-0 (Finlay-yes, Heitmann-absent, Price-yes, Saad-yes, Sorey-yes, Sulick-yes, Barnett-yes).

Consensus to allow Dolphin Transportation continued use of the designated loading zones located on Third Street South and at the City Dock until final consideration of the agreement.

Recess: 12:37 p.m. to 12:47 p.m. It is noted for the record that the same Council Members were present when the meeting reconvened except Mayor Barnett who returned at 12:54 p.m.

**RESOLUTION 10-12714 ITEM 14
A RESOLUTION AWARDED THIRD PARTY CLAIMS ADMINISTRATION SERVICES AND STOP LOSS INSURANCE TO CIGNA HEALTHCARE; AND PROVIDING AN EFFECTIVE DATE.** Title read by City Attorney Robert Pritt (12:47 p.m.). City Manager William Moss provided a brief overview, noting that the three-year contract has two, one-year renewals. In response to Council Member Saad, Risk Manager Lori Parsons explained that the City has had a higher

number of large claims (in excess of \$100,000) than the industry norm for plans of similar size. She then reviewed the evaluation process as reflected in her memorandum dated May 11 (Attachment 4), which supported the choice of Cigna. Mr. Saad further questioned whether the City should continue its practice of self-insurance and Ms. Parsons explained that only one full insurance proposal had been received although this option should be evaluated further. Mr. Moss also pointed out that the size of the group to be insured had decreased and cautioned that a company's first year rates could be greatly increased in subsequent years and that the cost to carry the balance of the self-insured plan's existing claims forward for at least a year or two would also require consideration. Staff's intent, however, is to provide additional information in the coming year, he said.

Although Council Member Price suggested a decision be delayed until the staff could perform this evaluation, Ms. Parsons explained that the annual overall cost reduction in the current proposal of 5.7%, or \$260,000, would be lost. She assured him that the contract contains a termination clause should the City wish to alter its health care to fully-insured.

Consensus that Item 14 be continued to later during the meeting allowing staff the opportunity to obtain and review the contract.

When discussion resumed following Item 18 below, Ms. Parsons explained that the current administrative services contract with Cigna (effective date October 1, 2007) stated as follows: "Terms and Termination of the Agreement" (Page 10): This agreement is effective on the effective date and shall remain in effect until the earliest of the following dates: 1. The date which is at least 60 days from the date that either party provides written notice to the other party of termination of the agreement...". City Attorney Pritt agreed that the "mutual agreement" applies only to rates should either of the one-year renewals be utilized; with 60-days notice the contract could be terminated. He further recommended the language reflected in the motion below.

Public Comment: (1:23 p.m.) None.

MOTION by Price to APPROVE RESOLUTION 10-12714 conditional that new agreement is to have same termination language as current; seconded by Sulick and carried 6-0 (Finlay-yes, Heitmann-absent, Price-yes, Saad-yes, Sorey-yes, Sulick-yes, Barnett-yes).

CLERK'S TRACKING 10-00012 ITEM 15
**AWARDING OF CONTRACT TO PROVIDE CONTROL PANELS AND ENCLOSURES FOR THE WATER TREATMENT PLANT'S WELLFIELD SCADA UPGRADE PROJECT: **
VENDOR: E. B. SIMMONDS, NAPLES, FLORIDA \ COST: \$171,358 \ FUNDING: CIP 08K01
– WELLFIELD SCADA SYSTEM. (1:01 p.m.) Utilities Director Robert Middleton noted that the fiber-optic system, which is essentially maintenance free, would also be much more cost effective than the originally planned system that featured radio and antenna based telemetry communication. Total capital investment would be \$245,000 with annual maintenance of \$45,000, he added.

Public Comment: (1:02 p.m.) **Sean Gucken, 324 36th Avenue North, #159, St. Petersburg,** waived comment.

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

It is noted for the record that Council Member Price left the meeting at 1:03 p.m. and returned at 1:05 p.m. during consideration of Item 18 below.

CLERK'S TRACKING 10-00013 ITEM 16
AWARDING OF CONTRACT FOR THE ACQUISITION AND PLANTING OF TREES AND PALMS AS PART OF THE CITY OF NAPLES TREE FILL-IN PROGRAM: \ VENDOR:
HANNULA LANDSCAPING AND IRRIGATION, INC., BONITA SPRINGS, FLORIDA \ COST:

\$100,000 \ FUNDING: CIP 10F26 – TREE FILL-IN AND REPLACEMENT PROGRAM. (1:03 p.m.)

Public Comment: (1:03 p.m.) None.

MOTION by Sorey to APPROVE THIS ITEM as submitted; seconded by Saad and carried 5-0 (Finlay-yes, Heitmann-absent, Price-absent, Saad-yes, Sorey-yes, Sulick-yes, Barnett-yes).

(Continued – see motion below)..... ITEM 18
DISCUSSION REGARDING LAND CONSERVATION AND GREEN SPACE ACQUISITION PROGRAM. (1:03 p.m.) Noting the absence of Council Member Heitmann and her interest in the program, Mayor Barnett recommended that the item be continued to the August 16, 2010, workshop following summer recess.

Public Comment: (1:03 p.m.) None.

MOTION by Barnett to CONTINUE THIS ITEM TO AUGUST 16, 2010 WORKSHOP; seconded by Sulick and carried 6-0 (Finlay-yes, Heitmann-absent, Price-yes, Saad-yes, Sorey-yes, Sulick-yes, Barnett-yes).

RESOLUTION 10-12713 ITEM 17
A RESOLUTION AMENDING THE 2009-10 BUDGET ADOPTED BY ORDINANCE 09-12519 ADDING THE PENSION REFORM PROJECT TO THE GENERAL FUND; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (1:03 p.m.). Council Member Price proposed that local residents with backgrounds in pension management be recruited to study pension reform and therefore recommended that just \$50,000 be earmarked for the actuarial portion of the effort. He offered to coordinate the process which he said should include employee contracts and a recent pension report containing recommendations of the Town of Palm Beach. (It is noted for the record that a copy of this material is contained in the file for this meeting in the City Clerk's Office.) Council Member Sulick agreed but recommended that the \$100,000 budget amendment remain. City Manager William Moss cautioned that police and fire pensions could pose difficulties in termination due to state regulation, although input would be welcome as to the possible termination of the general pension plan and its disbursement among employees.

Assistant City Manager Roger Reinke provided a brief overview of the scope of the Town of Palm Beach report and recommendations, indicating that the specific cost of these options applied to the City's workforce is unknown. Should five differing plans be available, the cost and benefit for the coming 5, 10 and 15 years must be ascertained for each of the City's plans, he explained. In response to Council Member Finlay, City Manager Moss agreed that he would consult with the City Attorney to address any issues of the Sunshine Law (Chapter 286, Florida Statute) which might arise from Mr. Price meeting with volunteers. Due to the complexity of pension reform, Mr. Price then acknowledged that a blue ribbon committee would indeed be prudent later in this process thereby allowing public input.

Public Comment: (1:21 p.m.) None.

MOTION by Price to APPROVE RESOLUTION 10-12713 as submitted; seconded by Sulick and carried 6-0 (Finlay-yes, Heitmann-absent, Price-yes, Saad-yes, Sorey-yes, Sulick-yes, Barnett-yes).

HEALTH PLAN UPDATE & PROPOSED FY 2010-11 DESIGN CHANGES ITEM 19
EACH YEAR THE HEALTH PLANS AVAILABLE TO CITY EMPLOYEES ARE EVALUATED WITH RECOMMENDATIONS AS TO CHANGES. AN UPDATE TO THE HEALTH PLAN AND POTENTIAL CHANGES WILL BE PRESENTED. (1:24 p.m.) Risk Manager Lori Parsons detailed the success of the ongoing health initiative involving employees tracking the amount of steps walked each day, which had begun on May 10 and continues for 12 weeks. She then provided an overview of the City's employee health plan and recommendations for the coming fiscal year as contained in her memorandum dated June 9 (Attachment 5). She noted that with

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prior changes to the health plans, actual claim costs through April 30 were 8.3% less than expected and 19% less (\$494,755) than the same period the prior year. However, to maintain the current level of benefits, a premium increase will be necessary; in addition, plan design changes that are being evaluated to reduce costs are as follows:

- Continue a self-insured health plan versus shifting to a fully-insured plan;
- Eliminate the Point of Service Plan and only the Consumer Driven Health Plan be offered;
- Increase the in-network deductibles and out-of-pocket maximums on the Point of Service plan; and
- Add a separate pharmacy deductible to the Point of Service Plan.

In addition, she noted the following strategies being evaluated to enhance current benefits:

- Implementation of voluntary behavior modification and preventative health incentives;
- Addition of a Health Savings Account; and
- Implementation of pharmacy enhancements to reduce the financial impact to employees for the cost of maintenance medications.

Staff continues to evaluate the federal mandates affecting health insurance imposed as a result of the Health Care Reform Bill's passage in March, Ms. Parsons concluded, some of which will be effective on plan years beginning on or after September 23, 2010, while others become effective between 2011 and 2018 (see Attachment 5).

Vice Mayor Sorey recommended that deductibles be risk-based as much as possible and that only non-smokers be hired in the future. Council Member Price disagreed, favoring incentive-based programs, and said he would not support prohibition of hiring smokers; Council Member Sulick agreed. Council Member Finlay however supported evaluating health risks prior to hiring and said that he would support research as to the hiring of non-smokers only; Council Member Saad agreed with Mr. Finlay.

Public Comment: (1:31 p.m.) None.

Consensus that staff research prohibition of hiring smokers (4-2 / Price and Sulick dissenting / Heitmann absent).

PUBLIC COMMENT

(1:33 p.m.) **Sue Smith, 11th Avenue South**, requested that a method be found to reduce the City's budget without impacting its staff or lowering the current level of service provided.

CORRESPONDENCE AND COMMUNICATIONS.....

(1:37 p.m.) Council Member Price noted a recent *Naples Daily News* editorial by State Representative Tom Grady regarding government pension liabilities and requested that Council reflect over the summer months as to upcoming difficult decision-making and fiscal responsibility. He also stated that he had received negative public comments regarding the possible renaming of Park Shore Drive in honor of the late Raymond Lutgert, questioning whether the community supports such an action. However, he clarified that the issue appears to be changing the name, not the naming of the roadway in honor of Mr. Lutgert. Vice Mayor Sorey pointed out that Council had only approved staff beginning the renaming procedure and that the Park Shore neighborhood would be involved. Following a review of the process, City Manager William Moss suggested that affected property owners be surveyed prior to moving forward; Council agreed. Mr. Price also requested a Council discussion and public input prior to motion-making during the course of Council's proceedings. Council Member Saad noted that the Park Shore Association, while having discussed renaming the roadway, is now considering renaming its park. Council Member Sulick cautioned that emotional reactions to events must be avoided and commended her colleagues for difficult decisions this session. Vice Mayor Sorey urged residents to apply for the upcoming appointments to the Naples Airport Authority (NAA). He also referenced the City's recently published annual water quality report (a copy of which is

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contained in the file for this meeting in the City Clerk's Office). He requested additional information on the two abandoned deep-injection wells and 38 petroleum tanks noted therein. In conclusion, he pointed out future difficult decisions in balancing the budget. Mayor Barnett advised that he would again pursue the prohibition of smoking at the beach and supported Vice Mayor Sorey in urging citizens to apply for the NAA vacancies.

ADJOURN
1:50 p.m.

Bill Barnett, Mayor

Tara A. Norman, City Clerk

Minutes prepared by:

Vicki L. Smith, Technical Writing Specialist

Minutes Approved: 08/18/10

CITY OF NAPLES

**NAPLES CITY COUNCIL AGENDA MEMORANDUM****Regular Meeting Date: June 16, 2010**

Agenda Section: Regular	Prepared By: Christa Carrera, Floodplain Coordinator Date: May 28, 2010 Department: Building
Agenda Item: 7	Legislative <input type="checkbox"/> Quasi-Judicial <input checked="" type="checkbox"/>
SUBJECT: Resolution of the City of Naples Board of Appeals determining an appeal to allow the Park Shore Association to build a men's and women's beach restroom, no more than a total of 389 square feet, approximately 18" above the existing grade and to be located below the required base flood elevation of 12.0 NAVD.	
SUMMARY: City Council, sitting as the City of Naples Board of Appeals, is asked to consider a resolution determining Floodplain Appeal Variance Petition FA10-01 for an appeal by Park Shore Association, Inc. from Subsections 16-82 (3) and 16-151 (2) of the Naples Land Development Code in order to allow beach restrooms approximately 18" above the existing grade, which is below the required base flood elevation of 12.0 NAVD. In that this is a Quasi-Judicial matter, disclosures and the swearing in of those giving testimony are required.	
BACKGROUND: This request is for a variance from Section 16-82 (3) and 16-151(2) of the Naples Land Development Code which requires that <i>"Non-residential construction. All new construction and substantial improvement of any commercial, industrial, or non-residential building (including manufactured home) shall have the lowest floor elevated to or above the base flood elevation."</i> The proposed design will be elevated on concrete pilings a minimum of 18" above the existing grade. The proposed structure is no more than 389 square feet. It will consist of one (1) men's restroom with a toilet, urinal and sink and one (1) women's restroom with two (2) toilets and a sink. There will also be a small storage space.	
Owner and Petitioner: Park Shore Association, Inc. Agent: David Suero, Architect Location: 4061 Gulf Shore Boulevard North Zoning: PD – Planned Development	
RECOMMENDED ACTION: Adopt a resolution of the City Council, sitting as the City of Naples Board of Appeals, determining Flood Plain Appeal Variance Petition FA10-01 from Subsections 16-82 (3) and 16-151 (2) of the Code of Ordinances in order to allow the Park Shore Association to build a men's and women's beach restroom at 4061 Gulfshore Boulevard North, and will be no more than 389 Square feet and approximately 18 inches above the existing grade, which is below the required base flood elevation of 12.0 NAVD.	
Reviewed by Department Director Paul Bollenback	Reviewed by Finance N/A
Reviewed by City Manager A. William Moss	
City Council Action:	

City of Naples



NAPLES CITY COUNCIL AGENDA MEMORANDUM

Regular Meeting Date: June 16, 2010

Agenda Section:	Regular	Prepared By: Mireidy Fernandez, Planner II
Agenda Item:	9	Date: May 24, 2010 Department: Planning
		Legislative <input type="checkbox"/> Quasi-Judicial <input checked="" type="checkbox"/>

SUBJECT:
Resolution determining Variance Petition 10-V5 in order to allow a sign to have 8 tenant names, where 4 are allowed for the sign to be located within a 10-foot front yard setback along 10th Avenue South for Olde Naples Seaport Condominium Association Inc. located at 1001 10th Avenue South.

SUMMARY:
City Council is asked to consider a resolution determining Variance Petition 10-V5 from Section 50-35 (a) (1) of the Code of Ordinances in order to allow a sign to have 8 tenant names where 4 are allowed to be located within a 10-foot front yard setback at the corner of 10th Avenue South and 10th Street South for Olde Naples Seaport Condominium Association, Inc., located at 1001 10th Avenue South in the Planned Development Zoning District. In that this is a Quasi Judicial matter, disclosures and the swearing in of those giving testimony are required.

BACKGROUND:
The petitioner wishes to erect a sign on the property located at 10th Avenue South and 10 Street South in order to be able to identify the businesses located within the Olde Naples Seaport building. Section 50-35(a)(1) of the Code of Ordinances allows for two 60 square foot signs to be placed on the property and with not more than 4 tenant identifying slots each. The signs must also be placed at least 10 feet from the property lines. Because of the placement of the existing building on the property, the petitioner only has room for one sign on the property. The proposed sign would have 8 tenant identifying slots instead of the allowable two signs with 4 slots each in order to identify all of the businesses at the location. Due to the location of the existing structure and vegetation, the sign will be 4 feet from the property line along 10th Avenue South.

At its meeting on May 12, 2010, the Planning Advisory Board voted 7-0 to recommend approval of the variance petition.

File Reference: 10-V5
Petitioner: Olde Naples Seaport Condominium Association Inc.
Agents: Frank Donohue
Location: 1001 10th Avenue South
Zoning: Planned Development

PUBLIC NOTICE:
On April 20, 2010 a total of 315 letters were mailed to all property owners located within 500 feet of the subject property. As of the date of this report, there was one inquiry received from Mr. Larry Coates, of 909 10th St. S., Unit 305. Mr. Coates only inquired about the petition.

RECOMMENDED ACTION:
Adoption of a resolution granting Variance 10-V5 to allow a sign to have 8 tenant names where 4 are allowed and for the sign to be located within a 10-foot front yard setback along 10th Avenue South for

City of Naples



NAPLES CITY COUNCIL AGENDA MEMORANDUM

Regular Meeting Date: June 16, 2010

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Agenda Section:	Prepared By: Mireidy Fernandez, Planner II	
Regular	Date: May 24, 2010	Department: Planning
Agenda Item:	Legislative <input type="checkbox"/>	Quasi-Judicial <input checked="" type="checkbox"/>
9		
<p>RECOMMENDED ACTION (cont.): Olde Naples Seaport Condominium Association Inc., subject to the following conditions, also found in the Resolution.</p> <ol style="list-style-type: none"> 1. The slots/names on the sign must not exceed the 8 required for the building; 2. The sign shall be installed per the plans submitted; 3. The current signage on site at the intersection of 10th Avenue South and 10th Street South must be removed prior to the installation of the new sign. 		
Reviewed by Department Director Robin D. Singer	Reviewed by Finance N/A	Reviewed by City Manager A. William Moss
City Council Action:		

City of Naples

**NAPLES CITY COUNCIL AGENDA MEMORANDUM****Regular Meeting Date: June 16, 2010**

Agenda Section:	Regular	Prepared By: Adam A. Benigni, Senior Planner
Agenda Item:	10	Date: June 3, 2010 Department: Planning
		Legislative <input type="checkbox"/> Quasi-Judicial <input checked="" type="checkbox"/>
SUBJECT: Resolution determining Variance Petition 10-V6 in order to allow eleven of twelve swimming pools to encroach 4'-1 $\frac{3}{4}$ " to 9'-4 $\frac{3}{8}$ " into the required 25 to 29 foot front and 25 foot rear yards for the property located at 1720-1764 Gulf Shore Boulevard North.		
SUMMARY: City Council is asked to consider a resolution determining a Variance from Section 56-45(b) of the Code of Ordinances which requires swimming pools in multifamily districts to meet the minimum yards for structures in the zoning district in which it will be constructed in order to allow eleven of twelve swimming pools to encroach 4'-1 $\frac{3}{4}$ " to 9'-4 $\frac{3}{8}$ " into the required 25 to 29 foot front and 25 foot rear yards for the property located at 1720-1764 Gulf Shore Boulevard North. In that this is a Quasi-Judicial matter, disclosures and the swearing in of those giving testimony are required.		
BACKGROUND: Casamore, a development which consists of twelve detached single-family dwellings, was approved by City Council on August 19, 2009. The Design Review Board gave final design approval to the development, Casamore, on December 23, 2009. The petitioner is now requesting a variance to allow eleven of the twelve swimming pools to encroach into the required yards. On April 14, 2010, the Planning Advisory Board voted 6-1 to recommend approval of Variance Petition 10-V6. Staff recommends denial of the Variance Petition.		
File Reference: Variance Petition 10-V6 Petitioner: Gulfshore Development II, LLC Agent: John M. Passidomo, Cheffy Passidomo Location: 1720-1764 Gulf Shore Boulevard North Zoning: R3-15 Multifamily District, Coquina Sands (CS)		
This item was continued from the June 2, 2010 City Council Meeting at the Petitioner's request.		
PUBLIC NOTICE/COMMENT: On April 26, 2010 and on May 17, 2010, a total of 275 letters were mailed to all property owners located within 500 feet of the subject property. There were two responses to the mailing. The responses are attached to the staff report.		
RECOMMENDED ACTION: Adopt a resolution denying Variance Petition 10-V6 from Section 56-45(b) of the Code of Ordinances which requires swimming pools in multifamily districts to meet the minimum yards for structures in the district in which it will be constructed in order to allow eleven of twelve swimming pools to encroach 4'-1 $\frac{3}{4}$ " to 9'-4 $\frac{3}{8}$ " into the required front and rear yards for the property located at 1720-1764 Gulf Shore Boulevard North.		
Reviewed by Department Director Robin D. Singer	Reviewed by Finance N/A	Reviewed by City Manager A. William Moss
City Council Action:		



Memo

Human Resources

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TO: A. William Moss, City Manager
THROUGH: Denise K. Perez, Human Resources Director
FROM: Lori P. Parsons, Risk Manager
DATE: May 11, 2010
SUBJECT: Third Party Claims Administration and Stop Loss Insurance RFP Recommendation

On June 2, 2010 a recommendation to award third party claims administration services and stop loss insurance for the City's health insurance plan to CIGNA Healthcare for the period October 1, 2010 through September 30, 2013 will be presented to Council for consideration/approval.

The City contracted with Aon Consulting, Inc. in July 2005 for employee benefit insurance brokerage services. Aon has assisted the City with multiple Request for Proposals (RFP) for group medical, dental, life, disability, and vision insurance. On March 15, 2010 a Request for Proposal (RFP) was issued for Third Party Claims Administration Services and Stop Loss Insurance.

Proposals were opened on April 15, 2010 with four vendors responding. Aon Consulting analyzed the proposals, summarized the marketing results, and met with the City Manager appointed evaluation committee on May 3, 2010 to evaluate submittals from Cigna Healthcare, United Health Care, Blue Cross Blue Shield, and Aetna.

Two vendors were eliminated from consideration due to the following:

- Blue Cross Blue Shield cannot accommodate the City's three-tier structure. Specifically, BCBS can not accommodate the Employee plus One Dependent tier which would impact 113 employees and force them into the higher premium Family category.
- Aetna's proposal included Stop Loss Reimbursement at year-end in addition to \$150,000 Specific Stop Loss Run-In Limit (per participant). Based on the City's Large Claim experience for the past four years, both items would result in additional financial impact to the City's plan.

The committee reconvened on May 7, 2010 and after discussion a motion was made and seconded that the committee recommend to City Council award to CIGNA Healthcare. By a voice vote of yes and no the motion unanimously passed the committee.

Key factors considered by the Committee were:

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- Employee satisfaction with CIGNA (based on feedback provided by each committee representative).
- Disruption of service/inconvenience to members based on review of the Geo Access Summary.
- Continuity of services
- Cost

Evaluation of CIGNA and United took the following issues into consideration:

- **Provider Network** –accessibility of in-network medical providers to our members (based on industry standard of two providers within 8 miles; one hospital within 10 miles). Based on a review of the Geo Access Summary, United's network offers slightly better access to primary care providers.
- **Network discounts** – 90% of Total Plan Costs are associated with claim costs. Therefore, the network discounts are crucial to the development of claim projections. CIGNA's in-network discount guarantee is 56.5% and United's in-network discount guarantee is 56.1%. CIGNA is providing a slightly better discount.
- **Administration Service fees (ASO)** – United's administration fees are slightly higher than CIGNA.
- **Stop Loss** – United Stop Loss fees were 5.15% (\$30,712) lower than CIGNA's. While United offered immediate stop loss reimbursement and Specific and Aggregate Stop Loss Run-In Limits, they were not able to match the City's Specific and Aggregate contract of 24/12 (claims incurred during the plan year will be processed for payment if presented within twenty four months). United offered a 15/12 contract. If a Specific or Aggregate claim is not filed within 15 months of the end of the plan year, the City would not be eligible for reimbursement. Due to the number of claims currently exceeding \$25,000, the potential liability to the City is more than the potential savings to move to United.

Overall, United's proposal was 0.6% (\$27,342) less than CIGNA's. However, the Committee unanimously agreed that the minimal savings were not significant enough to support a transition to United.

The award to CIGNA is based on a projected annual cost of \$4,874,187 for claims administration, case management, utilization review, eligibility services, prescription, and stop loss insurance. Of this amount, \$3,756,207 is for the payment of claims (medical and prescription); \$596,239 is for the payment of stop loss insurance premiums; and \$288,250 is for funding the Health Reimbursement Account for the City's contribution to the annual deductible. The remaining balance of \$233,491 is for administrative service fees. This represents an overall 5.7% increase from expiring and is related to increased stop loss insurance rates due to the City's large loss claims experience over the past four years.

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In addition to the above, CIGNA committed \$10,000 to the City in Wellness Dollars and provided a performance guarantee with \$35,928 of their administrative service fee at risk.

The award to CIGNA is for three years with the option to renew for two additional years based upon mutual agreement. The current service agreements with CIGNA are evergreen (valid until termination). New agreements will not be required. Amendments to the existing agreements will be processed reflecting the new pricing.



Memo

Human Resources

Benefits • Labor Relations • Recruitment • Risk Management • Training

TO: A. William Moss, City Manager
THROUGH: Denise K. Perez, Human Resources Director
FROM: Lori P. Parsons, Risk Manager
DATE: June 9, 2010
SUBJECT: Overview of Employee Benefit Plan and Recommendations for Fiscal Year 2010-11

Effective October 1, 2008, the City began making health plan design changes which were necessary to maintain the fiscal health of the health plan and to encourage employees to be better consumers of their own health care. Cost saving strategies included offering an optional Consumer Driven Health Plan (CDHP) and increasing cost share for out of network services, pharmacy, and outpatient diagnostic testing.

These cost saving strategies have provided measurable accomplishments. Based on a comparison of six months of claim data (10/1/2009 – 3/31/2010) against the prior plan year there have been a reduction of outpatient diagnostic testing costs 13.7%, an increased utilization of generic drugs of 6%, and a 28% decrease in large claims (*Large claims have a combined medical and pharmacy paid totaling \$25,000 or greater*).

In addition, the Consumer Driven Health Plan has contributed to lower claim costs. Currently, CDHP claims are 32% of the total claims paid (versus 68% from the Point of Service (POS) Plan) and the CDHP claims experience is 52.63% less than the POS claims experience. This is even more remarkable when considering enrollment in the Consumer Driven Health Plan is higher than the Point of Service plan.

Actual claim costs through April 30, 2010 (with no fees included) are 8.3% less than expected and 19% less (\$494,755) than the same period last year.

- Point of Service claim costs for the first seven months of the plan year are \$1,416,159 or \$949.17 per employee per month.
- Consumer Driven Health Plan claim costs for the first seven months of the plan year are \$670,856 or \$427.57 per employee per month.

Fund Balance and Premiums

Pursuant to Florida Statute 112.08 the actuarial soundness of any self-insured plan for health, accident and hospitalization coverage must be certified annually. Among the required criteria is preserving a level of funding deemed adequate to enable payment of the benefit amounts provided under the plan. Conservatively, annual premium rates are set to maintain a fund balance equal to ninety (90) days of average claims payment activity.

While claims are trending lower than expected during the current plan year, actual claims for the prior plan year 2008/2009 were \$450,563 higher than budgeted. Mid-year lay-offs

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last year and the significant increase in enrollment in the Consumer Driven Health Plan this year have resulted in reduced premium revenue, adversely affecting fund balance.

The health plan's fund balance at the beginning of the 2009/2010 plan year was approximately \$1.0 million and is projected to be \$700,000 at the end of the plan year. With average monthly claim activity of approximately \$275,000 (for medical and pharmacy combined), the recommended fund balance should be no less than \$825,000.

To maintain an acceptable fund balance and to meet projected claim and administrative expenses, premium increases of 25% for FY2010/11 are required to maintain the current level of benefits. Assuming the same employee participation in each plan next year and the current premium contribution ratio between the City and employees, the additional cost to the City will be approximately \$853,242.

Staff and the City's Benefit Consultant, Gehring Group, will continue to evaluate a number of strategies to minimize the financial impact of premium increases to the City and employees. Several plan design changes that are being evaluated to reduce plan costs are:

- Evaluating continuance of a self-insured health plan versus a fully-insured plan
- Eliminate the Point of Service Plan and only offer the Consumer Driven Health Plan
- Increase the in-network deductibles on the Point of Service plan
- Increase the in-network out of pocket maximums on the Point of Service Plan
- Adding a separate pharmacy deductible to the Point of Service plan

The following strategies are being evaluated to enhance current benefits:

- Implementation of voluntary behavior modification and preventative health incentives
- Adding a Health Savings Account
- Implementation of pharmacy enhancements to reduce the financial impact to employees for the cost of maintenance medication

In addition, staff is evaluating the cost-sharing of premiums for the City and employee contributions. Currently, the City pays 95% of employee and 85% of dependent/family premiums (90%/80% for AFSCME employees). The employee share of premium increases is subject to collective bargaining.

Voluntary Behavior Modification

Voluntary behavior modification incentives are typically structured around routine preventative health services, proper maintenance and treatment of known health conditions, and education. Employers provide monetary incentives to employees based upon their voluntary participation in wellness based programs and services. Monetary incentives are typically in the form of reduced premiums, reduced deductible and/or out of pocket expenses, and/or additional funding in a Health Reimbursement Account.

Many employers find that monetary incentives encourage behavior changes that result in reduced health claim costs. Smoking is one of several risk factors that can be addressed through preventative health incentives. Instead of increased health insurance premiums for smokers, providing them the monetary incentive to participate in and complete a smoking cessation program may be more effective. The same is true with diabetes. Providing

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diabetics with the monetary incentive to complete a diabetes education class may be more effective in helping them change eating and exercise habits to reduce their prescription medication costs.

Staff will be working with the new benefits consultant to further explore and develop strategies for potential implementation in Fiscal Year 2010-11.

Regulatory Mandates

Federal mandates affecting health insurance coverage levels and benefits have been imposed as a result of the Health Care Reform Bill which was signed into law on March 23, 2010. Staff is working closely with the employee benefits consultants to evaluate the impact of the Bill and monitor the timelines for implementation of applicable provisions.

Below are the major health care reform rules that will apply to the City's health plan effective for plan years beginning on or after September 23, 2010:

- ***Extension of dependent coverage.*** Group health plans must provide coverage for adult dependent children up to age 26 if the child is not eligible to enroll in other employer-provided coverage. The City has provided this coverage to age 25 since October 1, 2008 when our plan document was updated pursuant to the Florida Dependent Age law. The plan will be amended as of October 1, 2010 to reflect the new age requirement.
- ***Elimination of lifetime limits.*** Group health plans offering group health coverage may not establish lifetime limits or the dollar value of essential benefits. The City's plan was previously capped at \$1,000,000.
- ***Elimination of pre-existing condition exclusions.*** Pre-existing condition exclusions may not be applied to enrollees under age 19. Pre-existing condition exclusions are eliminated for all enrollees in 2014.
- ***Limits on rescissions.*** Coverage may not be rescinded, except in the case of fraud or intentional misrepresentation of material fact. Policyholders must be notified prior to cancellation.
- ***Limits on waiting periods.*** Group health plans offering group health insurance coverage may not require a waiting period of more than 90 days.
- ***Summary of benefits.*** Self-funded plans must provide a summary of benefits to participants and applicants. The law sets out specific content and format guidelines.
- ***Reporting medical loss ratio.*** Health insurance issuers offering group or individual health insurance coverage must annually report the percentage of premiums spent on non-claim expenses. Beginning January 1, 2011 insurers must provide rebates if more than the applicable percentage are spent on non-claims costs.

While the above provisions will apply to the City's health benefit plan effective October 1, 2010, many more provisions will have later effective dates between 2011 and 2018. Therefore, Health Care Reform is at the forefront of our responsibilities to ensure compliance.

Conclusion

Staff recently concluded two competitive bid projects related to the City's health benefit plan. A Request for Qualifications for Employee Benefits Insurance Brokerage Services

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was conducted and awarded to The Gehring Group by City Council on May 5, 2010. This contract will be effective on July 1, 2010.

The City also advertised a Request for Proposal for Third Party Claims Administration Services, Stop Loss Insurance and Vision Insurance. A recommendation to award vision insurance to EyeMed Vision Care was approved by City Council on June 2, 2010. The award recommendation for Third Party Claims Administration Services and Stop Loss Insurance is scheduled to be presented to City Council for approval on June 16, 2010.

Staff will be working closely with the Gehring Group in the coming weeks to analyze plan options/modifications and monthly premiums for an October 1, 2010 implementation. Final recommendations will be presented to City Council for approval in August/September.