



City Council Chamber
735 Eighth Street South
Naples, Florida 34102

City Council Regular Meeting – May 18, 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 (left 11:52 a.m.)

Also Present:

William Moss, City Manager
Robert Pritt, City Attorney
Tara Norman, City Clerk
Roger Reinke, Assistant City Manager
Vicki Smith, Technical Writing Specialist
Denise Perez, Human Resources Director
Gregg Strakaluse, Acting Streets & Stormwater Dir.
Paul Bollenback, Building Services Director
Robin Valdario, Human Resources Generalist
Thomas Weschler, Police Chief
Stephen McInerney, Fire Chief
Robert Middleton, Utilities Director
George Archibald, Traffic Engineer
Robin Singer, Planning Director
Erica Goodwin, Planner
Roger Jacobsen, Code & Harbor Manager
David Lykins, Community Services Director
Jon Sewell
Honorable Christine Greider

Mike Carlson
Lisa Swirda
Judith Chirgwin
Matt Kragh
Alan Parker
Amy Ashby
Russ Gowland
Michelle Avola
Alan Ryker
Deborah McCormick
Brett Moore
Don Wingard
Paul Lindabury
John Cardillo
Erika Hinson

Media:

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

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

Pastor Mike Carlson, Berean Baptist Church.

ANNOUNCEMENTS..... ITEM 3

Mayor Barnett presented the following proclamations: week of May 16th designated as Drug Court Week; May 25th as National Missing Children's Day; week of May 16th as National Small Business Week; and week of May 16th as National Association of Insurance Women Week. Various department directors presented Employee Service Awards. (A list of recipients is contained in the file for this meeting in the City Clerk's Office.)

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

MOTION by Price to SET THE AGENDA withdrawing Item 7-b(2) ("Open Air" Farmers Market) and removing Item 7-b(4) (Fourth of July Parade) from the Consent Agenda for separate discussion; and adding Item 23 (conflict of representation – Horizon House). This motion was seconded by Sulick and unanimously carried, all members present and voting (Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sorey-yes, Sulick-yes, Barnett-yes).

PUBLIC COMMENT ITEM 5
(9:13 a.m.) None.

It is noted for the record that Items 6-a and 6-b were considered concurrently.

US 41 CHRONOLOGY ITEM 6-a

..... ITEM 6-b

TRAFFIC CONSULTANT KIMLEY-HORN'S REPORT RELATING TO OPTIONS FOR US 41.

(9:14 a.m.) Utilizing an electronic presentation, Assistant City Manager Roger Reinke provided a brief overview of previous planning discussions involving US 41, following which Consultant Jon Sewell, Kimley-Horn & Associates, Inc., presented an electronic summation of his firm's report regarding the US 41 transportation corridor and the feasibility of its re-designation. (It is noted for the record that both the aforementioned report and presentations are contained in printed form in the file for this meeting in the City Clerk's Office; excerpted text of Mr. Sewell's presentation is appended hereto as Attachment 1).

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 and discussion of Item 6 continued.

Public Comment: (10:45 a.m.) Alan Ryker, 300 Fifth Street South, supported the re-designation, noting the success of Fifth Avenue South following various changes which had also faced opposition. **Alan Parker, 741A Third Street South,** supported the proposal, but urged that the concerns of both residents and businesses be considered; he recommended Option 4 (see Attachment 1, Page 6). **John Cardillo, on behalf of the Neighborhood Health Clinic,** (located on the west side of Goodlette-Frank Road north of Central Avenue) cautioned that additional traffic, especially routed onto Goodlette-Frank Road via Central Avenue, could negatively impact both residential neighborhoods and school zones as well as the clinic and nearby day care. **Erika Hinson, 347 Central Avenue,** urged that the impact to residents living east and west of US 41 be taken into consideration. **Michelle Avola, representing the Naples Pathways Coalition,** supported the City gaining local control of the road with regard to the State's jurisdiction although maintaining the federal designation; the corridor is also in need of aesthetic improvements, she said. **Matthew Kragh, 975 Sixth Avenue South,** whose family owns the Bayfront Inn, stated that while the re-designation may adversely impact that business, the positive aspects for the community are far more significant, particularly with regard to connectivity. **Amy Ashby, 4881 West Boulevard; Deborah McCormick, Naples; and Paul Lindabury, 2125 Marina Drive,** also supported the proposal.

Council Member Sulick said that the evolution of the redevelopment area over the past 15 years has resulted in the possibility of the proposal. This should be viewed as a long-term strategic change, which several other municipalities in the state are also considering, that will facilitate the City's taking control of Four Corners (intersection of US 41 and Fifth Avenue South) and improve ingress south into Old Naples, thereby changing the dynamics of the entire City, she observed. The first step in this process must therefore be taken, she stressed. Vice Mayor Sorey then commended Mrs. Sulick for her role in bringing this topic to Council for discussion; Council agreed.

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Consultant Sewell confirmed that test road diets, in and out of season, could provide data as to whether the alternate corridor (Goodlette-Frank Road) could accommodate the increase in vehicles. The study indicates that adequate capacity does in fact exist, he said, although the Florida Department of Transportation (FDOT) must approve such tests, Mr. Sewell maintained, and the long-term effects upon businesses would remain unknown.

Mr. Sewell then explained that lane reduction modeling had been accomplished for commencing the re-designation at both Golden Gate Parkway and Seventh Avenue North; he however stressed that the report is a planning tool which contains estimated data regarding future traffic counts of roadways but not the impact to affected residential neighborhoods. In addition, any renderings depicting the appearance of roadways and/or intersections offered in the presentation are standard models from the specialized software; no design work had been done, he added. Mr. Sewell then clarified for Council Member Finlay that some of the documentation that Mr. Finlay had individually requested had been intended merely as working papers for the study and not included in a final rendition. Additionally, the inclusion of data regarding future development within the redevelopment area had been intended to reflect the potential benefit of the project, although this benefit is believed to accelerate the effects, not create them, Mr. Sewell said.

Also in response to Council Member Finlay, Traffic Engineer George Archibald explained that the study had reflected estimates for future maintenance of the corridor should the City become responsible for its upkeep (see Page 9 of the study). While the southern portion of US 41 under discussion had undergone recent drainage repair by the FDOT, it would be prudent for the City to anticipate similar needs at some point in the future and this factor is therefore reflected in the estimates, Mr. Archibald stated. Referencing Page 13 of the study, which contained a \$3- to \$5-million cost estimate to implement the proposal from Central Avenue to Goodlette-Frank Road, Mr. Sewell however confirmed that various alterations to curb and gutter, stormwater and utilities had not been included; the estimate is merely for planning, he reiterated, and would require verification and refinement by additional analyses and design.

A brief discussion then commenced with regard to roadway and intersection levels of service (LOS) for US 41 and Goodlette-Frank Road, and Four Corners, during which Council Member Finlay maintained his disagreement with the modeling. Council Member Sulick explained that the model had been intended to assess the largest possible volume of traffic diversion; therefore Golden Gate Parkway had been used for the northern detour as opposed to the more likely scenarios involving either Seventh Avenue North or Central Avenue.

Prior to leaving the meeting, Council Member Sulick indicated that she supported Option 4.

Recess: 11:52 a.m. to 12:31 p.m. It is noted for the record that the same Council Members were present when the meeting reconvened except Council Member Price who returned at 12:43 p.m. and Council Member Sulick who left the meeting at 11:52 a.m.; discussion of Item 6 continued.

Referencing his submittal during that week's workshop (Attachment 2), Council Member Finlay explained that it represented his computations of the impact to traffic at the intersections of US 41 and Golden Gate Parkway, and US 41 and Goodlette-Frank Road, which he said revealed an increase of 22 vehicles in two peak hours collectively.

Vice Mayor Sorey stated that he would also support Option 4 although the paramount question is funding. Mr. Sewell stated that it would be feasible to reduce US 41 to four lanes while the roadway remained under FDOT control although coordination with the FDOT would

nevertheless be necessary; should the City be granted jurisdiction, no FDOT funding for improvements would however be forthcoming, he cautioned. In response to an issue raised by Council Member Finlay, Mr. Sewell confirmed that methods do indeed exist to make ingress into residential neighborhoods less appealing to through traffic, such as four-way stops, roundabouts, and speed platforms. Mr. Sorey then questioned whether one of the above discussed road diet tests could be performed at Four Corners allowing a southbound turn onto Ninth Street South for westbound traffic on US 41. Mr. Sewell expressed reservations, however, since not only would FDOT approval and striping be needed, no signal box for such a turn currently exists at that location. Mr. Sewell then pointed out that documented public involvement and support of such an action also affects the FDOT's response.

Council Member Saad questioned whether emergency vehicle access to Naples Community Hospital (NCH) had been taken into consideration. Consultant Sewell explained that his firm had spoken with the Collier County Emergency Medical Service (EMS) which had identified no immediate concerns. However, he suggested the removal of on-street parking north of Fourth Avenue North and the installation of a right turn lane for southbound traffic at US 41 and Fourth thereby avoiding any delays. Assistant City Manager Reinke further noted that staff had to date not been able to schedule a meeting with NCH representatives although Council Member Saad stated that he had in fact met with NCH. Mr. Saad stressed that the growing presence of NCH in that area should be kept in mind as well as future growth in the Tenth Street South/Design District. Mr. Sewell indicated that his model for the proposal includes growth through 2020 but not a built-out scenario.

Mr. Sewell then addressed various technical aspects including the fact that capacity is increased when speed is reduced because of a corresponding reduction in following distances. On-street parking also increases traffic calming, enhances pedestrian safety and lowers speeds, he said, pointing out that should the area under discussion be reduced to two lanes of vehicular traffic, a bicycle lane could easily be accommodated. Council Member Saad expressed concern with a loss of capacity related to the necessity for drivers to parallel park; therefore, he requested that the consultant quantify this factor and provide the data. It was then noted that current capacity is 65,000 vehicles per day, which would be reduced to 45,000 should the roadway be four-laned; 42,000 per day was an average vehicle count during the peak of season.

Traffic Engineer Archibald then explained the various state and federal designations of the roadways under discussion. State Road (SR) 45, from the north, and SR 90, from the east, are also US 41 (federal designation), meeting at Four Corners; the FDOT owns and maintains these routes, he said. With regard to the federal designation, Mr. Archibald stated that the American Association of State Highway and Transportation Officials (AASHTO) is primarily concerned with assuring public access to thoroughfares. It would be possible to alter the state road designations while retaining the US 41 designation, although the FDOT remains the final decision-maker in that regard, he added. Mr. Sewell indicated that this eventuality could be added to Option 4. Council Member Saad then acknowledged that business owners had expressed concern that the US 41 designation remain.

Council Member Heitmann then reviewed answers to questions she had submitted to staff which are appended hereto as Attachment 3. In addition, she questioned the aged stormwater system which Mr. Archibald confirmed has a limited capacity. The state undertook relining of the mains in the subject area but should the City decide to proceed with the proposal under review, a request should be made to the state to continue the maintenance of that system, he

added. This system was environmentally improved when the Gordon River bridges were renovated, large vaults were installed and any alterations to that portion of the system would necessitate reconstruction involving the bridges; this will not happen in the foreseeable future due to monetary constraints, he maintained. Various City stormwater projects are redirecting flows, although no entry into state rights-of-way is anticipated, he added. Mr. Sewell stated that streetscaping could also have a positive impact on stormwater management by reducing impervious surface. In response to a question listed by Mrs. Heitmann, Mr. Archibald reported that the only City stormwater improvement which may prove to be necessary is enlargement of some existing cross-drains at certain intersections.

Recess: 1:59 p.m. to 2:08 p.m. It is noted for the record that the same Council Members were present when the meeting reconvened except Council Member Saad who returned at 2:17 p.m.; discussion of Item 6 continued.

Council Member Heitmann resumed review of her questions (see Attachment 3) referencing the possible use of golf carts as alternate transportation. Assistant City Manager Reinke pointed out that this is however illegal on City streets as well as the fact that the Gordon River bridge pedestrian underpass (located at US 41 and Goodlette-Frank Road) is too constrained to allow their use. A brief discussion followed with regard to low-speed vehicles (*LSV-a legal class of 4-wheel vehicles that have a maximum capable speed typically around 25 mph*), it being noted that a low posted speed limit must exist (*State of Florida is 35 mph with maximum allowable speed of 25 mph*). In addition, Mr. Sewell explained that initially the Collier County School Board had voiced concerns with the proposal but had expressed support as specifics were presented, particularly with reference to safer crossings for school children as a result of lane reductions.

Council Member Heitmann then referenced a submittal by restaurateur Tony Ridgway regarding concern among Third Street South businesses (Attachment 4). Mr. Sewell indicated that he had not reviewed the document in question but would make contact with that group at a later date, adding that by allowing a left onto Ninth Street by westbound US 41 traffic would be the single most effective improvement to access into the Third Street South area, as well as wayfinding signage.

Council Member Heitmann then read into the record a statement regarding her overall concerns with the proposal and options; she maintained that an additional option to achieve connectivity is the creation of boulevards from various existing streets and avenues (Attachment 5). Consultant Sewell maintained that Option 4 (see Attachment 1, Page 6) provides the most flexibility, establishing connectivity while achieving short-term goals. She also expressed support of a pedestrian crossing being established at Four Corners.

Council Member Price quoted a resident urging the Council to project well beyond the next few decades, noting his support of Option 4 on the basis that it would improve safety, quality of life, property values and retail visibility, while solving significant pedestrian issues and creating a greater sense of community. In conclusion, he cautioned that the City continue to be mindful of impacts to the residential communities adjacent to US 41, to which Mr. Sewell then recommended that a set of guiding principles be developed; the first of which should be concern for impacts to adjacent residential neighborhoods. Vice Mayor Sorey requested that a timeline for decision-making also be developed, beginning with the concurrency issue with the state, which if agreed upon, would then continue to the project's conclusion.

Council Member Finlay indicated that he did not wish to commit to a particular option until feedback from residents and additional data from the consultant had been received and

evaluated. He reiterated his support of conducting a test of the reduced traffic lanes rather than relying on the consultant's model.

Consensus that staff proceed with development of Option 4 as above discussed.

In response to Mayor Barnett who questioned an implementation timeframe, Assistant City Manager Reinke stated that an agreement with the state regarding concurrency would involve at least one year and that staff would provide an update in the fall. In addition, City Manager William Moss noted that no cost estimates could be provided at that time. Discussions with the FDOT must be scheduled, following which more decision-making would be necessary prior to any estimations being developed.

CONSENT AGENDA

APPROVAL OF MINUTES..... ITEM 7-a

April 18, 2011 Workshop and April 20, 2011 Regular Meeting minutes; as submitted.

SPECIAL EVENTS..... ITEM 7-b

- 1) Stiletto Sprint – Garden of Hope and Courage and Susan G. Komen Southwest Florida Affiliate – Fifth Avenue south from Park Street to West Lake Drive – 10/21/11;
- 2) “Open Air” Farmers Market – Third Street South Merchants Association – Third Street South from Broad Avenue South to 13th Avenue South – 12/03/11 and 12/17/11 (*Withdrawn, see Item 4 above*);
- 3) Chalk It Up On Fifth – Pelican Bay Rotary Club, Inc. – Fifth Avenue South from Third Street South to US 41 (Ninth Street South) and Park Street – 01/28/12 with 01/29/12 as rain date;
- 4) Removed from Consent Agenda for separate discussion (see Item 4 above); and
- 5) Fourth of July Fireworks – 2012 – City of Naples – Fishing Pier – 07/04/12.

RESOLUTION 11-12893..... ITEM 7-c

A RESOLUTION APPROVING A TRANSPORTATION POST PROJECT MAINTENANCE AGREEMENT BETWEEN THE FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) AND THE CITY OF NAPLES RELATING TO THE CENTRAL AVENUE SIDEWALK PROJECT; AUTHORIZING THE MAYOR TO EXECUTE THE MAINTENANCE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. Title not read.

MOTION by Price to APPROVE CONSENT AGENDA except Item 7-b(2) (“Open Air” Farmers Market / withdrawn / see Item 4 above) and Item 7-b(4) (Fourth of July Parade / removed for separate discussion / see Item 4 above); seconded by Heitmann and carried 6-0 (Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sorey-yes, Sulick-absent, Barnett-yes).

END CONSENT AGENDA

SPECIAL EVENT.....ITEM 7-b(4)

FOURTH OF JULY PARADE – 2012 – CITY OF NAPLES – THIRD STREET SOUTH TO FIFTH AVENUE SOUTH – 07/04/12. (It is noted for the record that although not officially removed from the Consent Agenda for separate discussion, Item 7-b(5) was also discussed at this time.) Vice Mayor Sorey said that he believed that no parking along Gulf Shore Boulevard South should be allowed thereby maintaining an emergency corridor to the southern portion of the City; Council Member Heitmann agreed. Police Chief Thomas Weschler explained that the Code of Ordinances allows parking along Gulf Shore only during such special events and to cordon off a portion would be labor intensive as well as it being doubtful that the public would abide by it. Council Member Heitmann expressed concern for the safety of officers directing traffic and he explained that staff is provided special uniforms and reflective vests for events, noting that officers are assigned to the beach ends for the Fourth of July events, including the fireworks at the Fishing Pier. Discussion with his staff had revealed no prior issues with access for emergency vehicles, Chief Weschler reported, advising that his first recommendation had been to prohibit parking along the east side of Gulf Shore Boulevard. Mr. Sorey suggested that

this be implemented from the Fishing Pier (12th Avenue South), north to Fourth Avenue North on a trial basis during the 2011 fireworks display.

Community Services Director David Lykins further observed that the public would then seek parking along the side streets, impacting residents to a greater extent. The closure would involve 17 blocks and diverted parking for several hundred vehicles, Mr. Lykins stated, and Chief Weschler predicted confusion among those who have long attended the event, exacerbating the parking situation. Council Member Finlay said that he would be more supportive had these concerns been voiced by emergency personnel and therefore recommended that a parking prohibition not be pursued.

Public Comment: (3:02 p.m.) None.

MOTION by Price to APPROVE THIS ITEM as submitted; seconded by Saad and carried 4-2 (Finlay-yes, Heitmann-no, Price-yes, Saad-yes, Sorey-no, Sulick-absent, Barnett-yes).

ORDINANCE 11-12894..... ITEM 8-a
AN ORDINANCE RELATING TO STORMWATER MANAGEMENT; AMENDING SECTION 30-331, DEFINITIONS; AMENDING SECTION 30-336, IMPOSITION OF FEES; REPEALING SECTION 30-337, PROPERTY CLASSIFICATIONS, COMPUTATION OF FEES; AMENDING SECTION 30-339, ADJUSTMENT OF FEES, FOR THE PURPOSE OF PROVIDING A METHODOLOGY TO CALCULATE STORMWATER UTILITY FEES FOR MULTI-FAMILY RESIDENTIAL PROPERTIES ON THE BASIS OF IMPERVIOUS AREA AS WELL AS CLARIFYING STORMWATER MANAGEMENT PROVISIONS FOR ALL OTHER PROPERTIES; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (3:02 p.m.). Council Member Price maintained his opposition to any changes in the stormwater fee calculation methodology unless it was applied citywide. Council Member Heitmann pointed out that the citywide rate would in fact be addressed in two years when another study is required.

Public Comment: (3:03 p.m.) None.

MOTION by Saad to ADOPT ORDINANCE 11-12894 as submitted; seconded by Finlay and carried 5-1 (Finlay-yes, Heitmann-yes, Price-no, Saad-yes, Sorey-yes, Sulick-absent, Barnett-yes).

RESOLUTION 11-12895..... ITEM 8-b
A RESOLUTION RELATING TO STORMWATER RATES SET FORTH IN APPENDIX “A”; AMENDING SECTION 30-336 OF APPENDIX “A”, FEES AND CHARGES SCHEDULE, OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (3:05 p.m.). City Manager William Moss explained that this action simply codifies the amended rate approved by Council with Item 8-a above.

Public Comment: (3:06 p.m.) None.

MOTION by Sorey to APPROVE RESOLUTION 11-12895 as submitted; seconded by Saad and carried 5-1 (Finlay-yes, Heitmann-yes, Price-no, Saad-yes, Sorey-yes, Sulick-absent, Barnett-yes).

RESOLUTION 11-12896..... ITEM 9
A RESOLUTION DETERMINING A COASTAL CONSTRUCTION SETBACK LINE VARIANCE TO CONSTRUCT A SINGLE FAMILY RESIDENCE, UPPER LEVEL POOL, IN-GROUND SWIMMING POOL AND SPA, DRIVEWAY, DUNE ENHANCEMENT, LANDSCAPING, AND EXTERIOR LIGHTING AT 4000 GORDON DRIVE; PROVIDING FINDINGS; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (3:06 p.m.). This being a quasi-judicial proceeding, Notary Public Vicki Smith administered an oath to those intending to offer testimony; all responded in the affirmative. City Council Members then made the following ex parte disclosures: all indicated familiarity with the site although no contact except Vice Mayor Sorey who

stated that he had visited the site. Assistant City Manager Roger Reinke provided a brief overview of the variance as contained in the April 1 memorandum by Natural Resources Manager Michael Bauer (Attachment 6); staff recommended approval, he stated.

Coastal Engineer Brett Moore, Humiston & Moore, agent for the petitioner, agreed with the above noted recommendation and urged approval.

Public Comment: (3:09 p.m.) None.

MOTION by Saad to APPROVE RESOLUTION 11-12896 as submitted; seconded by Finlay and carried 6-0 (Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sorey-yes, Sulick-absent, Barnett-yes).

RESOLUTION 11-12897 ITEM 10
A RESOLUTION DETERMINING A COASTAL CONSTRUCTION SETBACK LINE VARIANCE TO CONSTRUCT A SINGLE FAMILY RESIDENCE, IN-GROUND SWIMMING POOL, DRIVEWAY, DUNE ENHANCEMENT, LANDSCAPING, AND EXTERIOR LIGHTING AT 4540 GORDON DRIVE; PROVIDING FINDINGS; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (3:09 p.m.). This being a quasi-judicial proceeding, Notary Public Vicki Smith administered an oath to those intending to offer testimony; all responded in the affirmative. City Council Members then made the following ex parte disclosures: all indicated familiarity with the site although no contact except Vice Mayor Sorey who stated that he had visited the site. Assistant City Manager Roger Reinke provided a brief overview of the variance as contained in the April 18 memorandum by Natural Resources Manager Michael Bauer (Attachment 7); staff recommended approval, he stated.

Coastal Engineer Brett Moore, Humiston & Moore, agent for the petitioner, agreed with the above noted recommendation and urged approval.

Public Comment: (3:12 p.m.) None.

MOTION by Saad to APPROVE RESOLUTION 11-12897 as submitted; seconded by Price and carried 6-0 (Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sorey-yes, Sulick-absent, Barnett-yes).

Vice Mayor Sorey suggested that the process be simplified by administratively approving these types of petitions similar to CCSL variances for non-habitable areas. Criteria should be developed and, if not met or some disagreement or objection arises, the petition would then be forwarded to Council for consideration; Council agreed.

City Attorney Pritt indicated that he would also participate in the drafting and Coastal Engineer Moore supported the proposal, offering his assistance.

Consensus that staff review with City Attorney the possibility of administrative approval of CCSL variances involving habitable areas, including development of criteria; if the criteria are not met, a petition would then be forwarded to Council for consideration.

RESOLUTION 11-12898 ITEM 11
A RESOLUTION DETERMINING CONDITIONAL USE PETITION 11-CU5, PURSUANT TO SECTION 56-92 OF THE CODE OF ORDINANCES, TO ALLOW OFFICE USE WHICH DOES NOT INVOLVE COMMERCIAL ACTIVITY IN THE R1-10, RESIDENCE DISTRICT, LOCATED AT 107 BROAD AVENUE SOUTH, OWNED BY STEPHEN F. BRIGGS, MORE FULLY DESCRIBED HEREIN; AND PROVIDING AN EXPIRATION DATE AND AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (3:15 p.m.). This being a quasi-judicial proceeding, Notary Public Vicki Smith administered an oath to those intending to offer testimony; all responded in the affirmative. City Council Members then made the following ex parte disclosures: Saad/visited the site and met with members of the neighborhood;

Finlay/visited the site and met with affected parties; Price/familiar with the site, had telephone conversation with the property owner and received e-mails from residents; Barnett/familiar with the site but no contact; Heitmann/familiar with the site and spoke with neighbors and concerned citizens; and Sorey/visited the site, spoke with the property owner, members of the Historical Society and neighboring residents. Planning Director Robin Singer provided a review of the petition as contained in the May 2 memorandum by Planner Adam Benigni (Attachment 8), noting that staff, as well as the Planning Advisory Board (PAB), recommended approval.

Public Comment: (3:18 p.m.) **Judith Chirgwin, Naples**, while commending Council Members for their service to the community, nevertheless took issue with this petition, listing her concerns as stated in her submittal (Attachment 9). She maintained that the structure would in fact be used for commercial purposes, not merely as office space for the Historical Society, further intruding into the residential neighborhood. Abundant commercial space is available in the nearby Third Street South area only two blocks away, she concluded, urging that the petition be denied.

Council Member Saad pointed out that initially he had supported this proposal having helped draft the language of the ordinance allowing such petitions. He stated that he could however not support the subject petition at this juncture as he viewed it as commercial encroachment into a residential neighborhood. Don Wingard, agent for the petitioner, assured Council that the Historical Society intends to purchase the structure, thereby maintaining its current appearance. The request is to allow the petitioner to have an office space on the premises, the scope of which would involve no commercial activity whatsoever. Mr. Wingard indicated that his home is immediately adjacent to the site and would be directly impacted should commercial activity occur. Citing from the staff report, Council Member Price received confirmation from Mr. Wingard that the petitioner did not intend to use the property for retail, tours, museum or public assembly, only as non-commercial office space; Council Member Finlay observed that such use will allow the preservation of historic homes in the area.

MOTION by Sorey to APPROVE RESOLUTION 11-12898 as submitted;
seconded by Finlay and carried 5-1 (Saad-no, Heitmann-yes, Price-yes,
Sorey-yes, Sulick-absent, Finlay-yes, Barnett-yes).

ORDINANCE (First Reading)..... ITEM 12
AN ORDINANCE RELATING TO ZONING REVIEW FEES AND ZONING VERIFICATION
LETTERS; ADDING SUBSECTION 16-52(s), ZONING REVIEW FEE; ADDING SECTION 46-
43, ZONING VERIFICATION LETTERS, IN ORDER TO ESTABLISH A FEE FOR ZONING
REVIEW OF BUILDING PERMITS AND ESTABLISH A FEE FOR ZONING VERIFICATION
LETTERS; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN
EFFECTIVE DATE. Title read by City Attorney Robert Pritt (3:29 p.m.). Planning Director Robin Singer reviewed Planner Adam Benigni's memorandum dated May 3 (Attachment 10) which explained the reasoning for establishment of a fee for zoning review of building permits as well as for zoning verification letters, which in some instances involved substantial staff time; currently these services are funded by general revenues, she noted. Discussion followed as to whether the verification letter fee would in fact be additional taxation of residents and Ms. Singer pointed out that they are largely requested by financial institutions as part of a real estate transaction, not by private citizens. Council then instructed staff to develop a fee schedule for the letters, with an hourly rate set for staff demand over a certain time. City Attorney Pritt therefore recommended the amendment as reflected in the motion below.

Public Comment: (3:39 p.m.) None.

MOTION by Sorey to APPROVE THIS ORDINANCE at First Reading
amending as follows: Section 16-52(s): "A flat-rate fee set forth..."; and
staff to develop a fee schedule for provision of a zoning verification letter

to include an hourly rate over a certain demand on staff time. This motion was seconded by Heitmann and carried 4-2 (Price-no, Sorey-yes, Sulick-absent, Saad-no, Finlay-yes, Heitmann-yes, Barnett-yes).

ORDINANCE (First Reading)..... ITEM 13
AN ORDINANCE RELATING TO ARBORS, TRELLISES AND PERGOLAS; AMENDING SUBSECTION (3) AND ADDING A NEW SUBSECTION (4) TO SECTION 56-54; AMENDING SUBSECTION (4) OF SECTION 58-116; AMENDING SUBSECTION (d)(1) OF SECTION 58-124 OF THE CODE OF ORDINANCES, CITY OF NAPLES, FOR THE PURPOSE OF PROVIDING REGULATIONS AND SETBACK REQUIREMENTS FOR ARBORS, TRELLISES AND PERGOLAS; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (3:40 p.m.). Planner Erica Goodwin reviewed her memorandum dated April 26 (Attachment 11), which included recommended amendment by the Planning Advisory Board (PAB) to Section 56-54(4) regarding a five-foot side yard setback for trellises (see Attachment 11, Page 2). She clarified for Council Member Finlay that the subject ordinance would allow such structures so long as they meet setback requirements; the structure cannot be covered with canvas or roofing materials, she added.

Public Comment: (3:48 p.m.)

MOTION by Sorey to APPROVE THIS ORDINANCE at First Reading as submitted; seconded by Price and carried 5-1 (Finlay-yes, Heitmann-no, Price-yes, Saad-yes, Sorey-yes, Sulick-absent, Barnett-yes).

ORDINANCE (First Reading)..... ITEM 14
AN ORDINANCE AMENDING ARTICLES I AND II OF CHAPTER 54, SUBDIVISION STANDARDS AND PLATS, AND AMENDING SECTION 54-77, VACATION OF STREETS, ALLEYS, EASEMENTS AND SUBDIVISION PLATS, OF THE CODE OF ORDINANCES, CITY OF NAPLES; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (3:48 p.m.). Planning Director Robin Singer reviewed her memorandum dated May 3 (Attachment 12) which detailed the amendments. She noted that the provision regarding townhouses and zero lot lines (Section 54-5(b)(7)) had not been supported by the Planning Advisory Board (PAB) during its final review on April 13. However, the text in question remained in the ordinance for Council's reference. City Attorney Pritt clarified that should the ordinance be approved as submitted, it would not include that particular section.

Public Comment: (3:51 p.m.) None.

MOTION by Price to APPROVE THIS ORDINANCE at First Reading as submitted; seconded by Finlay and carried 6-0 (Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sorey-yes, Sulick-absent, Barnett-yes). (It is noted for the record that Section 54-4(b)(7) is deleted and had been included for reference only.)

ORDINANCE (First Reading)..... ITEM 15
AN ORDINANCE RELATING TO MEASUREMENT OF DISTANCE SEPARATION FOR ESTABLISHMENTS SELLING OR SERVING ALCOHOLIC BEVERAGES; AMENDING SUBSECTION (c) OF SECTION 56-122; REPEALING SUBSECTION (e) OF SECTION 56-122 OF THE CODE OF ORDINANCES, CITY OF NAPLES, FOR THE PURPOSE OF REVISING THE METHOD OF MEASUREMENT FOR THE DISTANCE SEPARATION REQUIREMENT FOR SCHOOLS AND CHURCHES; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (3:52 p.m.). Planner Erica Goodwin briefly reviewed her memorandum dated April 26 (Attachment 13) noting the amendment to the methodology of measurement of distance from churches or schools and pointing out the 500-foot distance separation requirement between establishments selling and/or serving alcoholic beverages is to be deleted. Council Member Price indicated that he did

not agree with the latter and therefore could not support the ordinance; Council Member Heitmann agreed.

Public Comment: (3:56 p.m.) None.

MOTION by Saad to APPROVE THIS ORDINANCE as First Reading;
seconded by Barnett and carried 4-2 (Finlay-yes, Heitmann-no, Saad-yes,
Sorey-yes, Price-no, Sulick-absent, Barnett-yes).

It is noted for the record that Items 16-a and 16-b were considered concurrently.

CLERK'S TRACKING #11-00012 ITEM 16-a
AWARDING A CONTRACT FOR THE CONSTRUCTION OF THE GOLDEN GATE CANAL
INTAKE STRUCTURE AND TRANSMISSION MAIN: \ VENDOR: STEVENS & LAYTON, INC.,
FORT MYERS, FLORIDA \ COST: \$4,804,408 \ FUNDING: CIP 11K50 \ GOLDEN GATE
CANAL.

RESOLUTION 11-12899 ITEM 16-b
A RESOLUTION AMENDING THE 2010-11 BUDGET ADOPTED BY ORDINANCE 10-12761
TO PROVIDE SUFFICIENT FUNDING FOR THE GOLDEN GATE CANAL PROJECT; AND
PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (3:57 p.m.). City Manager William Moss noted that Items 16 through 19 address various actions with regard to the ongoing Golden Gate Canal (GGC) project. The project involves the use of surface water from that waterway being transmitted to the City's Wastewater Treatment Plant, blended with reclaimed water, and then stored in City ASR (aquifer storage and recovery) wells for later use when needed for irrigation.

In response to Council Member Finlay, Utilities Director Robert Middleton explained that the increase to the original 2008 figure of \$3.7-million had been due to refinement of the route of the transmission main as well as the directional bore. Following the preliminary design study, it had become apparent that the best route would be along the west, undeveloped side of the GGC rather than south along Airport-Pulling Road and across the airport property. The latter would have necessitated numerous easements as well as involving Collier County in the process, Mr. Middleton reported, and delays would have been unavoidable. Mr. Moss further indicated that with grant funding, the City should nevertheless continue to avoid borrowing funds to complete the project, although the cost for the next phase of reclaimed water distribution lines was as yet unknown. As staff continues to evaluate the most cost effective route for that stage of the project, a presentation would be made prior to year's end, he added.

Council Member Heitmann expressed concern regarding the effectiveness of secure casings which protect upper aquifers from injected water. Director Middleton explained that the Florida Department of Environmental Protection (FDEP) requires a 24-hour pressure test, which the City's ASR Wells #1 and #2 have in fact passed. Nevertheless, the City was delaying ASR Wells #3 and #4 until the level of success of the first two has been ascertained. Vice Mayor Sorey added that should the City for some reason be unable to store water in the ASR wells, the GGC system would still be utilized 9 to 10 months of the year, depending on rainfall, to withdraw water to supplement its reclaimed water supply. The City was granted a 20-year consumptive water use permit by the FDEP for use of the GGC, Mr. Middleton stated, which will save the City approximately \$800,000 over that time period in permitting fees which would have involved multiple permit approvals of 5-year duration. The intent of the City's Integrated Water Resource Plan had been to identify an alternate source of water for the next 20 years, thereby avoiding the use of potable water for irrigation, Mr. Moss said, and reminded Council that this project provides that source for the majority of a year with the ASR well program providing the storage for the remainder. Council Member Saad agreed, observing that the alternative would be a costly reverse osmosis (RO) plant at some point in the future.

Recess: 4:22 p.m. to 4:33 p.m. It is noted for the record that the same Council Members were present when the meeting reconvened and discussion of Items 16-a and 16-b continued.

Following the above recess, the motions reflected below were proffered.

Public Comment: (4:34 p.m.) None.

MOTION by Sorey to APPROVE THIS ITEM (16-a) as submitted; seconded by Saad and carried 5-1 (Finlay-yes, Heitmann-no, Price-yes, Saad-yes, Sorey-yes, Sulick-absent, Barnett-yes).

MOTION by Sorey to APPROVE RESOLUTION 11-12899 as submitted; seconded by Saad and carried 5-1 (Finlay-yes, Heitmann-no, Price-yes, Saad-yes, Sorey-yes, Sulick-absent, Barnett-yes).

CLERK'S TRACKING #11-00013 ITEM 17
AWARDING A CONTRACT FOR THE PURCHASE OF FLYGT PUMPS FOR THE GOLDEN GATE CANAL INTAKE STRUCTURE: \ VENDOR: ITT WATER & WASTEWATER FLORIDA, LLC, FORT MYERS, FLORIDA \ COST: \$270,868 \ FUNDING: CIP 11K50 – GOLDEN GATE CANAL. Utilities Director Robert Middleton indicated that this item is to fund the pumps for the Golden Gate Canal (GGC) project discussed in Item 16 above. These units are being acquired separately because of concern that they be in hand when construction is completed in October 2012. In addition, he noted that approximately \$48,000 had been saved by avoiding sales tax and contractor mark-up. City Manager Moss clarified for Council Member Price that submersible pumps had been standardized citywide and experience had shown that the pumps from this vendor remain in service upwards to 30 years.

Public Comment: (4:39 p.m.) None.

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

CLERK'S TRACKING #11-00014 ITEM 18
APPROVING A FIRST AMENDMENT TO A PROFESSIONAL SERVICES AGREEMENT TO PROVIDE CONSTRUCTION ADMINISTRATION SERVICES FOR THE GOLDEN GATE CANAL INTAKE STRUCTURE AND TRANSMISSION MAIN PROJECT: \ VENDOR: CAMP DRESSER & MCKEE, FORT MYERS, FLORIDA \ COST: \$432,302 \ FUNDING: CIP 11K50 – GOLDEN GATE CANAL. Utilities Director Robert Middleton explained that this item provides a continuation of the services of Camp Dresser & McKee who facilitated the design of the Golden Gate Canal (GGC) project discussed in Item 16 above; the additional funding is necessary for construction management services.

Public Comment: (4:40 p.m.) None.

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

RESOLUTION 11-12900 ITEM 19-a
A RESOLUTION ACCEPTING AN AGREEMENT FOR EASEMENT FROM BEAR'S PAW COUNTRY CLUB, INC., FOR CONSTRUCTION AND ACCESS TO THE GOLDEN GATE CANAL INTAKE STRUCTURE AND TRANSMISSION MAIN AT THE BEAR'S PAW COUNTRY CLUB; DIRECTING THE CITY CLERK TO RECORD THE AGREEMENT FOR EASEMENT; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (4:41 p.m.). City Manager William Moss reviewed the agreement (Item 19-a) and easements (Items 19-b and 19-c below) as explained in the May 3 memorandum provided by Utilities Director Robert Middleton (Attachment 14). Furthermore, he thanked the Bear's Paw Country Club for its cooperation during the Golden Gate Canal (GGC) project discussed in Item 16 above; Council echoed this sentiment.

Public Comment: (4:43 p.m.) None.

MOTION by Price to APPROVE RESOLUTION 11-12900 as submitted; seconded by Saad and carried 5-1 (Finlay-yes, Heitmann-no, Price-yes, Saad-yes, Sorey-yes, Sulick-absent, Barnett-yes).

**RESOLUTION 11-12901 ITEM 19-b
A RESOLUTION ACCEPTING A TEMPORARY CONSTRUCTION EASEMENT FROM BEAR'S PAW COUNTRY CLUB, INC., FOR CONSTRUCTION OF UTILITY FACILITIES RELATED TO THE GOLDEN GATE CANAL INTAKE STRUCTURE AND TRANSMISSION MAIN; DIRECTING THE CITY CLERK TO RECORD THE EASEMENT; AND PROVIDING AN EFFECTIVE DATE.**

Title read by City Attorney Robert Pritt (4:43 p.m.).

Public Comment: (4:44 p.m.) None.

MOTION by Sorey to APPROVE RESOLUTION 11-12901 as submitted; seconded by Saad and carried 5-1 (Finlay-yes, Heitmann-no, Price-yes, Saad-yes, Sorey-yes, Sulick-absent, Barnett-yes).

**RESOLUTION 11-12902 ITEM 19-c
A RESOLUTION ACCEPTING A PERPETUAL INTAKE STRUCTURE, WATER LINE AND TRANSMISSION MAIN EASEMENT FROM BEAR'S PAW COUNTRY CLUB, INC., FOR ACCESS TO UTILITY FACILITIES ALONG THE SOUTHERN BOUNDARY OF BEAR'S PAW COUNTRY CLUB; DIRECTING THE CITY CLERK TO RECORD THE EASEMENT; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (4:44 p.m.).**

Public Comment: (4:45 p.m.) None.

MOTION by Price to APPROVE RESOLUTION 11-12902 as submitted; seconded by Finlay and carried 5-1 (Finlay-yes, Heitmann-no, Price-yes, Saad-yes, Sorey-yes, Sulick-absent, Barnett-yes).

**CLERK'S TRACKING #11-00015 ITEM 20
AWARDING A CONTRACT FOR A ONE-YEAR PERIOD WITH THE CITY'S OPTION FOR TWO, ONE-YEAR RENEWALS FOR THE PURCHASE OF ALUMINUM SULFATE FOR THE WASTEWATER TREATMENT PLANT: \ VENDOR: GENERAL CHEMICAL PERFORMANCE PRODUCTS, LLC, PARSIPPANY, NEW JERSEY \ COST: \$145,750 \ FUNDING: WATER SEWER FUND – WASTEWATER PLANT CHEMICALS. (4:45 p.m.) Utilities Director Robert Middleton briefly explained the use of aluminum sulfate for the removal of phosphorous from water at the City's Wastewater Treatment Plant; staff recommends approval, he added.**

Public Comment: (4:46 p.m.) None.

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

**RESOLUTION 11-12903 ITEM 21
A RESOLUTION APPROVING A GRANT AGREEMENT WITH HABITAT FOR HUMANITY OF COLLIER COUNTY FOR THE PURPOSE OF IMPLEMENTING AFFORDABLE HOUSING EFFORTS UNDER COASTLAND CENTER DEVELOPMENT OF REGIONAL IMPACT RESOLUTION 93-6882; AMENDING THE 2010-11 BUDGET ADOPTED BY ORDINANCE 10-12761 TO FUND THE GRANT AGREEMENT, AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (4:46 p.m.). Assistant City Manager Roger Reinke provided a brief review of the item as contained in the May 2 memorandum by Grant Coordinator Gregg Givens (Attachment 15). As the FY 2010-11 budget did not include this grant to Habitat for Humanity, a budget amendment became necessary to appropriate the funds. Staff recommends approval, he added.**

In response to Council Member Finlay, he clarified that Habitat would use this grant funding to purchase a home and then Habitat funds the rehabilitation of the structure; Habitat usually builds new structures, he added.

Public Comment: (4:51 p.m.) None.

MOTION by Finlay to APPROVE RESOLUTION 11-12903 as submitted;
seconded by Saad and carried 6-0 (Finlay-yes, Heitmann-yes, Price-yes,
Saad-yes, Sorey-yes, Sulick-absent, Barnett-yes).

RESOLUTION 11-12904 ITEM 22
A RESOLUTION AMENDING THE FISCAL YEAR 2010/11 BUDGET AS ADOPTED BY
ORDINANCE 10-12761 IN THE AMOUNT OF \$150,000 TO FUND ADDITIONAL GASOLINE
AND DIESEL FUEL PURCHASES FOR RESALE AT THE CITY DOCK; AND PROVIDING AN
EFFECTIVE DATE. Title read by City Attorney Robert Pritt (4:51 p.m.). City Manager William Moss explained that this item is to fund the purchase of additional fuel at the City Dock; the sale of the fuel is expected to generate approximately \$180,000 in revenue which is \$30,000 above the cost of the fuel. Vice Mayor Sorey commended Code & Harbor Manager Roger Jacobsen and his staff for their efforts, noting that Mr. Jacobsen had expressed concern with regard to the impact of higher than expected gasoline prices on sales and revenues.

Public Comment: (4:54 p.m.) None.

MOTION by Sorey to APPROVE RESOLUTION 11-12904 as submitted;
seconded by Price and carried 6-0 (Finlay-yes, Heitmann-yes, Price-yes,
Saad-yes, Sorey-yes, Sulick-absent, Barnett-yes).

CONFLICT OF REPRESENTATION (Added Item / see Item 4 above)..... ITEM 23
CITY ATTORNEY REQUEST FOR APPROVAL OF CONFLICT OF REPRESENTATION WITH
REGARD TO APPEAL BY HORIZON HOUSE CONDOMINIUM TO BE CONSIDERED BY
THE CITY OF NAPLES BOARD OF APPEALS. THE CITY ATTORNEY ALSO REQUESTS
THE OPINION OF CITY COUNCIL AS TO WHETHER AN APPEAL OF THE FIRE CODE
SHOULD BE HEARD BY A SPECIAL MASTER / MAGISTRATE RATHER THAN THE CITY
COUNCIL ACTING AS THE BOARD OF APPEALS. (4:54 p.m.) City Attorney Robert Pritt explained his above request as detailed in his memorandum dated May 17 (Attachment 16), further clarifying the Board of Appeal's option of assigning the case to a special magistrate/master for review; an opinion would then be rendered for consideration during the Board's hearing of the issue. The City received notification the prior day that the representative of the appellant, Horizon House Condominium, would be unavailable for the Board's scheduled hearing on June 1, therefore, no decision regarding the special magistrate would be necessary that day, Mr. Pritt said. Mayor Barnett pointed out that Council's agendas are normally extensive prior to its summer recess therefore this matter may not be heard until August or September.

Council concurred with Vice Mayor Sorey's suggestion that written confirmation of the June 1 scheduling conflict be obtained; discussion of the special magistrate was also to be continued. In response to Mayor Barnett, City Attorney Pritt cautioned that should the hearing be delayed until after summer recess, Council Members should maintain contact logs to document the lobbying that will most likely occur by interested parties for disclosure at the actual hearing.

Public Comment: (5:03 p.m.) None.

Consensus that this item be continued to the June 1, 2011 Regular Meeting.

PUBLIC COMMENT
(5:03 p.m.) None.

CORRESPONDENCE AND COMMUNICATIONS.....
(5:03 p.m.) Vice Mayor Sorey noted the recent Coastal Advisory Council (CAC) meeting regarding the Clam Bay navigational marker signage, as well as other signage;

City Council Regular Meeting – May 18, 2011 – 8:28 a.m.

recommendations will be forwarded to the Collier County Board of Commissioners for consideration on June 14. Council Member Heitmann commended staff for its ongoing efforts with regard to the Golden Gate Canal (GGC) reclaimed water project (see Items 16 through 19 above), and Council Member Price requested that the chairs of the City's pension boards meet with city staff for discussion of actuarial assumptions and unfunded liabilities. Council Member Saad questioned the appropriateness of length of time devoted to that day's meeting due to staff costs. Mayor Barnett predicted lasting positive impacts on the community from the GGC project aforementioned as well as the ASR (aquifer storage and recovery) wells.

ADJOURN
5:09 p.m.

Bill Barnett, Mayor

Tara A. Norman, City Clerk

Minutes prepared by:

Vicki L. Smith, Technical Writing Specialist

Minutes Approved: 06/15/11

US 41 Re-designation Feasibility Study / 05/18/11 excerpted text:

What is the purpose of the Feasibility Study?

- The goal is to consider the feasibility of the City having greater local control of the 9th Street (US 41) corridor. This will give the City the ability to continue redevelopment and streetscape plans to the east of US 41; expanding the sense of place... "Main Street", Naples.

Naples Districts

- Crayton Cove
- Third Street South
- Fifth Avenue South
- 10th Street Design District
- Old Naples Waterfront of Tin City & Bay Front
- Physical and visual connectivity is challenging

Scope Components

- Transportation corridor evaluation & modeling
- Operations and Maintenance
- CRA benefit considerations
- Public & Stakeholder input
- Suggested next steps
- Implementation

Feasibility Study Objectives

- Evaluation of option to move the designation of the 9th Street South/US 41 highway
- Evaluation of concurrency options for 9th Street/US 41 in the CRA area
- Preliminary study to determine whether fatal flaws exist
- Analysis of benefits and costs
- Identification of options

Analysis of Options

Option 1: Do Nothing

- Keep everything the way that it is
- FDOT continues to own and operate
- Vehicular capacity is primary function
- Very little consideration of land use

Option 2: Re-designation of US 41

- State shifts responsibility from 9th Street/US 41 to Goodlette-Frank Road
- County gives up responsibility for Goodlette-Frank Road
- City takes ownership of 9th Street/US 41
- City considers future design options for 9th Street/US 41 to address future land use needs

Option 3: US 41 Concurrency Option

- This option is made more available due to 2011 Legislative changes
- City adopts Comprehensive Plan language to modify its concurrency policies
- The DULA, TCEA and Mobility Plan go away
- City works with FDOT to potentially reduce 9th Street/US 41 from 6 lanes to 4 lanes
- FDOT maintains ownership of 9th Street/US 41
- City & County continue maintenance responsibilities

2011 Florida Growth Management Changes

- HB 7207 Passed in 2011 Legislative Session
- State mandated concurrency eliminated, still optional for local governments

- Transportation Concurrency Exception Areas (TCEA) eliminated
- Local governments set concurrency and level of service standards even on State facilities
- Changes to concurrency policies must be reflected in the comprehensive plan

FDOT Transportation Design for Livable Communities: Policy (000□625□060□b)

- Chapter 21 of FDOT's Plans Preparation Manual addresses Transportation Design for Livable Communities (TDLC)
- More flexible approach to planning and designing highway projects
- Once community values have been identified through public involvement, TDLC provides a way to address or preserve some of those values
- The Department's policy is to consider the incorporation of TDLC when such features are desired, appropriate and feasible

FDOT's TDLC, or Context□Sensitive Design (ITE) is based on:

- Safety of pedestrians, bicyclists, motorists and public transit users
- Balancing community values and mobility needs
- Efficient use of energy resources
- Protection of the natural and man□made environment
- Coordinated land use and transportation planning
- Local and state economic development goals
- Complementing and enhancing existing standards, systems and processes

9th Street/US 41 Interesting Facts

- Was platted as two-lane street in the Town of Naples in 1887
- Expanded from a two-lane to a four-lane street with on-street parking in 1968
- US 41 was six-laned in early 1980s taking the on-street parking in the process
- **Today U.S.41 at Four Corners is a four-lane intersection, and it works operationally!**

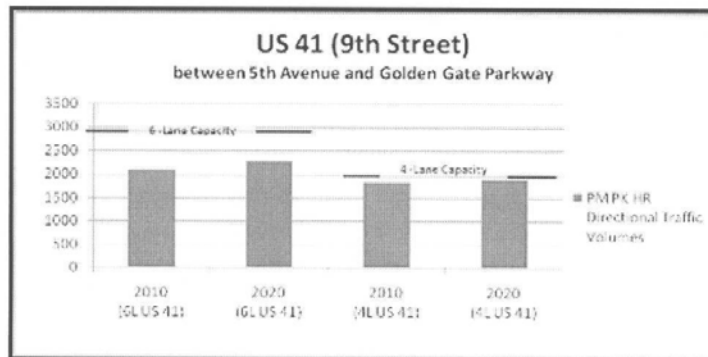
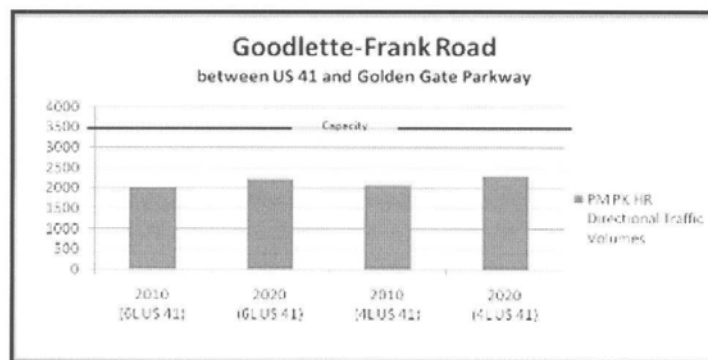
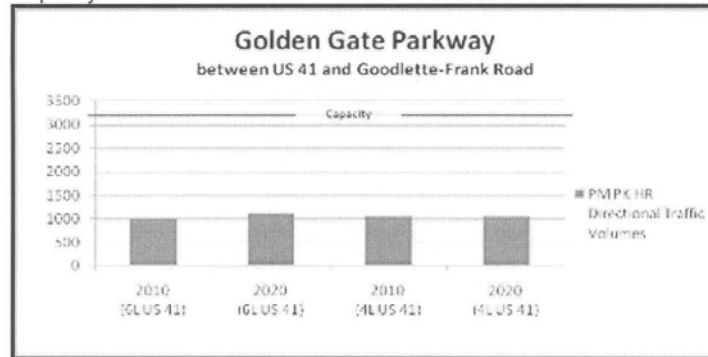
Possible Future Implementation

- Streetscape 5th Ave South from GFR to Four Corners
- Streetscape 9th Street/US 41 from 5th Ave S. to 7th Ave N.
 - Add landscaping, lighting, on-street parking and improved pedestrian and bicycle facilities
- Gateway feature at 5th Ave S. East Entry
- Gateway feature at 9th Street/US 41 North Entry
- Open Historic roadway grid network
- Implement the signage/wayfinding to Districts

Traffic Analyses – Results of 4-laning US 41

- Results in traffic changes for 9th Street/US 41
- Change in traffic patterns for 10-year period due to capacity changes and existing and anticipated growth
- North/South Changes
 - Goodlette-Frank Road
 - 8th Street
 - 10th Street
 - Airport-Pulling Road
- East/West Changes
 - Golden Gate Parkway
 - Fleischmann Boulevard
 - 7th Avenue North
 - 5th Avenue North
 - Central Avenue
 - East/West roadways north of Golden Gate Parkway

Capacity Review



Traffic History

Since 2007, there has been an 18% reduction of traffic on US 41

Roadway	2007	2008	2009	2010
US 41	48,123	42,918	39,752	39,522
Goodlette-Frank Road	--	27,500	26,500	--

*US 41 is City data, measured south of 7th Ave, GFR is FDOT data

Changes in Traffic

Table 1: Model Results - Daily Impacts
Reducing Lanes on US 41 from 6 Lanes to 4 Lanes

Roadway Segment	2010 Increase/Decrease	2020 Increase/Decrease
US 41: 5th Avenue South to Golden Gate	(4,400)	(6,700)
US 41: Goodlette to 9th Street	(800)	(400)
Goodlette-Frank Road	1,300	1,700
10th Street	1,500	3,000
Golden Gate Parkway	300	(1,800)
Fleischmann Boulevard	300	800
5th Avenue South	(300)	100
8th Street	400	800
Gulf Shore Boulevard	200	200

Intersection Analysis

Intersection Level of Service

INTERSECTION LEVEL OF SERVICE SUMMARY OF RESULTS			
Intersection	Year 2011 Existing Geometry PM Peak Hour	Year 2020 Existing Geometry PM Peak Hour	Year 2020 US 41 with 4-Lanes PM Peak Hour
9th Street (US 41) at 5th Avenue S (US 41)	C	C	B
Goodlette-Frank Road at 5th Avenue S (US 41)	C	C	C
9th Street (US 41) at Golden Gate Parkway	C	C	C
Goodlette-Frank Road at Golden Gate Parkway	D	E*	E*
Goodlette-Frank Road at Fleischmann Boulevard	B	B	C
Goodlette-Frank Road at 5th Avenue N	B	B	B
Goodlette-Frank Road at Central Avenue	B	B	B

* Deficiencies may be addressed through signal and timing modifications.

- Needed Improvements at Goodlette-Frank Road and Golden Gate Parkway
 - These improvements would be necessary regardless of the activities along US 41
 - Can be addressed through minor modifications to the operations of the intersection and the signal timing
 - Would not require significant reconstruction of the roadway geometry at the intersection
 - Adjustments to the signal timing and potentially modifying the signal heads to allow for overlap phases for right turns could address the deficiencies

Other Traffic Considerations

- Latent demand for Pedestrians and Bicycles
- Safety for pedestrians, school crossings
- There was a shift in through traffic to Goodlette-Frank Road when six-laning was completed
- There are existing school safety issues at Golden Gate
- Reducing the speed would improve safety and retail visibility
- Emergency Vehicles and Hospital Access
 - Traffic capacity is adequate even as a four-lane road
 - Preemptive signals

Costs to be Considered

- Stormwater Management Facility Maintenance
- Signals and Corridor Lighting
- Landscaping Maintenance
- Roadway Maintenance, including curbs, gutters, sidewalks and pavement
- Permitting
- Capacity enhancements if needed
 - Turn lanes, signing and marking, etc.

Current Maintenance

- County, through agreement with FDOT, is responsible for routine maintenance of:
 - Roadway
 - Drainage
 - Roadside
 - Wayside Parks
 - Vegetation and Aesthetics
 - Traffic Services
 - Highway Lighting
 - Incident Management
 - Permitting
- City maintains signals along the corridor – reimbursed by FDOT

Operations & Maintenance Costs

- Signalization and Lighting – (City currently reimbursed) Cost is estimated at \$100k annually
- Stormwater, Landscaping, Paving, Sidewalk and Signage - \$85k per mile = \$190k per year
 - \$85k = (\$10k per mile routine maintenance and \$75k per mile for major capital projects including scheduled resurfacing)

CRA Benefits – Help to a Blighted Area

- Increase in development will occur even without any action on US 41 although it is generally thought that improvements on US 41 will speed this process
- The US 41 problem has been well documented in previous studies and in the CRA Redevelopment Plan
- The CRA has a lifespan that eventually expires so capitalizing now is important

Summary of Benefits, Costs and Analysis

- Allows for "Tamiami Trail" to serve as Main Street with gateways
- Facilitates the expansion of Downtown Naples and CRA objectives
- Improves safety and community character
- Highly supportive strategy for businesses
- Very minor impact to traffic operations
- Improves opportunity to increase the tax base in the City
- There are operations & maintenance costs to be considered
- Could potentially reduce Collier County's financial liability

Public Input Summary

- There is more opposition than support for moving the designation of US 41 to Goodlette-Frank Road
- The public was generally more supportive than businesses to moving the designation of US 41
- Some businesses and developers preferred moving the designation
- There is more support for the City taking steps to gain greater control of US 41 through concurrency
- Some business representatives requested a "market study"

Option 1: Do Nothing

- US 41 operates as it does today with anticipated growth in traffic
- Land uses will continue as they are today but with additional impacts from traffic growth
- Existing safety issues will remain
- Challenges at Four Corners will still have to be addressed

Benefit: We know the outcome

Timeline: Current

Option 2: US 41 Re-designation

- Designation of US 41 moves to Goodlette-Frank Road
- City takes control of 9th Street
- City assumes operations and maintenance responsibility
- City has ultimate say in all aspects of design and aesthetics

Benefit: Greatest City control, but with an added O&M cost

Timeline: Two to Five Years

Option 3: Concurrency Option

- City establishes concurrency policy that gives greater control of US 41 with FDOT keeping ownership
- State still owns the roadway/no change in designation
- State continues to maintain roadway through agreements
- City would have to coordinate with FDOT on design and aesthetic changes

Benefit: Greater City control, but with little added cost, greater amount of through trips, must confer with FDOT

Timeline: One Year

Option 4: Hybrid Option

- Combination of Option 2 & 3 (Re-designation & Concurrency)
- City moves forward with concurrency option
- Short term improvements can be made
 - On-street parking
 - Landscaping
 - Minor traffic operations improvements
- While seeking re-designation (Option 2) with USDOT

Option 5: Long-Term Option

- Same as Option 4 except seek re-designation (Option 2) **at some future date based on the success of the corridor**

Recommendations

- City Council selects preferred option
- Coordination with FDOT and MPO
- Retail/Market Analysis of Options
- Implementation/Funding

2011 VEHICLES PER HR. - MPH

Peak?

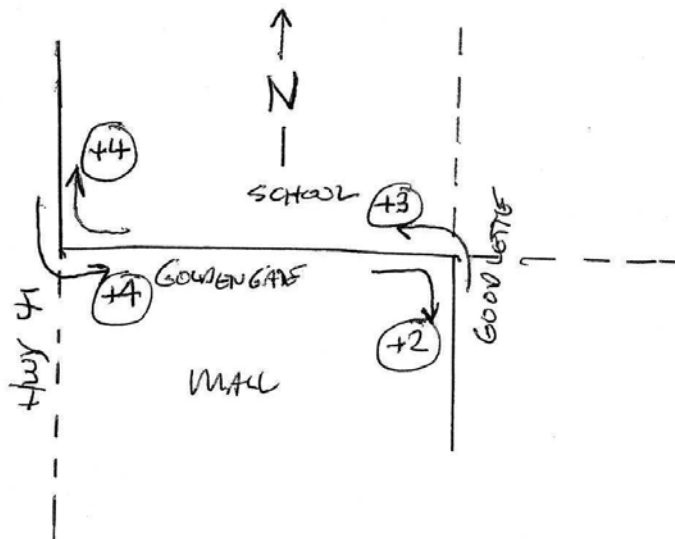
PAGES 95+100) Highway 41 + Golden Gate Intersection

TURN	6 LANES	4 LANES	DIFF
SBL	400	404	+4
WBL	376	380	+4

(PAGES 93+98) Golden Gate + Goodlette Intersection

TURN	6 LANES	4 LANES	DIFF
NBL	160	163	+3
EBL	92	94	+2

INCREASE (Peak-HR)



CSC
SUPPLEMENT
FINLAK
REV 05/16/11 CSC

Question regarding the Kimley-Horne US 41 Re-Designation Study:

1. (pg. 7) states 'preliminary operational analyses' ... 'should not be expected to have significant or adverse impact'...
 - a. After preliminary analysis is there a next phase to provide better data to base approval?
Ans: No, not as part of the Feasibility Study. If additional studies are undertaken, they would focus on a more specific roadway design in lieu of a general reduction in lanes.
2. (pg. 7) states 'concerns about impeding emergency vehicle.'
 - a. With the closure of 5th Avenue or 10th Street for special events, will this not impede the response time for emergency vehicles and access the hospital?
Ans: The response times, depending on the route, are not expected to change (Note: points of constraint, such as Four-Corners, are not being reduced in number of lanes).
3. (pg. 7) Description of how the lanes at the intersection of US 41 at the Four Corners operates is incorrect. It states '...with two lanes making the westbound right turn onto 9th Street (US 41) and two lanes making the southbound left-turn onto 5th Ave (US 41).'
 - a. Correction needed – The third lane continues straight heading SW on 9th Street, the westbound right-turn onto 9th
Ans: The 'thru' lanes are on S.R.90 & S.R.45 and are correctly shown.
4. (pg.9) Needs improvements states 'Adjustments to the signal timing and potentially modifying the signal heads to allow for overlap phases for right turns could address the deficiencies.'
 - a. Are we to make our decision based on 'could' or will further studies be conducted.
Ans: Traffic signal timing plans would need to be developed, if and when justified due to actual operating conditions.
 - b. Would the increase in traffic create a deficiency in level of service and therefore a potential speed limit reductions on Goodlette from US41 to GG Pkwy from 45 to 35mph? *Note: I need a response from FDOT
Ans: No.
5. (pg.9) Impact on CRA – states 'should be noted that this opportunity exists today and would continue to exist regardless of any changes to US 41'...'could help'
 - a. Are we seeking expedition of development or redevelopment leading to more rapid increase to TIF funding or a Comprehensive Connectivity Plan that serves the businesses and its residents for its transportation
Ans: No. The effort is to be able to provide appropriate infrastructure pursuant to the City's Comp Plan for future re-development in terms of mobility and connectivity.
6. (pg. 9) Operations and Maintenance –states 'The cost estimated for major resurfacing and reconstruction is listed as 3.2 to 3.5 million for the 2.3 mile section of roadway from Goodlette-Frank west and north to GG Pkwy'

- a. If the plan were to take control of the roadway only from US 41 & Goodlette to US 41 & Central, would FDOT allow us to maintain only the selected portion of US 41 or would they require us to maintain and operate the 2.3 mile section to GG?
Ans: Don't know; the City would have to make a formal request to the FDOT.
 - b. Please explain \$85,000 per centerline mile of roadway per year?
Ans: There are three elements outlined as follows: Maintenance cost @ \$10,000/mile; Operation cost @ \$15,000/mile; and CIP reserve at \$60,000/mile.
 - c. What stormwater projects are needed for the US 41 & Goodlette corridor to US 41 & Central for infrastructure (which would be separate from the City's responsibility from permitting and maintenance costs)?
Ans: There are no stormwater changes planned for the U.S.41 Corridor.
 - d. Please clarify that the city already maintains the landscaping in this area, and what is the reimbursement from FDOT to the County that we would be assuming?
Ans: The City maintains the medians without reimbursement. In the FDOT/County maintenance contract, there is not a specific breakdown for median maintenance.
 - e. What is the condition of the current sidewalks, curbs and gutters?
Ans: Good; maintenance is performed as needed.
 - f. What are the projected CIP projects for the next 20 years for pavement, sidewalks, curbs and gutters that the City would be fiscally responsible for in addition to the annual maintenance costs?
Ans: None, unless the City decides to make changes within the corridor.
7. (pg. 10) Safety states ‘..City may desire to slow traffic down, provide a more pedestrian or bicycle friendly corridor and make the corridor safer and more inclusive of other modes of transportation..’
- a. Creating Blvds on Central, 3rd, and 6th, and Broad would allow the City to maintain FDOT funding for US 41.
Ans: The problem is access, connectivity and mobility on U.S.41
 - b. If we are looking for golf carts as a means for public transportation for tourists, would it be possible for the golf carts to use the underpass with the laws pertaining to golf carts on highways?
Ans: No. Florida Statutes may provide for such use but the physical constraints at the ramps and underpass are expected to create an unacceptable ‘risk’ for pedestrians and bikers.
 - c. What improvements for US 41 convinced the school board that it improved safety for the kids from River Park and surrounding areas?
Ans: Not aware of such comments from the School Board but a reduced cross-section on U.S.41 will slow traffic, reduce pedestrian crossing distances and create potential for pedestrian ‘stop controls’ at marked crossings.
8. (pg. 10) Public and Stakeholder Input

- a. 9 stakeholder meetings were held, on March 29th, it stated concerns were expressed on what impact fewer vehicles traveling on US 41 would have on their businesses. Can we request a business impact study?
 - i. Note, on April 4, 2011 in a letter from Skip Quillen to Ron Wallace, he highlighted the need for business impact studies in addition to the traffic studies to avoid the unintended consequence that could result from a severe drop in business traffic.
 - ii. Note, on April 19, 2004, Mr. Smith expressed concern with continued over-building of retail space and questioned the advisability of diverting traffic to bypass when downtown depends on tourism and in turn, on sufficient infrastructure. Has this been analyzed?

Ans: If the current process proceeds, there will be future studies and designs of possible improvements for public review and comment. The designs could include improved access for the downtown such as restoring westbound access to 11th Street.

9. (page 12-13) options –

- a. Option 2 - gives control with cost of operations and maintenance to the City., with the greatest level of responsibility for operations and maintenance of the corridor on the City and requiring.
 - i. What would the cost be for the AASHTO and US DOT approval for the transfer of the US 41 reroute (staff time, consultant, atty fees)?

Ans: The process would involve preparing and submitting documents to AASHTO. Although a hourly cost analysis has not been prepared, the cost should be in the \$15,000-\$20,000 range.
- b. Option 3 – states some of the improvements the City would like to do would not be permitted under FDOT standards, can we verify with FDOT which improvements would not be approved? This could be done by staff not by the consultant. Ans: Yes
 - i. Consultant states we would see ‘some’ improvement to connecting the downtown of Naples, the west to the east side. Is this the best the cost benefit we are looking for, to have ‘some’ improvement in connecting but not a complete comprehensive connectivity plan?

Ans: The Feasibility Study is to determine the factors involved in the U.S.41 Redesignation. If Redesignatin occurs, the community will undertake planning and design to implement improvements; such improvements have not been determined at this time.
 - ii. It states ‘the implementation of these improvements could be completed in phases over a period of time, as to limit the initial upfront cost for the city. With the reasonable first phase being US 41 from Goodlette to Central, What would be the additional sections referenced to be completed in the future? Will this include Central to GG Pkway? And if so, why?

Ans: Based on prior reports, the two segments that may be considered would be Goodlette to Four-Corners and Four-Corners to Central Avenue.

The Third Street Merchants Association Board, along with numerous members of the association has been addressing the local control issue relative to US 41.

At this time we are still in the information-gathering phase and have not voted pro or con on the issue. We have, however, established numerous parameters that affect our area and could sway our opinion.

US 41 is currently a primary feeder for the Third Street Business District.

As the predominance of county residents live both east and north of our business district, it is essential that access to our business districts be enhanced and not harmed. We need to offer our guests more access.

At one point in the past few years, the Third Street Merchants Association presented an idea to the city that we use 8th Street South, with access at Central Avenue as a secondary and well-marked artery to Fifth Avenue, Crayton Cove, Third Street South and The Naples Pier. Conceptually the idea was well received. The difficulty was having appropriate signage along a FLDOT roadway.

US 41 can be overly congested during the height of the season.

If the US 41 relocation project were to make access to Third Street simpler, that would be good.

If US 41 were altered significantly and became a retail district that hinders traffic flow to Third Street, that would not be good.

If proactive signage can be added at the points of change that specifically, graphically and in a significant manner address the various business districts that can be easily accessed by a less traveled US 41 that would be good.

The Third Street Association and specifically Burt Hartington, has been asking the city to assist with signage for many years. The answer is always the same. FLDOT controls the road and any approval will take five years. We are now several five-year periods into that discussion. There is some new signage, but nothing attractive or specific enough to direct tourist traffic.

Removing the traffic of those who are purported to be not choosing to visit any of the retail districts connected by US 41 is the real question. Are we losing any potential customers is that 25 percent is rerouted?

How US 41 from the four corners north and from the four corners south towards the bridge is specifically treated will be of great concern to us.

SUPPLEMENT
_____ #6
RIDGWAY

To: All Concerned

As stated in the introduction of the Kimley-Horn US 41 Re-Designation Study, the feasibility study was requested to help determine if the City of Naples should take steps to gain greater control of the US 41 corridor in order to better serve the transportation needs of its **residents**. The key challenge, as noted, is to balance the need for mobility of vehicles and their impacts on safety, pedestrian and bicycle mobility, and quality of life. As noted in the study the City of Naples originally opposed the widening of US 41.. However, the traffic volume has not decreased (excluding the recent downturn in tourist traffic due to the economy).

Therefore, if we take the positive increase in traffic in the next 5 – 10 years, going back to the highest recorded volume of 40,000 trips a day through the city with no downtown destination, how can we justify that reducing the number of lanes on US 41 would be the best option of meeting the transportation needs of the residents?

As the consultant mentioned in his presentation to Council, the 41/Goodlette corridor known as D-downtown has potential to markedly increase its density . Council is considering increasing density with hotels, condos, and mixed-use units. This increase in population would worsen vehicle, bicycle and pedestrian mobility and would be further aggravated by reducing the lanes on US 41.

After reviewing the data and the abundant feedback from the community there are serious concerns and a general lack of support. Of the options presented, not one mentions the suggested connectivity to the Greenway or sidewalks and bike paths for pedestrian traffic. Development at Goodlette & US 41 and Goodlette & 10th Street would likely have occurred had we not been facing an economic crisis. While this project is beautiful and could have potential for improved vehicle, pedestrian and bicycle connectivity in downtown, an additional option should be considered.

To create connectivity from Fifth Avenue to downtown to the greenway and the surrounding shopping districts, a viable option could be creating boulevards at –

- From the intersection of Goodlette and Central to 8th Street (East/West)
- From the intersection of Goodlette and 3rd Avenue S. to 8th Street S (East/West)
- Completing the underpass at the bridge, allowing connectivity from Tin City to 6th Avenue S (North/South) and allowing for other mobility options such as golf cart mobility
- 6th Avenue S to 8th Street S (East to West)
- 8th Street S. would be a boulevard from Central to Broad Avenue S (East/West)
- 10th Street would also be a viable blvd from Central South

This option provides connectivity from the greenway to the businesses on US41, 5th Avenue South, Bay Front, Tin City, The City Dock, 3rd Street Shopping, and the Pier without diverting traffic from US41. Boulevards would address the City's concern of the US 41 corridor as a major impediment to developing downtown Naples into a cohesive community and provide comprehensive connectivity for tourists and residents.

Councilwoman Heitmann

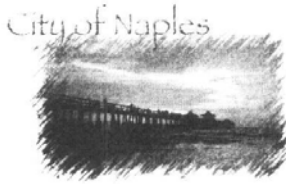
SUPPLEMENT
#6 Heitmann
HER LETTER



NAPLES CITY COUNCIL AGENDA MEMORANDUM

Regular Meeting Date: May 18, 2011

Agenda Section: Regular	Prepared By: Michael R. Bauer, Natural Resources Manager Date: April 1, 2011 Department: City Manager
Agenda Item: 9	Legislative <input type="checkbox"/> Quasi-Judicial <input checked="" type="checkbox"/>
SUBJECT: Resolution granting a Coastal Construction Setback Line (CCSL) Variance for property located at 4000 Gordon Drive.	
SUMMARY: City Council is asked to consider a Coastal Construction Setback Line Variance to construct a single family residence, upper level pool, in-ground swimming pool and spa, driveway, dune enhancement, landscaping, and exterior lighting at 4000 Gordon Drive. In that this is a quasi-judicial matter, disclosures and the swearing in of those giving testimony are required.	
BACKGROUND: The Comprehensive Development Code of the City of Naples establishes a Coastal Construction Setback Line (CCSL) (Ch. 52-33(a)), and construction of habitable structures seaward of that line is prohibited. Variances can be granted by the Mayor and City Council upon petition (Ch. 46-36) with the petition review process requiring public advertisement and a public hearing (Ch. 46-36(b)). Although not required, notice has been sent, as a courtesy, to property owners adjacent to the petitioner. The City's criteria for evaluating CCSL variances are set forth in Subsection 46-36(c) of the Comprehensive Development Code. Subsection 46-36(d) establishes guidelines for granting a variance. This variance request addresses the construction of a single family residence, upper level pool, in-ground swimming pool and spa, driveway, dune enhancement, landscaping, and exterior lighting at 4000 Gordon Drive. The proposed project results in an improved setback from the existing seawall and beach area. It will be located 194 feet seaward of the CCSL with a breezeway to a pavilion located 253 feet seaward of the CCSL; an in-ground swimming pool will extend approximately 255 feet seaward of the CCSL. The existing single family dwelling extends to approximately 276 feet seaward of the CCSL. The landward side of the dune area will be enhanced with the planting of native coastal vegetation matching that existing naturally in the adjacent dunes. There will be no adverse effects to ground elevations, no effect on historic storm and hurricane tides, and no impact on the beach or dune system. The proposed construction will be sited in a manner that is consistent with City and State construction approvals. The proposed structures will not advance the line of coastal construction.	
RECOMMENDED ACTION: Adopt a resolution approving a Coastal Construction Setback Line (CCSL) variance in order to construct a single family residence, upper level pool, in-ground swimming pool and spa, driveway, dune enhancement, landscaping, and exterior lighting at 4000 Gordon Drive.	
Reviewed by Department Director Roger Reinke	Reviewed by Finance N/A
Reviewed by City Manager A. William Moss	
Council Action:	



NAPLES CITY COUNCIL AGENDA MEMORANDUM

Regular Meeting Date: May 18, 2011

Agenda Section: Regular	Prepared By: Michael R. Bauer, Natural Resources Manager Date: April 18, 2011 Department: City Manager	
Agenda Item: 10	Legislative <input type="checkbox"/>	Quasi-Judicial <input checked="" type="checkbox"/>
SUBJECT: Resolution granting a Coastal Construction Setback Line Variance for property located at 4540 Gordon Drive.		
SUMMARY: City Council is asked to consider a Coastal Construction Setback Line (CCSL) Variance to construct a single family residence, in-ground swimming pool, driveway, dune enhancement, landscaping, and exterior lighting at 4540 Gordon Drive. In that this is a quasi-judicial matter, disclosures and the swearing in of those giving testimony are required.		
BACKGROUND: The Comprehensive Development Code of the City of Naples establishes a Coastal Construction Setback Line (Ch. 52-33(a)), and construction of habitable structures seaward of that line is prohibited. Variances can be granted by the Mayor and City Council upon petition (Ch. 46-36) with the petition review process requiring public advertisement and a public hearing (Ch. 46-36(b)). Although not required, notice has been sent, as a courtesy, to property owners adjacent to the petitioner. The City's criteria for evaluating CCSL variances are set forth in Subsection 46-36(c) of the Comprehensive Development Code. Subsection 46-36(d) establishes guidelines for granting a variance. This variance request addresses the removal of an existing residence and construction of a single family residence, in-ground swimming pool, driveway, dune enhancement, landscaping, and exterior lighting at 4540 Gordon Drive. The proposed project results in an improved setback from the existing seawall and beach area; it will be located 270 feet seaward of the CCSL. The existing single family dwelling extends to approximately 289 feet seaward of the CCSL. The beach seaward of an existing seawall will be enhanced with the planting of native coastal vegetation matching that existing naturally in the adjacent dunes. There will be no adverse effects to ground elevations, no effect on historic storm and hurricane tides, and no negative impact on the beach or dune system. The proposed construction will be sited in a manner that is consistent with City and State construction approvals. The proposed structures will not advance the line of coastal construction.		
RECOMMENDED ACTION: Adopt a resolution approving a Coastal Construction Setback Line Variance for the construction of a single family residence, in-ground swimming pool, driveway, dune enhancement, landscaping, and exterior lighting at 4540 Gordon Drive.		
Reviewed by Department Director Roger Reinke	Reviewed by Finance N/A	Reviewed by City Manager A. William Moss
Council Action:		

**NAPLES CITY COUNCIL AGENDA MEMORANDUM****Regular Meeting Date: May 18, 2011**

Agenda Section:	Prepared By: Adam A. Benigni, Senior Planner	
Regular	Date: May 2, 2011	Department: Planning
Agenda Item:	Legislative <input type="checkbox"/>	Quasi-Judicial <input checked="" type="checkbox"/>
11		
SUBJECT:		
Request for Conditional Use approval, pursuant to Section 56-92 of the Code of Ordinances, to allow office use which does not involve commercial activity in the R1-10, Residence District, located at 107 Broad Avenue South.		
SUMMARY:		
City Council is asked to consider a resolution determining Conditional Use Petition 11-CU5, pursuant to Section 56-92 of the Code of Ordinances, to allow office use which does not involve commercial activity in the R1-10, Residence District, located at 107 Broad Avenue South, owned by Stephen F. Briggs. In that this is a Quasi-Judicial matter, disclosures and the swearing in of those giving testimony are required.		
BACKGROUND:		
The subject property is a historic home and contributing structure in the City's Historic District. The current owner of the subject property, Stephen F. Briggs, wishes to sell the home to the Naples Historical Society in order to preserve the structure. The Naples Historical Society would like to use the home as an office but has proposed no new development on the property. However, they have asked for approval of a Conditional Use Petition pursuant to the recently amended Section 56-42 which reads as follows:		
<i>"Home occupations 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>		
The Historic Society wishes to operate an office which does not involve commercial activity in the home. The request would entitle them only to the uses allowed in the residential zoning district and an office use. They have no plans for retail, tours, museum or public assembly at the home. Any additional uses proposed in the future would likely require a rezoning of the property. The Planning Advisory Board unanimously recommended approval of the Conditional Use request at the April 13, 2011 meeting.		
File Reference: 11-CU5		
Petitioner: Naples Historical Society, Inc.		
Agent: Donald P. Wingard		
Location: 107 Broad Avenue South		
Zoning: R1-10 Residence District		
RECOMMENDED ACTION:		
Approve the resolution determining Conditional Use Petition 11-CU5, pursuant to Section 56-92 of the Code of Ordinances, to allow office use which does not involve commercial activity in the R1-10, Residence District, located at 107 Broad Avenue South owned by Stephen F. Briggs.		
Reviewed by Department Director Robin D. Singer	Reviewed by Finance N/A	Reviewed by City Manager A. William Moss
City Council Action:		

Whom and what are you representing: a residential community or a tourist destination?

Attractive Residential Community Initially

Haldeman/Crayton commercial/residential zoning
Third Street/Fifth Avenue: residential use businesses
single & multi-family housing
real estate agent = June Sloan
doctors = Jim Craig & Trystads
banker = Mamie Tooke
diversity of housing
diversity of residents
local talent and employment
residents: network, interaction, dedication, & feedback
resident employees of the city/county/private business

FIRST local contributors & control

Briggs: hospital
Norris: pier restoration
Lee: Central Avenue library
Kerkoff: animal shelter

What has happened to our dear city?

Tourist Destination: Stimulus & Results

special interest control
commercial and residential developers
invasion by non-resident population
residential/business property exploitation
loss of residents' representation
loss of business diversity
loss of employee housing

Activity increase in Downtown Neighborhood

- 1) non-resident tours & tourist congestion
- 2) traffic congestion: pedestrian, bikes, vehicles
- 3) sidewalk congestion: pedestrian, skates, bikes
- 4) loss of parking
- 5) noise & rudeness
- 7) littering, trespassing, and stealing
- 9) loss of residential privacy, safety, & enjoyment
- 10) significant increase in residential property taxes

City wide problems: increased taxes and health

non-resident planners/police/workers
MacMansion construction
loss of pervious surface
paving of lots/streets/sidewalks/alleys
flooding of houses, land, and waterways
water, air, & noise pollution

SUPPLEMENT

CHIRGWIN

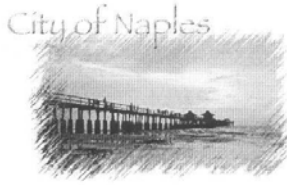
11



NAPLES CITY COUNCIL AGENDA MEMORANDUM

Regular Meeting Date: May 18, 2011

Agenda Section:	Regular	Prepared By: Adam Benigni, Senior Planner
		Date: May 3, 2011 Department: Planning
Agenda Item:	12	Legislative <input checked="" type="checkbox"/> Quasi-Judicial <input type="checkbox"/>
SUBJECT: First Reading of an Ordinance approving Text Amendment 11-T5 in order to add Section 16-52(s) Zoning Review Fee and Section 46-44, Zoning Verification Letters to the Code of Ordinances.		
SUMMARY: City Council is asked to consider First Reading of an Ordinance approving Text Amendment 11-T5 by adding Subsection 16-52 (s), Zoning Review Fee and Section 46-44, Zoning Verification Letters to the Code of Ordinances in order to establish a fee for zoning review of building permits and establish a fee for zoning verification letters.		
BACKGROUND: At the City Council Workshop of September 13, 2010, the Planning Department discussed raising petition fees to include advertising costs and also adding a fee for zoning verification letters. City Council directed staff to draft the necessary ordinance and resolution. Zoning review had previously been conducted by a Zoning Permit Technician employed by the Building and Zoning Department. That responsibility was transferred to the Planning Department as provided in the FY 2008-09 budget. The Planning Department has not charged a fee for this service. The Planning Department reviews various building permit applications (e.g. single-family new, signs, fences, commercial addition alteration, etc) as part of the overall permit review process. In order to help offset staff time, Planning staff recommends a zoning review fee that would be applied to each permit that requires zoning review. The proposed fee is \$25.00 and will be included with the applicable fees associated with a building permit. The City does not charge for zoning verification letters. A zoning verification letter results when an individual, usually a developer or realtor, specifically requests written confirmation of zoning for a particular parcel. Some of these requests may take several hours to complete, depending upon the amount of research that is required. These may include questions regarding non-conformities and past code and permit information. Simple requests for zoning districts and setbacks that can be answered with a phone call or single email will continue to be free but the recommended fee for a zoning confirmation letter is \$100.00. Without fees as proposed, zoning review services are funded by general revenues, including property taxes, while the services provided benefit the individual or firm seeking various building permits, and not the general public. The fee would be deposited into the General Fund. The proposed fees will be included in a Resolution to Amend Appendix "A" of the City Code, which is the schedule of fees, and will be presented along with Second Reading of this Ordinance. At their April 13, 2011 meeting, the Planning Advisory Board voted 7 to 0 to approve Text Amendment 11-T5.		



NAPLES CITY COUNCIL AGENDA MEMORANDUM

Regular Meeting Date: May 18, 2011

Page Two

Agenda Item:

12

RECOMMENDED ACTION:

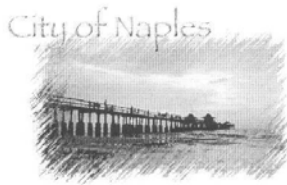
City Council approve the Ordinance adopting Text Amendment 11-T5 to the Code of Ordinances, City of Naples in order to add Section 16-52(s) Zoning review fee and to add Section 46-44, Zoning verification letters on First Reading and schedule a Second reading for June 1, 2011.

Reviewed by Department Director
Robin Singer

Reviewed by Finance
N/A

Reviewed by City Manager
A. William Moss

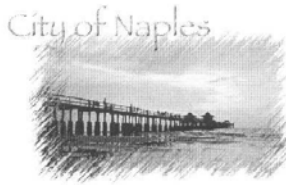
City Council Action:



NAPLES CITY COUNCIL AGENDA MEMORANDUM

Regular Meeting Date: May 18, 2011

Agenda Section:	Prepared By: Erica J. Goodwin, Planner II	
Regular	Date: April 26, 2011	Department: Planning
Agenda Item:	Legislative <input checked="" type="checkbox"/>	Quasi-Judicial <input type="checkbox"/>
13		
SUBJECT:		
First Reading of an Ordinance relating to arbors, trellises and pergolas for the purpose of providing regulations and setback requirements.		
SUMMARY:		
City Council is asked to consider an Ordinance on First Reading relating to arbors, trellises and pergolas' amending Subsection (3) and adding a new Subsection (4) to Section 56-54; amending Subsection (4) of Section 58-116; amending Subsection (d) (1) of Section 58-124 of the Code of Ordinances, for the purpose of providing regulations and setback requirements for arbors, trellises and pergolas.		
BACKGROUND:		
Section 56-54 of the Code of Ordinances provides for allowable yard encroachments in the City's various zoning districts and permits a variety of design elements to extend into a property's required yards (see attached regulations). Per subsection 56-54 (a) (3), arbors and trellises are not considered yard encroachments, provided that they are intended for the support of horticultural growth.		
<i>Zoning interpretation 91-12 was drafted in 1991 to further clarify that "the horticultural growth must be the primary intrusion into the required yard; the "support therefore" must be secondary to it. The "arched arbors or trellises" referred to in the above provision are intended to be free-standing "braces" for vines and/or shrubbery and are not intended to be attached to the tops of fences (adding to their height) or to the eaves of buildings (adding to the eave encroachment which is limited to three feet into the side yard)".</i>		
Currently, staff denies requests for arbors/trellises/pergolas that are structurally or physically attached to any part of a building or another structure or that appear to be intended for a use other than the support of horticultural growth. However, staff suggests that these architectural elements be allowed to attach to and become an element of a building or fence, provided that they do not increase the height of the fence beyond the maximum allowable height and/or do not increase the encroachment of an eave beyond the maximum allowed 36".		
Permit applications have been submitted for such structures to be located on pool decks, in driveways to serve as carports, and on patios to serve as lanais. While an arbor/trellis/pergola that is enclosed with roofing or wall material is not approved, the Code currently does not regulate the height, size or acceptable materials of arbors, trellises and/or pergolas. These structures can be attractive design elements and should be permitted in all residential districts; however, staff feels that the code should be clarified to include restrictions on their permissible location.		
The Port Royal Property Owners' Association, following discussions with their Architecture Committee, has requested that specific regulations be added to the R1-15A Residence district zoning regulations in Division 4, Chapter 58 of the Code of Ordinances to include arbors/trellises/pergolas as encroachments which are not allowed in any side or rear yard setback. The Port Royal Property Owners' Association published a notification of their requested text changes in the March edition of their newsletter, <i>The Port Royal Times</i> .		
City Council discussed the proposed language of Text Amendment 11-T6 at the January 18, 2011 Workshop. Staff also discussed this item with the Presidents' Council at their meeting on January 24, 2011.		

**NAPLES CITY COUNCIL AGENDA MEMORANDUM**Regular Meeting Date: May 18, 2011

Page Two

Agenda Section:	Regular	Prepared By: Erica J. Goodwin, Planner II
Agenda Item:	13	Date: April 26, 2011 Department: Planning
		Legislative <input checked="" type="checkbox"/> Quasi-Judicial <input type="checkbox"/>

BACKGROUND (cont.):
The Presidents' Council discussed the need for regulations regarding a side yard setback and for trellises in the front yard to be located where they do not impede visibility for ingress and egress from neighboring driveways. On April 13, 2011, the Planning Advisory Board voted to recommend approval of Text Amendment 11-T6. The PAB did not find it necessary to regulate the size, height or material of trellises, but expressed concern regarding maintenance of a side yard setback, recommending that a setback of 5 feet be imposed for trellises in the side yard.

The proposed changes will provide the following (underlined text):

Sec. 56-54. - Yards. (Citywide)

(4) Arbors, trellises or pergolas in Multiple-family and single-family districts, excluding the R1-15A district.

(a) Shall not be enclosed, must be a minimum of 50% open to the sky above, and may be used only to provide shade or serve as a decorative architectural or horticultural support element and may not be used as a carport, storage shed, boat shelter or the like.

(b) Shall maintain the following setbacks:

1. Side yard; same as primary structure for the respective zoning district.
2. Rear yard abutting waterfront; 15 feet.
3. Rear yard not abutting waterfront; 5 feet.
4. Front yard; 5 feet or minimum required to maintain visibility for ingress and egress to neighboring properties, whichever is more restrictive.

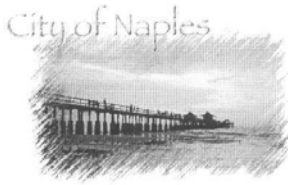
DIVISION 4.- R1-15A RESIDENCE DISTRICT (Port Royal)

Sec. 58-116. - Minimum yards.

(4) Encroachments. No encroachments other than those listed in subsection (5) of this section shall be permitted. Cornices, overhangs, awnings, eaves, gutters, trellises, pergolas, arched arbors, and other elements as listed in section 56-54 shall not be permitted to encroach into any side or rear yard setback, or extend beyond any platted building line, in the R1-15A zoning district. Structures less than 36 inches in height, as measured from the crown of the road shall not be considered as encroachments, except that under no circumstances shall air conditioning, pool mechanical equipment or generators encroach into any required setback area. Crown of the road is defined as the height measurement of the road adjacent to the property. If the road slopes the length of the property the average of the highest and lowest crown elevations shall be used as the base point.

RECOMMENDED ACTION:
Approve First Reading of an Ordinance relating to arbors, trellises and pergolas; amending Subsection (3) and adding a new Subsection (4) to Section 56-54; amending Subsection (4) of Section 58-116; amending Subsection (d) (1) of Section 58-124 of the Code of Ordinances for the purpose of providing regulations and setback requirements for arbors, trellises and pergolas; and schedule a Second Reading and Public Hearing for the June 1, 2011 meeting.

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

Regular Meeting Date: May 18, 2011

Agenda Section:	Regular	Prepared By: Robin Singer, Director
Agenda Item:	14	Date: May 3, 2011 Department: Planning
		Legislative <input checked="" type="checkbox"/> Quasi-Judicial <input type="checkbox"/>
SUBJECT: First Reading of an Ordinance adopting Text Amendment 11-T7 to the Code of Ordinances to amend Articles I and II of Chapter 54, Subdivision Standards and to amend Section 54-77, Vacation of Streets, Alleys, Easements and Subdivision Plats.		
SUMMARY: City Council is asked to consider an Ordinance on First Reading, adopting Text Amendment 11-T7 to the Code of Ordinances, to amend Articles I and II of Chapter 54, Subdivision Standards and to amend Section 54-77 Vacation of Streets, Alleys, Easements and Subdivision Plats.		
BACKGROUND: City Council reviewed the proposed language of this amendment at the December 13, 2010 and February 14, 2011 Workshops. At their March 9, 2011 meeting, the Planning Advisory Board (PAB) reviewed and continued this item to the April 13, 2011 meeting at which time they voted 7-0 to recommend approval of Text Amendment 11-T7. In recognition of changes in State requirements for subdivisions and the need for clarity in the City's requirements, staff recommends changes to Chapter 54, Subdivision Standards. The attached ordinance addresses the following: <ul style="list-style-type: none">• In 2004, 2006, and 2008, the City developed and amended policies regulating the splitting of single family lots. The end result was that City Council review would be required to split lots where the underlying plat meets code requirements. These splits are reviewed as subdivisions even though they do not create three or more lots and do not meet the definition of a subdivision. The proposed change will provide for a direct review by City Council of a lot split and an administrative review under certain stipulated conditions.• The subdivision regulations do not currently require the re-platting of properties prior to development. This can result in old platted lot lines and easements under new structures. This amendment will require the re-platting of larger multiple family or non-residential properties for new development to clear the plat of any obsolete easements or property lines that are not relevant to the proposed development.• This amendment will also update the City's regulations to be consistent with State Statutes and incorporate State and Federal requirements.• There are redundant, nearly identical sections of the code that address the vacating of streets, easements and plats. This will eliminate one section from Chapter 54. At the March 9, 2011 PAB meeting, the Board recommended that the Chapter be revised to		



NAPLES CITY COUNCIL AGENDA MEMORANDUM

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BACKGROUND (cont.):

eliminate text regarding applications that may already be included in State Statutes and that a provision be added to allow the splitting of townhouse or zero lot line properties. The City Attorney also suggested that the section regarding vacations be retained in Chapter 46 and be deleted from Chapter 54. At the April 13, 2011 PAB meeting, the Board recommended approval of the ordinance without the provision for townhouse or zero lot line developments. That provision has been left in for review.

RECOMMENDED ACTION:

Approve First Reading of the Ordinance adopting Text Amendment 11-T7 to the Code of Ordinances, to amend Articles I and II of Chapter 54, Subdivision Standards and to amend Section 54-77, Vacation of Streets, Alleys, Easements and Subdivision Plats and schedule a Second Reading for June 1, 2011.

Reviewed by Department Director

Robin Singer

Reviewed by Finance

N/A

Reviewed by City Manager

A. William Moss

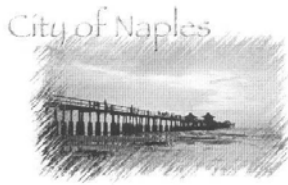
City Council Action:



NAPLES CITY COUNCIL AGENDA MEMORANDUM

Regular Meeting Date: May 18, 2011

Agenda Section:	Regular	Prepared By: Erica J. Goodwin, Planner II
Agenda Item:	15	Date: April 26, 2011 Department: Planning
		Legislative <input checked="" type="checkbox"/> Quasi-Judicial <input type="checkbox"/>
SUBJECT: First Reading of an Ordinance relating to measurement of distance separation for establishments selling or serving alcoholic beverages for the purpose of revising the method of measurement for the distance separation requirement for schools and churches.		
SUMMARY: City Council is asked to consider an Ordinance on First Reading relating to measurement of distance separation for establishments selling or serving alcoholic beverages; amending Subsection (c) of Section 56-122; repealing Subsection (e) of Section 56-122 of the Code of Ordinances for the purpose of revising the method of measurement for the distance separation requirement for schools and churches.		
BACKGROUND: Recent discussion regarding the hours of operation for establishments selling alcoholic beverages, and disagreement over the method of measurement for the required distance separation during deliberation of a Distance Waiver has prompted staff to examine the current Code and other local codes regarding the distance separation requirements for the sale of alcoholic beverages. Section 56-122 of the Code of Ordinances requires a minimum separation of 400 feet between churches and/or schools measured from the main entrance of the licensed premises to the main entrance of the church building or buildings or the main entrance of the school grounds in use as part of the school facilities. Subsection 56-122 (e) requires a minimum separation of 500 feet between establishments licensed to sell or serve alcoholic beverages, measured from the main entrance of the established licensee to the main entrance of the proposed licensee. In both cases the distance is measured along the route of ordinary pedestrian travel. Subsection 56-122 (f) of the Code of Ordinances provides the opportunity for an applicant to obtain a Waiver of Distance in order to waive these requirements. Since 1995, City Council has reviewed 32 Waiver of Distance requests and has approved each request. The Code provides less strict regulations regarding distance separation on Fifth Avenue. Within the Fifth Avenue South Special Overlay District, establishments with liquor licenses which require City Council approval through the Conditional Use Petition process, such as cocktail lounges, must be located no closer than 250 feet together as measured from front door to front door via the path of normal pedestrian travel. Other establishments with liquor licenses are specifically permitted in this District with no required separation from other businesses or licensees. Cocktail lounges, not accessory to restaurants, require Conditional Use approval in all commercial districts. Cocktail lounges are defined in the Code as establishments that sell primarily beer, wine, or alcoholic beverages for consumption on the premises and derive less than 51 percent of gross revenues in food. Recently an additional standard was added to the Conditional Use criteria providing that the collective impact of similar non-residential conditional uses shall not result in a		



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BACKGROUND (cont.):

single service district or have a negative effect on adjacent property values. Therefore, City Council will have the opportunity to review all requests for cocktail lounges to determine if the proximity of a new establishment to existing establishments will have a negative impact on the surrounding area. Staff recommends that the distance separation requirement between licensed establishments be removed from the code.

The proposed ordinance will remove the 500 foot distance separation requirement between establishments selling and/or serving alcoholic beverages. This will allow restaurants and package sales in close proximity to one another without following the petition, review, public notice, and quasi-judicial hearing process. Bars and lounges not accessory to a restaurant will still require a conditional use application and review process.

Staff recommends that the distance separation requirement for schools and churches remain, but that the method of measurement be revised. Measuring along the route of ordinary pedestrian travel can result in disputes over whether routes only along sidewalks should be considered. These distances can vary depending on who and how the measurement is taken. Staff recommends using a property line to property line measurement as this can be measured using the City's mapping software, similar to what is used currently to provide notice. The proposed changes include the following language:

Sec. 56-122. – Alcoholic beverages, location criteria.

(c) Measurement of distance from church or school. The distance of 400 feet shall be measured as follows:

- (1)** The distance of 400 feet shall be measured as the shortest distance between the lot on which the existing church or school is located and the lot on which the alcoholic beverages are to be sold, except that establishments located in shopping centers shall be measured to the outer wall of the alcoholic beverage establishment.

This text amendment was discussed by City Council at their workshop meeting on March 14, 2011 and consensus was reached to support the staff recommended amendments to the ordinance as submitted. At their meeting on April 13, 2011, the Planning Advisory Board voted to recommend approval of Text Amendment 11-T8 to the City Council.

RECOMMENDED ACTION:

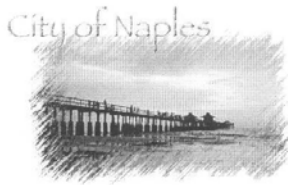
Approve an Ordinance on First Reading relating to measurement of distance separation for establishments selling or serving alcoholic beverages; amending Subsection (c) of Section 56-122 for the purpose of revising the method of measurement for the distance separation requirement for schools and churches; repealing Subsection (e) of Section 56-122 of the Code of Ordinances to remove the 500 foot distance separation requirement between establishments selling and/or serving alcoholic beverages; and schedule the Second Reading and Public Hearing for the June 1, 2011 meeting.

Reviewed by Department Director
Robin Singer

Reviewed by Finance
N/A

Reviewed by City Manager
A. William Moss

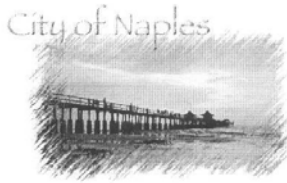
City Council Action:



NAPLES CITY COUNCIL AGENDA MEMORANDUM

Regular Meeting Date: May 18, 2011

Agenda Section:	Regular	Prepared By: Bob Middleton, Director
		Date: May 3, 2011 Department: Utilities
Agenda Item:	19 (a), (b), and (c)	Legislative <input checked="" type="checkbox"/> Quasi-Judicial <input type="checkbox"/>
<p>SUBJECT: Three (3) Resolutions accepting an Agreement for Easement, a Temporary Construction Easement and a Perpetual Intake Structure, Water Line and Transmission Main Easement from Bear's Paw Country Club in order to construct the Golden Gate Canal pump station and transmission main.</p>		
<p>SUMMARY: City Council is asked to consider the following Resolutions related to the construction of the Golden Gate Canal Pump Station and Transmission Main on property owned by Bear's Paw Country Club:</p> <ol style="list-style-type: none"> 1. Resolution accepting an Agreement for Easement from Bear's Paw Country Club, Inc. for construction and access to the Golden Gate Intake Structure and Transmission Main at the Bear's Paw Country Club and directing the City Clerk to record the Easement. 2. Resolution accepting a Temporary Construction Easement from Bear's Paw Country Club, Inc. for construction of utility facilities related to the Golden Gate Canal Intake Structure and Transmission Main and directing the City Clerk to record the Easement. 3. Resolution accepting a Perpetual Intake Structure, Water Line and Transmission Main Easement from Bear's Paw Country Club, Inc. for access to utility facilities along the southern boundary of Bear's Paw Country Club and directing the City Clerk to record the Easement. <p>BACKGROUND: On October 1, 2008, City Council adopted the Integrated Water Resources Plan (IWRP) to provide a sustainable water supply source for a 20-year planning period. The strategic plan includes the use of surface water from the Golden Gate Canal by constructing an intake structure and transmission line to the Wastewater Treatment Plant on Riverside Circle, construction of ASR wells to store surface and reclaimed water during the rainy months, and expansion of the reclaimed distribution system.</p> <p>Incorporated with this Agenda are several awards of contract for the construction of the Golden Gate Canal Intake Structure and water transmission line, the purchase of high service water pumps, and construction management services. Construction of the Golden Gate Canal and a portion of the water distribution line require several easements from the Bear's Paw Country Club. Easement agreements with other property owners are under negotiation at this time.</p> <p>City staff and the project engineer, Camp Dresser & McKee, Inc. (CDM), have negotiated easement agreements with Bear's Paw Country Club over the past year to accommodate the construction of the intake structure and a portion of the transmission main.</p>		



NAPLES CITY COUNCIL AGENDA MEMORANDUM

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19 (a), (b), and (c)

BACKGROUND (cont.):

The Board of the Bear's Paw Country Club approved three (3) easement agreements: an Agreement for Easement, a Temporary Construction Easement, and a Perpetual Intake Structure, Water Line and Transmission Main Easement.

The Agreement for Easement requires Bear's Paw to execute and deliver the Temporary Construction Easement and the Perpetual Intake Structure, Water Line and Transmission Main Easement and provide a second temporary easement to allow the contractor to layout the fused pipe as part of the horizontal direction drill installation under the Golden Gate Canal. The schedule for this work will be completed between May 1, 2012 and July 1, 2012. The project requires access through Bear's Paw service gate, construction adjacent to the canal for the intake structure, construction along and replacement of the service road, and construction adjacent to and within the golf course.

The Easement Agreement provides compensation to Bear's Paw in the amount of \$2,000 annually. This amount will be adjusted by the Florida Public Service Commission Deflator Index issued by the Florida Public Service Commission on an annual basis.

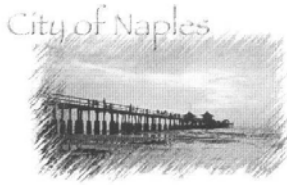
The following are additional covenants to be provided by the City:

- ☐ Construct a wall around the pump station that will match the existing wall at the southeast corner of the Bear's Paw property.
- ☐ Repave the Bear's Paw maintenance road and install a 2-inch conduit from Airport Road to the maintenance building after the transmission main is installed.
- ☐ Clear and remove all exotic vegetation within the temporary easement along the Golden Gate Canal.
- ☐ Pave the temporary contractor staging area located on the east side of the Bear's Paw maintenance facility.

The Temporary Construction Easement provides a 60-foot easement to allow the contractor to install the intake structure (pump station) and transmission main along the southern boundary of the Bear's Paw property. The easement descriptions indicate the areas that contain exotic vegetation to be removed by the City's contractor. This agreement will automatically terminate on October 1, 2012.

The Perpetual Intake Structure, Water Line and Transmission Main Easement provide the City with a 20-foot permanent easement where the pump station and transmission main will be constructed. This easement will allow the City to access and maintain the new utilities on Bear's Paw property.

Attached to the easement agreement are the exhibits that show the legal sketches of the proposed easements.



NAPLES CITY COUNCIL AGENDA MEMORANDUM

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19 (a), (b), and (c)

RECOMMENDED ACTION:

Approve three (3) resolutions as follows:

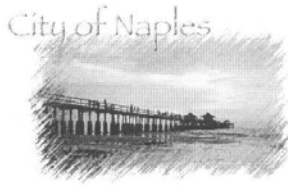
1. Resolution accepting an Agreement for Easement from Bear's Paw Country Club, Inc. for construction and access to the Golden Gate Intake Structure and Transmission Main at the Bear's Paw Country Club and directing the City Clerk to record the Easement.
2. Resolution accepting a Temporary Construction Easement from Bear's Paw Country Club, Inc. for construction of utility facilities related to the Golden Gate Canal Intake Structure and Transmission Main and directing the City Clerk to record the Easement.
3. Resolution accepting a Perpetual Intake Structure, Water Line and Transmission Main Easement from Bear's Paw Country Club, Inc. for access to utility facilities along the southern boundary of Bear's Paw Country Club and directing the City Clerk to record the Easement.

Reviewed by Department Director
Bob Middleton

Reviewed by Finance
N/A

Reviewed by City Manager
A. William Moss

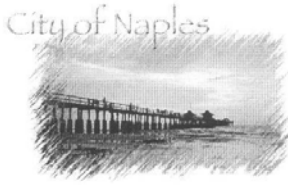
City Council Action:



NAPLES CITY COUNCIL AGENDA MEMORANDUM

Regular Meeting Date: May 18, 2011

Agenda Section:	Regular	Prepared By: Gregg Givens through Roger Reinke
Agenda Item:	21	Date: May 2, 2011 Department: City Council
		Legislative <input checked="" type="checkbox"/> Quasi-Judicial <input type="checkbox"/>
SUBJECT:		
A resolution to award a grant and approve a Grant Agreement with Habitat for Humanity of Collier County for the purpose of implementing affordable housing efforts; authorize the City Manager to execute the Agreement; and approve a Budget Amendment to appropriate funds for the grant		
SUMMARY:		
City Council is asked to consider a resolution awarding grant funds to Habitat for Humanity of Collier County in the amount of \$182,843 from the Capital Projects Restricted Fund 340 for the purpose of implementing affordable housing efforts designated under Development of Regional Impact (DRI) Resolution 93-6882, approving a Grant Agreement with Habitat for Humanity of Collier County, authorizing the City Manager to execute the Agreement, and approving amending the FY 2010/11 Budget as adopted by Ordinance 10-12761 in the amount of \$182,843 in order to appropriate funds		
BACKGROUND:		
In 1994, Coastland Center Mall contributed \$182,843 to the City for certain "affordable housing mitigation" related to their Development of Regional Impact Application for Development. Guidelines for the use of these funds are stated in Resolution 93-6882, approved by City Council on April 7, 1993 and states in brief, <i>"Such fund shall be administered by an appropriate community agency for the purpose of expeditiously increasing the supply of affordable housing available to very low income households within the City of Naples through a mortgage assistance program, a housing rehabilitation program, or an affordable housing construction program, or a combination of any such programs."</i>		
At the April 18, 2011 City Council Workshop, City Council reviewed the concept of using the expertise and experience of Habitat for Humanity of Collier County as the implementing agency for the City's affordable housing fund efforts. The City will award funding to Habitat to purchase home foreclosures in low and moderate income areas within the City of Naples jurisdictional limits. Habitat will then, using their own financing mechanisms and resources, rehabilitate the home and locate a family into the newly renovated affordable property. The family, who must be currently living in the City of Naples, will be identified from a pre-qualified Habitat tenant listing. The new tenant/owner of the property will be subject to terms and conditions insuring community and neighborhood stabilization.		
The FY 2010-11 Budget did not include this grant to Habitat for Humanity and therefore a Budget Amendment is being requested to appropriate funds in the amount of \$182,843 from the Affordable Housing Trust Fund to the 340 Capital Project Fund.		



NAPLES CITY COUNCIL AGENDA MEMORANDUM

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FUNDING SOURCE:

The total source of funding in the amount of \$182,843 will be from the Capital Projects Fund 340.

RECOMMENDED ACTION:

Adopt a Resolution approving a Grant Agreement with Habitat for Humanity of Collier County for the purpose of implementing affordable housing efforts under Coastland Center Development of Regional Impact Resolution 93-6882; amending the FY 2010-11 Budget adopted by Ordinance 10-12761 to fund the Grant Agreement; and authorizing the City Manager to execute the Agreement.

Reviewed by Department Director
Roger Reinke

Reviewed by Finance
Ann Marie Ricardi

Reviewed by City Manager
A. William Moss

City Council Action:



NAPLES CITY COUNCIL AGENDA MEMORANDUM

Regular Meeting Date: May 18, 2011

Agenda Section: Regular	Prepared By: Robert D. Pritt, City Attorney Date: May 17, 2011 Department: City Attorney
Agenda Item: To be added	Legislative <input checked="" type="checkbox"/> Quasi-Judicial <input type="checkbox"/>
SUBJECT: Conflict of Representation for Horizon House Appeal.	
<p>BACKGROUND: Horizon House is appealing the interpretation of the Fire Code by the Fire Chief and Fire Marshal to the City Council sitting as the Board of Appeals. The hearing date is tentatively scheduled for June 1, 2011. I have discovered that my firm has a conflict in representation, and since the matter is directly between the City and Horizon House, the conflict is not one that can be waived. Therefore, I am obtaining outside counsel to provide legal services for this matter.</p> <p>Secondly, the City Council has the option to have the matter heard by a special master/magistrate whose function is to hear the matter and make a finding of fact, conclusions of law along with a recommended order or decision for the City Council. The City Council would then have the option to affirm the decision or take further testimony and make its own decision. The City has used this technique in the past on occasion, and in each case it seemed to have resolved the matter in a reasonable manner. To that end, I have contacted a retired judge who has experience in interpreting City ordinances and related law, including Board of Appeals' decisions, and who would be willing to serve as the special master/magistrate if Council should choose.</p>	
<p>RECOMMENDED ACTION: Please consider the foregoing in determining how to proceed with the appeal.</p>	
<div style="border: 1px solid black; padding: 5px; width: fit-content;"> SUPPLEMENT # <u> </u> </div>	
Reviewed by Department Director Robert D. Pritt	Reviewed by Finance N/A
Reviewed by City Manager A. William Moss	
City Council Action:	