



City Council Chamber
735 Eighth Street South
Naples, Florida 34102

City Council Workshop Meeting – May 16, 2011 – 8:28 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
Gary Price, II
Samuel Saad, III
Margaret Sulick

Also Present:

William Moss, City Manager
Robert Pritt, City Attorney
Roger Reinke, Assistant City Manager
Vicki Smith, Technical Writing Specialist
Robin Singer, Planning Director
Roger Jacobsen, Code & Harbor Manager
Michael Bauer, Natural Resources Manager
Ann Marie Ricardi, Finance Director
Thomas Weschler, Police Chief

Michael Williams
Sharon Kenny
Ken Humiston

Media:

Jenna Buzzacco-Foerster, Naples Daily News

Other interested citizens and visitors.

SET AGENDA ITEM 2

MOTION by Finlay 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 3

(8:29 a.m.) None.

HOME OFFICES..... ITEM 4

The Land Development Code provides that Home Offices are allowed in residential zoning districts. The discussion will consider current provisions for Home Offices and determine whether amendments may be appropriate. (8:30 a.m.) Planning Director Robin Singer reviewed her memorandum dated May 3 (Attachment 1), explaining that the proposed language would reinforce what is currently being allowed. Vice Mayor Sorey noted that while he had initiated this discussion, commercial intrusion into residential neighborhoods must be avoided, indicating that he did not support staff's modifications as written. His intent, he said, had been to allow residents to have a limited staff, such as an executive assistant, as well as clients into their home on an occasional basis. He recommended that staff research home office provisions of other municipalities. Council Member Sulick stated that she believed that private property rights currently enable such activity and questioned the wisdom of amending

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the home occupations section of the Code of Ordinances, as it may encourage abuse; Council Member Heitmann agreed. Mr. Sorey then stated that while prohibited activity is in fact occurring, it is due to the City not enforcing its Code, and therefore the provision should be either enforced or amended. Mayor Barnett concurred and recommended amending the Code, as no complaints had been received.

In response to Council, Ms. Singer reported two violations, namely, one business involving yacht sales, and another which she described as an office with multiple employees in a multi-family unit in which no residential use could be verified; the primary use must be residential, she stated. The issue, however, is proving a violation has in fact occurred, she added. Should Council wish to allow greater latitude with more activity, the number of staff and the frequency and duration of client visits should be clearly delineated.

Council Member Finlay noted that under the current Code, artists could not allow potential buyers into their homes in order to view their artwork. He and Council Member Saad therefore voiced their agreement with Vice Mayor Sorey's proposal.

Council Member Price noted that provisions exist in other sections of the Code to address the concerns of Council Members Sulick and Heitmann, agreeing that further research should be done. City Attorney Robert Pritt agreed, suggesting that Council provide details to staff regarding issues which they believe might arise, such as signage and numerous vehicles in driveways, and then address them during future consideration following review by the Planning Advisory Board (PAB).

Public Comment: (8:51 a.m.) None.

Staff to research home office provisions of other communities and provide draft language to Planning Advisory Board (PAB) for review.

Recess: 8:55 a.m. to 9:04 a.m. It is noted for the record that the same Council Members were present when the meeting reconvened. It is also noted that while discussion of Item 5 began prior to this recess, it is reflected in its entirety below.

..... **ITEM 5**
DISCUSSION OF PUBLIC ART PROGRAMS RELATIVE TO FIFTH AVENUE SOUTH PEDESTALS. The City's Public Art Advisory Committee has considered an initiative to place sculptures on pedestals in the vicinity of Fifth Avenue South. The Committee's proposal will be considered. (8:51 a.m.) Planning Director Robin Singer provided a brief overview of the Public Art Advisory Committee's (PAAC's) proposed one time, 18-month outdoor sculpture competition. The PAAC would act as the jury for the entries and the chosen artists would receive a \$1,000 honorarium; the artists would be responsible for transporting, installing and insuring their artwork, as well as its security in the event of a storm event. The exhibit would utilize existing unused pedestals along Fifth Avenue South, but may include adding new pedestals and relocating existing artwork. While pointing out that other communities around the country sponsor art competitions that involve years of exhibition, it is believed that the limited available funding in the Public Art Fund could in fact support the aforementioned initiative and therefore staff requested further direction as to preparing a Call to Artists.

(9:04 a.m.) A Call to Artists, Ms. Singer continued, would allow flexibility with regard to the number of pieces being exhibited as well as the timing of another exhibition should the current proposal prove successful. Should the Fifth Avenue location prove to be successful, others could be identified for similar displays, she said.

Public Comment: (9:06 a.m.) **Michael Williams, PAAC Member**, pointed out that since the 2001 establishment of the PAAC, 13 pieces of artwork have been placed, of which only 4 are not located on City-owned property. He stated that he viewed the proposal as a modest one, urging Council to render approval. Council Member Sulick questioned why the Naples Art Association (NAA) had not been approached with regard to the proposal. **Sharon Kenny, former Chair of PAAC**, provided additional background, explaining that the Downtown Naples Association (DNA) had initiated an art program, entitled “Images of Our Environment”, placing the pedestals on Fifth Avenue. Approximately four years ago, the PAAC was asked to assume responsibility for the program, including the appropriation of its existing funds, and following Council’s approval, it is now under the purview of the PAAC. Director Singer added that the Images funding had been set aside for maintenance of that artwork and therefore staff had proposed using the Public Art Fund for the honorarium under discussion. Council Member Price however pointed out that the Public Art Fund had been designated for placement of permanent pieces and the proposal actually rents a piece for 10 months at a cost of \$1,000;. Although expressing support for the proposal, it should be determined whether that fund could be used in such a manner, he cautioned.

Ms. Singer further explained that should an artwork be sold, the artist would then have the opportunity to submit other pieces for consideration, a practice common to other programs around the country, she added. Vice Mayor Sorey requested additional information on liability issues.

Council Member Price disclosed that he is involved in the tenth anniversary of “Gators Galore”, which had placed whimsical renditions of alligators around the community. “Giraffes Galore”, the new proposal, is an effort of the Naples Art Association and the Naples Zoo, and should not conflict with the proposal under discussion, he said. Ms. Singer then explained that she had urged PAAC to present the proposal to Council prior to moving forward with further expenditure of staff time, noting that flexibility in the program would be necessary due to the size of the exhibits.

Council Member Finlay expressed his full support of the proposal, viewing it as a pilot program for a future, more extensive program. Council Member Sulick reiterated her concern that the NAA was not involved in this proposal although Council Member Price, after reading from the enabling ordinance, stated that he believed such a program should be initiated by the PAAC.

Staff to review expenditure of public art fund for honorarium to temporarily display artwork and consensus to proceed with development of Call to Artists.

FUNDING OF EAST NAPLES BAY DREDGING ITEM 6

The East Naples Bay Taxing District is a dependent district consisting primarily of neighborhoods in Royal Harbor, Golden Shores, and Oyster Bay. A canal dredging project has been in the planning and design phase since 2006. The proposed dredging project will be funded through the current 0.5 mil tax levied upon properties within the taxing district. The District does not have adequate funds to pay for the project. Therefore a loan or bond issue is required. The discussion will consider a loan from the City’s cash reserves with repayment from the District’s 0.5 mil property tax levy. (9:29 a.m.) City Manager William Moss provided a brief overview of the item as contained in the memorandum dated May 6 by Finance Director Ann Marie Ricardi (Attachment 2); repayment of a \$2-million loan as proposed would involve 14 years, he said. Alternatives which were not included in the memorandum were listed as follows:

- Obtain a bank loan;

- Bond the issue;
- The City could advance the funds at a variable rate; or
- Recognize that property values may increase over time and the district's entire tax revenues could be directly utilized to pay back the loan in approximately 8 to 10 years.

He further explained that a referendum would be necessary to increase the current 0.5 millage rate although staff was not recommending that action. Council Member Finlay supported the use of cash reserves, although with the current level of ad valorem revenues; he also suggested a variable interest rate with a capped conservative escalator in the event the area's property values increase substantially. Vice Mayor Sorey agreed, so long as the project does not exceed a total of \$3-million.

Mr. Moss assured Council Member Heitmann that the scope of the project involves only the areas within the East Naples Bay Taxing District; those being taxed are the residents who would receive the benefit of the project. He added that permitting has been completed and the project has been offered for bid, confirming that rock could be a factor in pricing. Seawalls and other structures are to be inspected for their integrity thereby offering the City protection from claims of damage due to the project, and as with other similar dredges, property owners may request additional dredging at their own cost. Spoil materials are to be transported to the City's Riverside Circle site for dewatering although its use for habitat island construction is unlikely due to timing, Mr. Moss said.

Director Ricardi maintained that as an interfund loan, payment extensions could be approved by City Council should the district's tax revenues fall below the amount necessary to meet its repayment schedule. The interest rate had been proposed as fixed, she explained for Council Member Price, but merely as a discussion point. Mr. Price supported a variable rate and discussion ensued regarding the term limit of the loan wherein he recommended a 14-year limitation, following which a decision would be made at that time as to how any deficit would be funded. Referencing the draft resolution provided by staff (a copy of which is contained in the file for this meeting in the City Clerk's Office), City Attorney Robert Pritt noted that Section 4 provides for evaluation of the loan and that language could be added indicating that this occur annually during the City's budget cycle discussions. Mr. Price noted that Section 2 would also need amending based upon that day's discussion. Ms. Ricardi concurred.

Ms. Ricardi then clarified that the exact amount of the loan would be available when the award of contract is presented to Council. Council Member Saad agreed with Council Member Finlay's recommendation of a forced prepayment should the district's revenues increase to the level that this becomes an option. Ms. Ricardi also advised Council Member Heitmann that Fund 800, which reflects the cash balance of all City funds, is approximately \$70-million currently.

Public Comment: (9:56 a.m.) None.

Consensus to support interfund loan (should total cost of project not exceed \$3-million) with a 14-year term, variable rate, forced prepayment should the taxing district's revenues increase, and annual report and evaluation thereof by Council.

Recess: 9:56 a.m. to 10:07 a.m. It is noted for the record that the same Council Members were present when the meeting reconvened.

REGULATION OF TAXICABS..... ITEM 7
The proliferation of taxicabs has prompted discussion as to whether licensing and regulation by the City should be considered. The discussion will consider options to license and regulate taxicabs. City Manager William Moss indicated that Collier County

regulates all taxicabs operating within its boundaries, including within the City, and said that City Attorney Robert Pritt had provided a legal overview of the issues (Attachment 3).

Council Member Sulick said she believed this to be an enforcement issue and expressed concern that during tourist season, an overabundance of taxicabs cruise City streets rather than utilizing the designated taxi stands; many routinely travel into residential neighborhoods, she added. Council Member Saad agreed, noting that they prohibit proper vehicular movement at times. In response to Mr. Saad, City Attorney Pritt advised that while all have a right to use public streets, reasonable, limited regulations can be applied when the use is for business. Referencing his memorandum (see Attachment 3, Page 2), Mr. Pritt cited options such as franchise agreements and licensing of the vehicles and drivers; such regulations have in fact been upheld when legally challenged, he added. Council Member Finlay cautioned that licensing within the City could create unintended consequences for patrons unaware of separate City and County licensing and Mr. Saad suggested a “no cruising” regulation. Vice Mayor Sorey recommended asking the County to consider this option; Mayor Barnett however questioned the enforcement of such a provision.

Council Member Finlay then noted that Collier County has in place a Consumer Advisory Board which should be made aware of the City’s concerns. Council Member Sulick agreed to approach the Board, especially with regard to a no cruising provision as well as with Mr. Finlay’s concern regarding the insufficient amount of insurance mandated by the County’s ordinance.

Public Comment: (10:35 a.m.) None.

Consensus that Council Member Sulick represent to Collier County’s Consumer Advisory Board, Council’s objection to the inadequate insurance requirements for taxicab driver/owners and lack of a provision prohibiting cruising by taxicabs.

ENGINEERING SERVICES – HABITAT ISLANDS ITEM 8

The creation of habitat islands in Naples Bay has been discussed for several years. The concept involves the placement of sand from dredge projects to remote areas in order to encourage natural growth in the estuarine environment. The State of Florida has placed a moratorium on the creation of new habitat islands but appears willing to lift the moratorium. State officials suggest the City apply for a permit. Discussion will determine whether engineering services should be obtained in order to apply for the appropriate permit(s). City Manager William Moss briefly reviewed the memorandum dated May 11 submitted by Natural Resources Manager Michael Bauer (Attachment 4). Dr. Bauer then explained that he had recently learned that the Army Corps of Engineers (ACOE) was considering cancelling its plans to dredge the federal channel leading into Naples Bay due to the \$2-million estimated cost of spoil material removal. When the ACOE became aware of the City’s interest in constructing habitat islands, it reconsidered the cancellation of its aforementioned project, offering to fund the engineering, design and permitting of the habitat island with the caveat that the ACOE’s dredged materials be utilized for the island’s construction. Vice Mayor Sorey questioned whether the ACOE would agree to the City being the permit holder, or a co-permit holder, and supported moving forward with a permit application for habitat island construction. While acknowledging Council Member Finlay’s concern regarding the expenditure for the permitting, Mr. Sorey assured him that the Governor had indicated interest in such a project by the City and that the permit would likely be approved.

Public Comment: (10:44 a.m.) **Ken Humiston, representing Humiston & Moore Engineers**, explained that the cost estimate they had provided had not included additional data which may be requested by the State during the permitting process (a copy of which is contained in the file for this meeting in the City Clerk’s Office. The foundation of an island is

designed specifically to ensure the stability of the dredged material to be placed on top during construction, and modeling can be provided to reflect the tidal circulation impacts, he advised. In response to Council Member Finlay, he reiterated that should the spoil material prove to be unsuitable for construction of the habitat island, it could be dewatered at the City-owned property on Riverside Circle and then compacted and utilized as a base for the island. He then agreed with Vice Mayor Sorey regarding the City as permit holder.

Dr. Bauer clarified for Council Member Heitmann that the City does have two man-made oyster reefs, but no habitat islands. The potential site for the island under discussion is a small bay naturally lined with mangroves containing a large amount of muck, located south of Windstar and north of Bayview Park; the intent is to improve water quality and provide habitat for seagrasses. The area is outside any channel and very shallow and therefore an area not commonly used by boaters, he added. Dr. Bauer also indicated that maintenance would include monitoring by staff and restoration should not be necessary if properly designed. If in fact the project proves to be successful, he said he would recommend another island to accommodate the spoil material from the proposed Port Royal dredging project.

In response to Council Member Price, City Manager Moss maintained that the ACOE had in fact been aware of the cost of removing the spoil materials, pointing out that it had delayed the project initially to allow the East Naples Bay project (see Item 6 above) to proceed, utilizing the City's aforementioned Riverside Circle property for dewatering; the ACOE had then planned to use the site as well. With regard to the State's two previous habitat island projects, Dr. Bauer indicated that the Indian River project involves miles of a series of islands but that he had no further data regarding same, and that a second project involved a breakwater construction to protect a marina; the Governor's moratorium precluded completion of the latter, he added. Islands in other areas of the state have been completed and staff had researched their appearance and progress, noting that oyster bed and seagrass growth can in fact be quantified, as well as their impact on water quality. In addition, the proposed island will provide protection from wave action on existing onshore habitat and its size cannot be determined until the permit has been approved. Vice Mayor Sorey agreed with Mr. Price that additional information should be provided, as well as a map of the proposed site for the habitat island. In addition, he recommended that staff contact the ACOE for further details of its offer and then return to Council with an update.

Consensus that staff contact the Army Corps of Engineers (ACOE) regarding details of its recent offer to fund design, engineering and permitting of a City habitat island in exchange for use of City-owned land for dewatering of ACOE dredged materials from the federal channel in Naples Bay.

REVIEW OF ITEMS ON THE 05/18/11 REGULAR MEETING AGENDA..... ITEM 9
(11:21 a.m.) Vice Mayor Sorey requested that Item 7-b(2) ("Open Air" Farmers Market) and 7-b(4) (Fourth of July Parade) be removed from the Consent Agenda for separate discussion regarding booth fees and emergency services respectively.

CORRESPONDENCE / COMMUNICATIONS
(11:23 a.m.) Referencing an e-mail regarding the April 30, 2011 skate event held at the Johnny Nocera Skate Park in Fleischmann Park (a copy of which is contained in the file for this meeting in the City Clerk's Office), Council Member Finlay commended former Vice Mayor Nocera for his contribution to the community's children in underwriting the cost of the event. He also thanked Fire Chief Stephen McInerney for his proactive stance regarding Emergency Medical Services (EMS). Mr. Finlay also provided his interpretation of traffic counts referenced in the US 41 rerouting feasibility report scheduled for discussion during that week's regular meeting (a copy

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of which is contained in the file for this meeting in the City Clerk's Office), indicating that he would have numerous questions and observations at that time. Council Member Heitmann expressed appreciation to Mr. Finlay for his summary and stated that she would forward her questions to the City Manager. She further reminded staff of her request for the bonding log report pertaining to ASR (Aquifer Storage and Recovery) Well #1 and the cement bond final report for ASR Well #2. Vice Mayor Sorey noted the ongoing County-wide irrigation water restrictions, and provided information on the April report of Tourism Development Council (TDC) revenue.

ADJOURN
11:31 a.m.

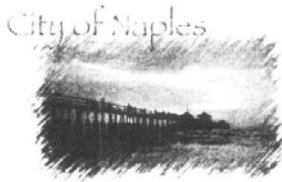
Bill Barnett, Mayor

Tara A. Norman, City Clerk

Minutes prepared by:

Vicki L. Smith, Technical Writing Specialist

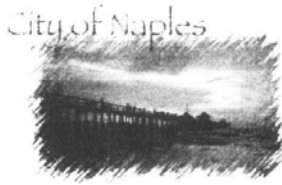
Minutes Approved: 06/15/11



NAPLES CITY COUNCIL AGENDA MEMORANDUM

Workshop Meeting Date: May 16, 2011

Agenda Item:	Prepared By: Robin D. Singer, Director	
4	Date: May 3, 2011	Department: Planning
SUBJECT:		
Discussion of Section 56-92 Home Occupations to determine if modifications are warranted.		
BACKGROUND:		
<p>On March 2, 2011, Vice Mayor Sorey proposed, and City Council agreed to schedule a discussion on the merits of a text amendment regulating home occupations in residential districts at a Workshop meeting.</p> <p>Section 56-92 of the Code of Ordinances prohibits businesses in residential districts. It does allow for telephones and, by interpretation, other electronic forms of communication by stating that the use of a telephone does not constitute a home occupation. The City has issued business tax receipts and, previously, occupational licenses to businesses located in residential districts where the primary use of the premises is residential and the business use is limited to telephone and computer use. This generally means an office use with no signage, employees, delivery or storage of merchandise and no client meetings on premises. This code has allowed for enforcement on businesses that have negative impacts on neighboring properties which would include any external indicators that a business is being conducted. The code could be amended to make the current interpretation clearer, as provided below:</p> <p><u>Sec. 56-92. - Home occupations.</u></p> <p><i>Home occupations may be permitted in residential districts provided that the primary use of the premises is residential, the office use is limited to electronic communication and that there are no signs, no clients visiting the site, no employees working at the site who do not reside on premises and no assembly, manufacturing, storage, deliveries or shipping of merchandise on premises. are expressly prohibited in all residential zone districts. The use of a telephone or computer in a residence for business purposes is not considered a home occupation; however, no other business activity may take place at a residence. Non-commercial office use may be permitted in contributing structures within the historic district through a conditional use approval for the purpose of preserving the structure.</i></p> <p>While these changes may be advisable, staff does not recommend greater latitude beyond these changes to allow home occupations in residential districts as it could make enforcement difficult in cases where an office may be technically compliant but have negative impacts on surrounding properties. The Building Official also cautions that Homes are designated R3 (residential) occupancies and contain no real ADA requirements. Businesses are B occupancies (open to the public) and in most cases must provide certain minimum ADA requirements. Depending on the extent of the office use, it may require additional parking and compliance with ADA requirements. The Florida Building Code does not provide for "dual-use" occupancy. Live/work residences can be accommodated where built to code but the conversion of residences to allow business occupancy could have negative consequences in residential areas.</p> <p>A provision that may warrant consideration would be a defined limit of client or business associates within any seven day period. For instance, a limit of eight individuals per week may respect the single-family residential use while allowing many home occupations to exist without violating the ordinance.</p>		
Reviewed by Department Director Robin D. Singer	Reviewed by Finance N/A	Reviewed by City Manager A. William Moss
City Council Action:		



NAPLES CITY COUNCIL AGENDA MEMORANDUM

Workshop Meeting Date: May 16, 2011

Agenda Item:	6		Prepared By: Ann Marie S. Ricardi, Director
			Date: May 6, 2011 Department: Finance
SUBJECT:			
Interfund loan from the City's Cash Clearing Account/Investment Account to the East Naples Bay Taxing District for the East Naples Bay dredging project.			
BACKGROUND:			
<p>The FY 2010-11 budget includes a \$3 million dredging project for East Naples Bay Taxing District (ENBTD). The Taxing District currently has approximately \$1.2 million in reserves, which had been set aside for a dredging project. The project was initiated in 2006. Award of contract for the dredging project is anticipated on June 15th.</p> <p>The budget plan was that the City's <u>pooled cash fund</u> would provide the balance of the cost of the dredging as an interfund loan. The pooled cash fund is a single fund of the City that incorporates all of the City's financial transactions. In a pooled cash environment, the operating and reserve cash and investments of all City funds are combined and maintained in a single fund. The "pooled cash" process tracks the amount that each operating fund owns of the total cash and investment pool balances, so their fund stays balanced and intact, while allowing the City to invest all funds as a group, and use a single primary bank account.</p> <p>The dredging project is currently out to bid, and when the contract cost is established, the financing plan will be brought to City Council as a resolution, concurrently with the award of contract. Although a sample resolution has been prepared and is attached, the plan can proceed only with City Council's review and approval.</p> <p>ENBTD, a dependent taxing district, received about \$176,000 this year from their 0.5000 millage, the maximum rate allowed. This revenue is lower than prior years due to the depressed taxable value. Using an interest rate of about 2.83%, (a recent ten year Bloomberg rate for Municipal Bond) and an annual repayment amount of \$175,000, repayment of \$2 million could be completed in 14 years. A fixed rate is preferred, but the resolution should allow for an amendment of terms, including the interest rate, after a period of time.</p> <p>The advantages of using internal financing for this project:</p> <ul style="list-style-type: none"> • Zero cost of issuance for ENBTD (avoiding costs such as legal fees of about \$27,000) • Ability to establish flexible terms • City controls timing of debt and payment • City Portfolio gets a higher return on a safer asset <p>The City's investment portfolio has about \$86 million City-wide, and earning an average of 1% or less. Moving \$2 million from the investment pool to fund this project will not significantly affect either operational funds or the yield in the investment pool.</p>			
Reviewed by Department Director	Reviewed by Finance	Reviewed by City Manager	
Ann Marie Ricardi	ANN Marie Ricardi	A. William Moss	
City Council Action:			



Memo

Office of the City Attorney

TO: Honorable Bill Barnett, Mayor, and Members of City Council
FROM: Robert D. Pritt, City Attorney *ROP*
DATE: May 9, 2011
SUBJECT: Taxi Cab Regulations

City Council is considering the pros and cons of City regulation of taxi cabs. In that regard, Council may want to consider the following comments from the legal perspective:

1. If the City determines to regulate taxi cabs, it should expand the definition to include vehicles for hire, of which taxi cab is only one form of conveyance. The City currently has a "franchise" for horse drawn carriages; trolleys and tour buses. The City needs to ensure that all classes of vehicles for hire receive similar consideration or that there are reasons for differing treatment of different classifications of vehicles.
2. Any restriction to only one or two companies without good reason could be deemed to be anti-competitive and would raise anti-trust issues.
3. Likewise, to overly restrict the number of vehicles for hire could be deemed to be an inhibition on commerce.
4. To the extent possible, it would be wise to have a coordinated effort with Collier County and RSW Airport for authorization of vehicles for hire services within this area. It is less important that the City's regulations reflect cities such as Bartow or Jacksonville Beach than that they provide for a means of providing access to and from local origins and destinations.
5. Regulation of vehicles for hire can be done in at least two ways: (1) through franchises, and (2) through a licensing procedure. In the case of a smaller jurisdiction such as Naples, the franchise fees may be more difficult to determine and monitor than a flat license fee or per vehicle fee.
6. Regardless of how it is done, those who are paying a fee for a franchise or license, have a right to expect diligent enforcement of the ordinance in the same manner in which a licensed contractor is entitled to protection under their respective regulations. Thus, there will be a cost of enforcement.
7. It is probably infeasible to regulate trips by vehicles for hire by regulating destination (where the destination is Naples), than to regulate on the basis of origination in the City. Thus, where someone gets off of a plane at RSW and takes a vehicle for hire (limousine or shuttle) for a drop off in Naples, the City likely cannot regulate that drop off.
8. Before adopting an ordinance, the City must carefully review state or federal preemption. The Commerce Clause is a power granted to Congress under the United States Constitution. Also, the state has historically preempted intercity tour bus transportation.

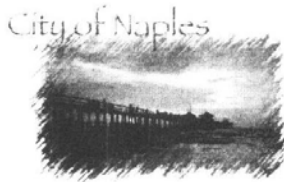
Ethics above all else... Service to others before self... Quality in all that we do.

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9. As pointed out by the staff memo, the City can and does already regulate stopping, standing and blocking the roadways by vehicles for hire as well as other vehicles.
10. It was suggested that an "anti-cruising" ordinance be adopted. Fort Myers has had an anti-cruising ordinance for a long time. However, the purpose for such ordinance is to provide the "American Graffiti" type of cruising by kids, gangs and others who might be prowling. A better way of controlling the vehicle for hire type of cruising might be a franchise or license limiting the number of vehicles. In any event, it may be extremely difficult to enforce.
11. Since the Collier County regulation appears to operate within incorporated areas, the City will first have to opt out of the existing County ordinance.

RDP/plr

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NAPLES CITY COUNCIL AGENDA MEMORANDUM

Workshop Meeting Date: May 16, 2011

Agenda Item:	Prepared By: Michael R. Bauer, Natural Resources Manager	
8	Date: May 11, 2011	Department: City Manager
SUBJECT:		
Proposed funding for engineering services required to obtain a permit for the creation of a habitat island in Naples Bay.		
BACKGROUND:		
<p>Efforts by the City to improve the water quality of Naples Bay and increase the quality and quantity of seagrasses and oysters living within it are ongoing. Development over the last 50 years has resulted in the loss of 80% of the bay's oyster reefs and 90% of its sea grass beds. Further, impacts on these resources continue as a result of human-related sources such as stormwater runoff, turbidity, and sediment deposition.</p> <p>City staff has developed a potential means of adding new habitat to the Bay that will also contribute to improving water quality – the construction of habitat islands from the dredged materials of ongoing projects that would otherwise be removed to landfills at a cost of hundreds of thousands of dollars. Islands created from this clean spoil material would provide a location for oyster reef and seagrass establishment while also protecting existing oysters and seagrasses from wakes and wave action. The potential location does not affect views or interfere with navigation. However, it would likely improve fishing opportunities, wildlife viewing, and possibly even shorebird nesting.</p> <p>Interest in this project has been expressed by the Florida Department of Environmental Protection (DEP) at both the District and State staff levels. Governor Scott is aware of this project and has expressed a positive interest in it. The local DEP office has gone so far as to ask the City to submit an application for a permit to construct an island. However, the permit application requires a high level of engineering and design, which is an expensive proposition. Staff has been working with one of the City's pre-approved marine engineering firms to get an estimate of what it would cost for them to design, engineer, and permit an island. The figure they have come up with is \$49,705.00 (see attached). Thus, while the cost of construction would be borne by the entity producing the dredged materials at a considerable savings to the dredging project, there are up-front permitting costs.</p> <p>The question before City Council is whether it would consider authorizing the expenditure of City funds for these engineering costs.</p>		
Reviewed by Department Director Roger Reinke	Reviewed by Finance N/A	Reviewed by City Manager A. William Moss
City Council Action:		