



City Council Chamber
735 Eighth Street South
Naples, Florida 34102

City Council Regular Meeting – August 17, 2011 – 8:29 a.m.

Mayor Barnett called the meeting to order and presided.

ROLL CALL..... ITEM 1

Present:

Bill Barnett, Mayor
John Sorey, III, Vice Mayor

Council Members:

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

Also Present:

William Moss, City Manager
Robert Pritt, City Attorney
Tara Norman, City Clerk
Roger Reinke, Assistant City Manager
Vicki Smith, Technical Writing Specialist
Joe Boscaglia, Parks & Parkways Superintendent
David Lykins, Community Services Director
Gregg Strakaluse, Streets & Stormwater Director
Denise Perez, Human Resources Director
Lori Parsons, Risk Manager
George Archibald, Traffic Engineer

Michael Vannicola
Matthew Kragh
John Passidomo
Lise Sundria
Joel Kessler
Lou Vlasho
Huguette Nelson

Media:

Kelly Farrell, Naples Daily News

Other interested citizens and visitors

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

Father Michael Vannicola, St. Ann Catholic Church.

ANNOUNCEMENTS..... ITEM 3

None.

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

MOTION by Sorey to SET THE AGENDA removing Item 7-b(9) from the Consent Agenda for separate discussion; seconded by Sulick and unanimously carried, all members present and voting (Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sorey-yes, Sulick-yes, Barnett-yes).

PUBLIC COMMENT ITEM 5

(8:31 a.m.) None.

CONSENT AGENDA

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

June 1, 2011 Regular; June 13, 2011 Workshop; and June 15, 2011 Regular Meeting minutes; as submitted.

SPECIAL EVENTS ITEM 7-b

- 1) 62nd Annual Swamp Buggy Parade – Swamp Buggy, Inc. – US 41 from Fleischmann Boulevard to Third Avenue South – 10/29/11.
- 2) Festival of Lights 2011 – Third Street South Association – Third Street South Shopping District – 11/21/11.
- 3) Christmas Parade 2011 – City of Naples – Third Street South – 12/06/11.
- 4) Naples Invitational Art Fest – Eden Institute Foundation, Inc. – Fleischmann Park – 01/28/12.
- 5) Big Band Jazz Concerts – Naples Jazz Orchestra – Cambier Park Bandshell – 01/09/12, 01/23/12, 02/06/12, 02/20/12, 03/05/12, 03/19/12 and 04/09/12.
- 6) SW Florida Big Band Concerts – SW Florida Big Band – Cambier Park Bandshell – 01/21/12, 02/18/12 and 04/22/12.
- 7) Naples Music Festival – Garden of Hope and Courage – Tommy Bahamas Parking Lot – 04/01/12.
- 8) Art in the Park – Naples Art Association – Park Street – 11/05/11, 12/03/11, 02/04/12, 03/03/12 and 04/07/12.
- 9) Removed from Consent Agenda for separate discussion – see below.

CLERK'S TRACKING #11-00031 ITEM 7-c

AWARDING A CONTRACT FOR THE ACQUISITION AND PLANTING OF MAHOGANY TREES ALONG CRAYTON ROAD AS PART OF THE TREE FILL-IN PROGRAM: \ VENDOR: AMERI-PRIDE, INC., TALLAHASSEE, FLORIDA \ COST: \$80,000 \ FUNDING: GENERAL FUND CONTINGENCY.

RESOLUTION 11-12925 ITEM 7-d(1)

A RESOLUTION REAPPOINTING JOHN COWAN AS A CITIZEN ACTIVELY ENGAGED AS A NOT-FOR-PROFIT PROVIDER OF AFFORDABLE HOUSING TO THE COLLIER COUNTY AFFORDABLE HOUSING ADVISORY COMMITTEE FOR A THREE-YEAR TERM COMMENCING SEPTEMBER 3, 2011, AND EXPIRING SEPTEMBER 2, 2014; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 11-12926 ITEM 7-d(2)

A RESOLUTION CONFIRMING THE APPOINTMENT OF ONE MEMBER OF THE ADMINISTRATIVE STAFF TO THE BOARD OF TRUSTEES OF THE CITY OF NAPLES GENERAL RETIREMENT SYSTEM FOR THE BALANCE OF A FOUR-YEAR TERM EXPIRING MARCH 3, 2015; AND PROVIDING AN EFFECTIVE DATE. Title not read.

MOTION by Price to APPROVE CONSENT AGENDA except Item 7-b(9) as submitted; seconded by Heitmann and unanimously carried, all members present and voting (Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sorey-yes, Sulick-yes, Barnett-yes).

END CONSENT AGENDA

..... ITEM 7-b(9)

NAPLES ART, ANTIQUE AND JEWELRY SHOW – PALM BEACH SHOW GROUP – 101 GOODLETTE-FRANK ROAD – 02/09/12, 02/10/12, 02/11/12, 02/12/12 AND 02/13/12. (8:32 a.m.) In response to Council Member Sulick's questions regarding parking for the event, Community Services Director David Lykins explained that all vehicles will be contained on site, with volunteers directing this activity. Staff has worked closely with the event sponsors to ensure that the City's special event criteria will be met, he emphasized.

Public Comment: (8:33 a.m.) None.

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

RESOLUTION 11-12927 ITEM 8
A RESOLUTION DETERMINING SITE PLAN WITH DEVIATIONS PETITION 11-SPD2 FOR THE CONSTRUCTION OF A NEW MIXED USE BUILDING TO ALLOW TRANSIENT LODGING, A BANK DRIVE-UP WINDOW, OFF-SITE PARKING WITHIN 600 FEET, VALET PARKING, AND A PARKING NEEDS ANALYSIS; PROPOSING DEVIATIONS BY ALLOWING NON-LEASABLE ARCHITECTURAL EMBELLISHMENTS ON THE BUILDING TO EXCEED 42 FEET, ALLOWING THE THIRD FLOOR BALCONIES TO PROJECT 3 FEET, ALLOWING ALL 3 FLOORS OF THE BUILDING 30 FEET FROM THE MIDPOINT OF THE ALLEY; PROVIDING CURVED CORNER FACADES, AND ALLOWING THE SOUTHWEST CORNER OF THE BUILDING 24 FEET FROM THE CENTERLINE OF THE ALLEY FOR THE PROPERTY OWNED BY PHILLIP J. MCCABE, TRUSTEE, LOCATED AT 690 FIFTH AVENUE SOUTH, MORE FULLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (8:34 a.m.). This being a quasi-judicial proceeding, Notary Public Vicki Smith administered an oath to those intending to offer testimony; all responded in the affirmative. City Council Members then made the following ex parte disclosures: all indicated various forms of communication indicating support of the project as well as Sulick/visited the site; Saad, Barnett and Price/met with the petitioner and spoke with the petitioner's agent; Finlay and Sorey/met with the petitioner and petitioner's agent; and Heitmann/spoke with the petitioner's agent. Planning Director Robin Singer provided a brief overview of the petition as contained in her August 1 and August 16 memorandums (Attachment 1 and 2, respectively), the latter addressing revisions per the Planning Advisory Board (PAB) review of July 13. She further noted the City Attorney's July 12 opinion regarding the requested height deviation (Attachment 3).

Attorney John Passidomo, agent for the petitioner, utilized an electronic presentation to summarize the project, also confirming the petitioner's agreement with the conditions contained in the revised resolution and urged its approval. (It is noted for the record that a printed copy of the presentation, and the resolution referenced, are contained in the file for this meeting in the City Clerk's Office.)

Public Comment: (8:56 a.m.) **Joel Kessler, Executive Director and CEO of the von Liebig Art Center**, noted the Board of Directors' support of the project, explaining that it is anticipated that the project will be an enhancement to the area, drawing visitors to the art center; he urged its approval.

Attorney Passidomo then confirmed for Council Member Saad that the diagram submitted with the revised resolution was in fact that referenced under Section 7. City Attorney Pritt recommended that the "McCabe Building Park Street Improvement Plan dated August 16, 2011" be attached to the resolution as Exhibit A (appended hereto as Attachment 4); Council agreed. Vice Mayor Sorey commended the project and the developer's willingness to follow the Park Street Plaza design previously brought forward by local architect, Andrea Clark Brown, especially with regard to the limitation of the Park Street entrance off of Fifth Avenue South. Mr. Passidomo additionally agreed that the petitioner would fund the crosswalk pavers (as reflected on Attachment 4) as well as those for the sidewalk.

With regard to the bank drive-thru, Mr. Passidomo observed that the drive-thru was a prerequisite of the bank; the ingress/egress will be the alley and not Park Street, he added. He further said that without a bank, the project would not proceed. Council Member Price expressed his hope that the bank will increase pedestrian traffic in the area and that pedestrian flow will be well managed with the design. Mr. Price then received confirmation from Mr. Pritt that his memorandum (see Attachment 3) did support the opinion that Council could approve

the requested height deviations for architectural features and embellishments. Mr. Price expressed his support of the project as presented.

Addressing Council Member Sulick's concerns, Ms. Singer explained that a consolidated refuse compactor is located across the alley within Cambier Park and that numerous businesses utilized it. The lighting fixtures recently installed by the City along Park Street will also remain, although should issues arise during construction, the developer is to coordinate with City staff and fund any amendment of the lighting scheme. The existing parking lot will be utilized and improved landscaping is planned, Ms. Singer said. The resolution was then amended as reflected below with regard to valet parking stand prohibitions.

Public Comment (cont): (9:13 a.m.) (It is noted for the record that the following speakers were sworn separately.) **Lise Sundria and Lou Vlasho, Fifth Avenue South Business Improvement District (FASBID), and Huguette Nelson, 621 Fifth Avenue South;** each expressed support of the project, urging its approval.

In response to Council Member Heitmann, Mr. Passidomo indicated that the petitioner had no intention, at that time, of pursuing a restaurant for the first floor of the project; however, a woman's apparel shop is anticipated, he added. In addition, he also agreed with Mrs. Heitmann that an additional lighting fixture, at the corner of Park Street and the alley between Fifth Avenue and Cambier Park, should be considered. Signage for placement on the towers of the building is to be addressed by the Design Review Board (DRB), he added. With regard to the DRB review, City Attorney Pritt recommended the amendment to Section 2 as reflected below.

Discussion followed regarding the use of pavers for the sidewalk during which Traffic Engineer George Archibald (sworn separately) explained that according to standard operating procedures, should a property owner install pavers, no matter the location, the property owner is responsible for the maintenance. In areas such as the cultural walkway (see Attachment 4, abutting east side of Vergina's Restaurant) the City maintains the pavers due to the fact that it installed the pavers, he concluded. City Manager William Moss indicated that this would be addressed during the site plan review process.

MOTION by Saad to APPROVE RESOLUTION 11-12927 amended as follows:
Section 2: "...Land Design), which shall be followed substantially by the
Design Review Board, copies of which..."; Section 2-1: "...in these areas.
There shall be no valet parking stand on Park Street and the existing valet
stand on Fifth Avenue South is the only permitted valet stand.";
Section 2-7: "...a copy of which is attached hereto as Exhibit A and on file
...". This motion was seconded by Price and unanimously carried, all
members present and voting (Finlay-yes, Heitmann-yes, Price-yes, Saad-
yes, Sorey-yes, Sulick-yes, Barnett-yes).

RESOLUTION 11-12928 ITEM 9
A RESOLUTION DETERMINING CONDITIONAL USE PETITION 11-CU6, PURSUANT TO
SECTION 50-102(b)(2) OF THE CODE OF ORDINANCES, IN ORDER TO ALLOW PARKING
TO BE PROVIDED OFF-SITE BUT WITHIN 600 FEET OF THE USE THAT IT SERVES ON
PROPERTY ZONED C-1 RETAIL SHOPPING AND PD PLANNED DEVELOPMENT, OWNED
BY NEAPOLITAN ENTERPRISES, LLC, LOCATED AT 1135 THIRD STREET SOUTH, 1250-
1290 THIRD STREET SOUTH AND THE PARKING LOTS IDENTIFIED HEREIN BY FOLIO
NUMBERS, MORE FULLY DESCRIBED HEREIN; AND PROVIDING AN EXPIRATION DATE
AND AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (9:37 a.m.). This being a quasi-judicial proceeding, Notary Public Vicki Smith administered an oath to those intending to offer testimony; all responded in the affirmative. City Council Members then made the following

City Council Regular Meeting – August 17, 2011 – 8:29 a.m.

ex parte disclosures: Finlay, Price, Sulick and Heitmann/visited the site but no contact; Saad/visited the site and spoke with the petitioner and the petitioner's agent; Barnett/visited the site and spoke with the petitioner's agent; and Sorey/visited the site and spoke with the petitioner. Planning Director Robin Singer provided a brief overview of the petition as contained in her memorandum dated July 18 (Attachment 5), noting that staff recommended approval.

Architect Matthew Kragh, agent for the petitioner, utilized electronically generated aerials and diagrams in providing details of the request, summarizing that the final outcome would involve earmarking 15 parking spaces from the new lot for employee parking thereby allowing restaurant patrons to park in the existing lot. (It is noted for the record that printed copies of Mr. Kragh's presentation are contained in the file for this meeting in the City Clerk's Office.)

Public Comment: (9:49 a.m.) None.

MOTION by Saad to APPROVE RESOLUTION 11-12928 as submitted; seconded by Heitmann and unanimously carried, all members present and voting (Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sorey-yes, Sulick-yes, Barnett-yes).

RESOLUTION 11-12929 ITEM 10
A RESOLUTION DETERMINING VARIANCE PETITION 11-V3 FROM SECTION 50-35 OF THE CODE OF ORDINANCES IN ORDER TO ALLOW A FREESTANDING SIGN WITHIN THE MAIN ENTRANCE MEDIAN TO NAPLES BAY RESORT APPROXIMATELY ONE FOOT FROM THE DRIVE ENTRANCE AND EGRESS ON EITHER SIDE WHERE SIGNS ARE REQUIRED TO BE SETBACK 10 FEET FROM THE EDGE OF ANY DRIVE ON PROPERTY ZONED C2-A, OWNED BY NBR SHOPPES, LLC, LOCATED AT 1490-1540 FIFTH AVENUE SOUTH, MORE FULLY DESCRIBED HEREIN, SUBJECT TO THE CONDITION SET FORTH HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (9:50 a.m.). This being a quasi-judicial proceeding, Notary Public Vicki Smith administered an oath to those intending to offer testimony; all responded in the affirmative. City Council Members then made the following ex parte disclosures: Price, Sulick, Heitmann and Sorey/visited the site but no contact; Finlay and Barnett/familiar with the site but no contact; and Saad/familiar with the site and spoke with the petitioner's agent and affected merchants. Planning Director Robin Singer briefly reviewed the variance as discussed in her memorandum dated July 18 (Attachment 6), pointing out that existing free-standing signage would be removed and that staff and the Planning Advisory Board (PAB) recommended approval.

Architect Matthew Kragh, agent for the petitioner; utilized an electronic presentation (a printed copy of which is contained in the file for this meeting in the City Clerk's Office), explaining the need for new locations for signage which allow motorists the opportunity to merge into the proper lane of traffic for ingress to the retail area. He confirmed that the City's Traffic Engineer had been involved in the planning of the project and was to continue involvement during the construction phase to ensure pedestrian safety.

Public Comment: (10:02 a.m.) None.

MOTION by Saad to APPROVE RESOLUTION 11-12929 as submitted; seconded by Sulick and unanimously carried, all members present and voting (Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sorey-yes, Sulick-yes, Barnett-yes).

CLERK'S TRACKING #11-00032 ITEM 11
AWARDING A CONTRACT FOR THE REHABILITATION OF 10 PRODUCTION WELLS FOR THE WATER TREATMENT PLANT: \ VENDOR: WELLMASTERS, INC., MULBERRY, FLORIDA \ COST: \$91,197 \ FUNDING: WATER SEWER FUND – OTHER CONTRACTUAL SERVICES. (10:02 a.m.) City Manager William Moss reviewed the necessity for this contract as contained in the July 13 memorandum of Utilities Director Robert Middleton (Attachment 7).

Public Comment: (10:03 a.m.) None.

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

RESOLUTION 11-12930 ITEM 12
A RESOLUTION RATIFYING AND CONFIRMING THE ACTION OF THE MAYOR APPROVING AND EXECUTING AN INTERLOCAL AGREEMENT BETWEEN THE COLLIER COUNTY TAX COLLECTOR, COLLIER COUNTY PROPERTY APPRAISER AND THE CITY OF NAPLES FOR THE PREPARATION AND SUBMISSION OF THE FIFTH AVENUE SOUTH BUSINESS IMPROVEMENT DISTRICT NON-AD VALOREM ASSESSMENT ROLL AND THE RELATED UNIFORM COLLECTION AND ENFORCEMENT THEREOF; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (10:04 a.m.), who then noted that the Collier County Property Appraiser had reviewed and amended the originally provided agreement prior to its execution.

Public Comment: (10:05 a.m.) None.

MOTION by Barnett to APPROVE RESOLUTION 11-12930 as submitted; seconded by Saad and unanimously carried, all members present and voting (Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sorey-yes, Sulick-yes, Barnett-yes).

RESOLUTION 11-12931 ITEM 13
A RESOLUTION RATIFYING AND CONFIRMING THE ACTION OF THE MAYOR APPROVING AND EXECUTING A FLORIDA DEPARTMENT OF TRANSPORTATION CONSTRUCTION AGREEMENT FOR THE EAST NAPLES BAY DREDGING PROJECT TO ALLOW THE CITY TO PLACE ROCK (RIPRAP) WITHIN THE STATE RIGHT-OF-WAY UNDER THE US 41 GORDON RIVER BRIDGE; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (10:05 a.m.). City Manager William Moss noted that the executed document was a standard agreement necessary for the placement of riprap.

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

MOTION by Price to APPROVE RESOLUTION 11-12931 as submitted; seconded by Sulick and unanimously carried, all members present and voting (Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sorey-yes, Sulick-yes, Barnett-yes).

RESOLUTION 11-12932 ITEM 14
A RESOLUTION AUTHORIZING CLAIMS FUNDING AND PAYMENT OF SERVICE FEES FOR GROUP MEDICAL, PRESCRIPTION, AND STOP LOSS INSURANCE TO CIGNA HEALTHCARE; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (10:06 a.m.). A brief discussion of the automatic 3% administration fee ensued during which City Manager William Moss agreed with Council that this should be addressed with Cigna Healthcare due to the current economic situation; no one is realizing an annual 3% increase for services, Mr. Moss pointed out.

Public Comment: (10:09 a.m.) None.

MOTION by Sulick to APPROVE RESOLUTION 11-12932 as submitted; seconded by Finlay and unanimously carried, all members present and voting (Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sorey-yes, Sulick-yes, Barnett-yes).

RESOLUTION 11-12933 ITEM 15
A RESOLUTION APPROVING RENEWAL OF GROUP DENTAL INSURANCE FOR CITY EMPLOYEES WITH CIGNA DENTAL; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (10:09 a.m.).

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

MOTION by Price to APPROVE RESOLUTION 11-12933 as submitted; seconded by Sorey and unanimously carried, all members present and voting (Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sorey-yes, Sulick-yes, Barnett-yes).

PUBLIC COMMENT
(10:11 a.m.) None.

CORRESPONDENCE AND COMMUNICATIONS.....

(10:11 a.m.) Council Member Finlay referred to his August 16 e-mail to staff questioning the presentation at that week's workshop regarding the purchase of a street sweeper by Streets & Stormwater (Attachment 8). He said he had recommended outsourcing of this service be revisited and opened for bid. Vice Mayor Sorey agreed, saying that once actual costs are received, Council could then make an educated decision. City Manager William Moss however defended staff's position, noting that no opportunity had been given for a response to the aforementioned e-mail, especially with regard to Mr. Finlay's claim that the cost of in-house street sweeping had not reflected an accurate portrayal. Mr. Moss advised that he had been involved in the development of the report and requested that Council keep in mind that retaining the service in-house retains an employee in a department that is not over staffed whatsoever. Furthermore, having immediate response available when emergencies arise that necessitate this service, such as obstructed storm drains and auto accidents which leave debris on the roadway, requires an operator for the equipment. Council Member Sulick pointed out that the streets within Pelican Bay are much different than those within the City with regard to street sweeping and therefore questioned the price comparison offered by Mr. Finlay (see Attachment 8). Mr. Moss added that the quotes received by staff had not involved the types of roadway surfaces to be swept.

Council Member Sulick then requested that a workshop discussion be scheduled regarding repayment of the bonds for the parking garages in the redevelopment area, especially noting that it had been her understanding that as redevelopment took place, parking spaces in the new garage (located at Eighth Street and Sixth Avenue South) would be sold and thereby provide funding; Council concurred. In light of the fact that this is not occurring, she suggested that a fee be charged for parking within the garages and Vice Mayor Sorey added that a realistic pricing for the spaces should be established in light of the current economic downturn (currently \$28,900 per space). Council Member Price observed that additional topics for this discussion should include priorities within the redevelopment area and its debt service; the scenario has altered over the past two years and a new financial management plan is needed, he stated. City Manager Moss received confirmation that this discussion would occur as a Community Redevelopment Agency (CRA) workshop.

Noting time spent over the summer recess in contact with investment banks around the country, Council Member Price commended Council and staff for its budgetary process, managing City finances and maintaining its excellent municipal bond rating. He then requested that during

City Council Regular Meeting – August 17, 2011 – 8:29 a.m.

September the Economic Development Council (EDC) be scheduled to provide a presentation, along with City-owned business CEO's, to identify ways in which to stimulate economic development of existing companies as well as attracting new enterprises. The intent, he pointed out, would be that eventually the City would sponsor one or two of these entrepreneurs to aid in their company's development and create more jobs; Council concurred. In response to Vice Mayor Sorey, Mr. Price indicated that he would in fact provide a written report to Council containing his proposed budget recommendations which he had made reference to during that Monday's budget workshop; the complete report would be made available prior to the September budget hearings, Mr. Price added.

Council Member Heitmann received confirmation from City Attorney Robert Pritt that should a member of the public request legal review of a matter, approval by Council would be necessary for the review to occur; the City Manager does in fact have authorization to direct the City Attorney in certain matters, Mr. Pritt added.

Vice Mayor Sorey requested that a workshop discussion be scheduled in the immediate future regarding the reinstatement of the \$35 booth fee in 2012 (currently maintained at \$10 per booth) as the arts organizations wish to move forward with their printed materials for upcoming events; Council concurred.

Recess: 10:28 a.m. to 10:48 a.m. It is noted for the record that the same Council Members were present when the meeting reconvened.

EXECUTIVE SESSION..... ITEM 6
(10:48 a.m.) Mayor Barnett advised that Council would enter into an executive session to discuss labor relations pursuant to Chapter 447.605, Florida Statutes relative to the American Federation of State, County, and Municipal Employees, AFSCME, Council No. 79 of Local 2017; Florida State Lodge, Fraternal Order of Police (FOP) Supervisor's Bargaining Unit; Fraternal Order of Police (FOP), Collier County Lodge No. 38; Government Supervisors Association of Florida, Office and Professional Employees International Union, GSAF/OPEIU, Local 100, AFL-CIO; and Professional Firefighters of Naples, International Association of Firefighters, IAFF, Local 2174.

Executive Session: 10:48 a.m. to 2:01 p.m. It is noted for the record that the same Council Members were present when the meeting reconvened.

(2:01 p.m.) No action announced.

ADJOURN
2:01 p.m.

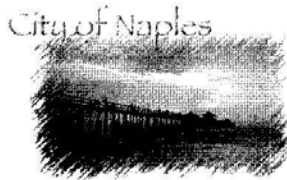
Bill Barnett, Mayor

Tara A. Norman, City Clerk

Minutes prepared by:

Vicki L. Smith, Technical Writing Specialist

Minutes Approved: September 7, 2011



NAPLES CITY COUNCIL AGENDA MEMORANDUM

Regular Meeting Date: August 17, 2011

Agenda Section:	Regular	Prepared By: Robin Singer, Director
		Date: August 1, 2011
		Department: Planning
Agenda Item:	8	Legislative <input type="checkbox"/>
		Quasi-Judicial <input checked="" type="checkbox"/>
SUBJECT:		
Resolution determining Site Plan with Deviations Petition 11-SPD2 in order to allow the construction of a new mixed use building with approximately 11,000 square feet of commercial space and 32 transient lodging units to be located at 690 Fifth Avenue South.		
SUMMARY:		
<p>City Council is asked to consider a Resolution determining Site Plan with Deviations Petition 11-SPD2 for the construction of a new mixed use building to allow transient lodging, a bank drive-up window, off-site parking within 600 feet, valet parking, and a parking needs analysis; proposing deviations by allowing the building to exceed the maximum allowable building height of 42 feet, allowing the third floor balconies to project 3 feet, allowing all 3 floors of the building 30 feet from the midpoint of the alley; providing curved corner facades, and allowing the southwest corner of the building 24 feet from the centerline of the alley for the property owned by Phillip J. McCabe, Trustee, located at 690 Fifth Avenue South. In that this is a Quasi-Judicial matter, disclosures and the swearing in of those giving testimony are required.</p>		
BACKGROUND:		
<p>The property owner (petitioner) will demolish the existing one-story retail structure and would like to build a three-story building on the south east corner of Fifth Avenue South and Park Street. The project consists of approximately 11,000 square feet of commercial space, to include a bank with drive-through on the ground floor and 32 transient lodging units on the second and third floors. The transient lodging units are suites that will be part of the Inn on Fifth.</p> <p>There will be no on-site parking. Parking will be accommodated on the parking lot at the northeast corner of 4th Avenue South and 7th Street South. A total of 23 valet parking spaces and 10 self-park spaces will be provided at this location. Valet pick up and drop off will be at the existing valet stand in front of the Inn on Fifth. There are currently 10 parking spaces (serving existing single-story building) on the development site which will be lost and the self park spaces at the remote lot are intended to replace those for employee parking. A parking needs analysis is provided that shows that only 19 spaces will be necessary to serve the new development. The 10 self park spaces were added following concerns raised by staff that valet parking is not appropriate for employee parking. Under Section 50-103(e) valet parking can be used to encourage vitality, innovation, ingenuity and commercial viability where City Council deems it is appropriate.</p> <p>This project will require conditional use approval to allow:</p> <ul style="list-style-type: none"> • transient lodging pursuant to Section 58-563(6); • a bank drive-up window pursuant to Section 58-563(1); • off-site parking within 600 feet pursuant to Section 50-102(b); • valet parking pursuant to Section 50-103(e); and • a parking needs analysis pursuant to Section 50-107 		

**NAPLES CITY COUNCIL AGENDA MEMORANDUM****Regular Meeting Date:** August 17, 2011**Page Two**

Agenda Item:

8

BACKGROUND (cont.):

The project will deviate from the Code as follows:

- Section 58-1134 (a) (1) in order to allow the building to exceed the maximum allowable building height of 42'-0" from the FEMA first habitable floor height requirement by 5'-10" to the peak of the tower roofs for a total of 47'-10" and by 1'-10" to the top of the roof mounted mechanical equipment for a total of 43'-10";
- Section 58-1134 (b) (1) c in order to allow the third floor balconies to project 3 feet where a maximum of 1 foot is allowed;
- Section 58-1134 (b) (4) in order to allow the first, second and third floors 30 feet from the midpoint of the alley where 50 feet is required, to allow all three floors to provide curved corner facades where a 0 foot setback is required and to allow the southwest corner of the building 24 feet from the centerline of the alley where a maximum of 20 feet is required.

The City Attorney has provided the opinion that, while the Charter amendment restricts the height of the building to three stories and 42 feet to the top of the roof, City Council may grant variances and allow deviations for embellishments and mechanical equipment since the language of the referendum did not clearly preclude this option. A copy of that opinion is included in the package.

File Reference: 11-SPD2**Petitioner:** Phillip J. McCabe as trustee of the Phillip J. McCabe Revocable Trust**Agent:** John Passidomo, Esquire**Location:** 690 5th Avenue South**Zoning:** C-1-A Commercial Core District and Fifth Avenue South Special Overlay District

On June 22, 2011, the Planning Department mailed 83 notices of the subject petitions to the property owners within 500 feet of the subject property. As of the date of this report, staff has received no response. The Design Review Board granted preliminary design review approval of this proposed project at their June 22, 2011 meeting. The Planning Advisory Board reviewed this petition at their July 13, 2011 meeting and voted 5-0 (two abstaining) to recommend approval subject to the conditions recommended by staff in the resolution. The conditions include additional off and on site improvements. Since part of the existing sidewalk is located on private property, the property owner has indicated that he will insure that the public sidewalk is reconfigured to provide adequate public access along Park Street.

RECOMMENDED ACTION:

Adopt a Resolution approving Site Plan with Deviations Petition 11-SPD2 for the construction of a new mixed use building to allow transient lodging, a bank drive-up window, off-site parking within 600 feet, valet parking, and a parking needs analysis; proposing deviations by allowing the building to exceed the maximum allowable building height of 42 feet, allowing the third floor balconies to project 3 feet, allowing all 3 floors of the building 30 feet from the midpoint of the alley; providing curved corner facades, and allowing the southwest corner of the building 24 feet from the centerline of the alley subject to conditions set forth in the Resolution for the property owned by Phillip J. McCabe, Trustee, located at 690 Fifth Avenue South.

Reviewed by Department Director
Robin SingerReviewed by Finance
N/AReviewed by City Manager
A. William Moss

City Council Action:



Memo

Planning

TO: A. William Moss, City Manager
FROM: Robin D. Singer, Planning Director
DATE: August 16, 2011
SUBJECT: Site Plan with Deviations Petition 11-SPD2

Concerning Site Plan with Deviations Petition 11-SPD2, Mr. McCabe's new building at Park Street and Fifth Avenue South, a revised resolution is attached for City Council's consideration at tomorrow's meeting. Staff had originally proposed a condition requiring restoration of the right-of-way with landscaping and a sidewalk along Park Street. The existing sidewalk is partially on private property and, since the Code requires a 0 foot setback along the street frontage, the remaining sidewalk would have been too narrow. In order to maintain adequate pedestrian access along Park Street, the sidewalk and curb needs to be shifted to the west. This can be accomplished while still maintaining adequate drive aisle width and on-street parking. The property owner and staff agreed that the property owner would make these changes at his expense. This is consistent with Code requirements for public sidewalks and right-of-way restoration.

Following the Planning Advisory Board hearing on this petition, staff proposed more specific language to address the improvements in the right-of-way and the owner's obligation to make these improvements. The petitioner's agent suggested alternate language, which has been agreed to by staff, that clarifies the extent of the improvements. The improvements will be limited to the east side of Park Street and will include eliminating one on-street parking space in order to accommodate landscaping and maintain the appearance of the street. The resolution has been modified to include a condition (#7) that the property owner shall construct site plan improvements that are substantially similar to those depicted in the plan submitted (also attached). The improvements will be coordinated with Community Services and Streets and Stormwater to insure that consistency with the Code and the character of the Fifth Avenue South District. As the petitioner is adding 10 additional self-park spaces to the parking lot at 4th Avenue South and 7th Street South, the loss of the on-street parking space will be addressed.

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Memo

Office of the City Attorney

TO: Robin Singer, Planning Director
FROM: Robert D. Pritt, City Attorney
DATE: July 12, 2011
SUBJECT: Phillip J. McCabe, Trustee – 690 5th Avenue South 11-SPD2 (11-060) Site Plan Deviation - Height Calculation-Embellishments

BACKGROUND & ANALYSIS

Petitioner has requested a Site Plan with Deviations that show, among other things, an apparent height of 42 feet to the roof of the structure, but with an additional 11 feet of “architectural embellishments.” See e.g., 5th Avenue elevation.

The stated reason for the deviation to allow this additional height is to make the structure more compatible with the adjoining structure located at 700 5th Avenue South (Vergina’s).

Section 14.1 of the Charter, which was adopted by Initiative Petition in 2000 provides as follows:

Sec. 14.1. - [Maximum building height in commercial zoning districts.]

All commercial zoning districts in the City of Naples shall be limited to three floors and building heights of 42 feet to the peak of the roof, measured from the first floor, FEMA elevation. Commercial zoning districts shall include Highway Commercial, C1 retail shopping, C1A commercial core, C2 general commercial, C2A waterfront commercial, C3 heavy commercial, C4 airport commercial, Industrial, Medical, Office, Planned Development, Downtown, and any future commercial zoning districts that Naples may create.

The interpretation of various aspects of the Charter amendment has been performed by the Planning Advisory Board and the City Council in the past. This particular interpretation by petitioner’s attorney appears to be consistent with, and based upon, advice from this office that the City Council has the authority to interpret City legislation in the first instance. This argument is a little less forceful when interpreting an initiative Charter amendment. In such case, the search for intent is more difficult because we are not looking at the intention of the City Council in authorizing an ordinance or Charter provision, but at the intent of the people in prosecuting and passing the initiative petition.

However, the City’s position from the beginning has been to have the Council, and now the Planning Advisory Board and the Council, interpret the Charter provision in light of the facts contained in a petition that has been filed.

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661236 v_01 \ 016763.0001

Page 2
July 11, 2011

The petitioner's attorney, at my request, has prepared and submitted an analysis of the embellishments issue as it relates to the Charter amendment on height. Both you and your staff, and this department, have considered the memo of the petitioner's attorney; the other petitions that have included interpretations of height; other City Attorney opinions relating to height issues; and statutory interpretations of language and intent.

For example, the issue of architectural embellishments arose in the Renaissance project and Council had a spirited debate over the height of the architectural embellishments before approving. However, that petition concerned itself with residential portions of a planned development project, not commercial.

The City Council had also looked at the issue of the applicability of the Charter height amendment where a PD for a mixed use planned development, including both residential development (which otherwise would not have been covered by the height amendment), and commercial development (which is covered by the height restrictions in the Charter amendment) at the meeting occurring after the adoption of the height amendment. Council interpreted the height amendment to apply only to the commercial portion (see Park Shore Resolution No. 00-8796 (attached) and Editors Note which is included as a footnote to Charter Section 14.1) in the Naples City Code Book.¹

The petitioner in this case pointed to the closest "precedent" (non-binding) as being Vergina's petition which concerned a building going through the approval process at the time the Charter amendment was adopted by referendum, in 2000. A copy of the minutes of the Council meeting (attached)² reflects a Council interpretation by Motion that the embellishments were not intended to be included as part of the Charter amendment.

MOTION by Wiseman to ALLOW MINOR ARCHITECTURAL EMBELLISHMENTS AS OUTLINED IN SECTION 110-39 OF THE CODE OR ORDINANCES; seconded by Galleberg and carried 5-2, all members present and voting (Herms-no, Galleberg-yes, Taylor-no, MacIlvaine-yes, Wiseman-yes, Tarrant-yes, MacKenzie-yes).

As of some practical (if not legal) significance, some of the members of Council who were involved as proponents of the initiative petition appeared to interpret the amendment as allowing embellishments higher than 42 feet.

This interpretation was based upon the then existing height ordinance dealing with

¹ Charter Section 14.1-Editor's note— It should be noted that Res. No. 00-8796, § 1 adopted March 15, 2000, provided that "It is hereby interpreted and clarified that, with regard to the Parkshore PD, the Building Height Charter Amendment is not applicable to and does not regulate the height of structures on residential tracts or parcels which do not include commercial uses or other uses listed within the Charter Amendment, within such residential tracts or structures." See the Charter Comparative Table.

² City Council meeting February 16, 2000

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661236 v_01 \ 016763.0001

Page 3
July 11, 2011

embellishments Section 110-39 (now Section 56-39.)³

CONCLUSION

Not having found anything since the time of adoption of the Charter amendment (2000) to the contrary, and having found an interpretation by Council consistent with the allowance of embellishments very near to the time that the amendment was adopted, it is rational to interpret the embellishments as allowable.

This raises a practical problem; i.e., what is to stop approval and construction of say, a 40 or 60 foot tower as an embellishment? The deviation limitation in the code most likely accomplishes this.

This office has previously opined that this Charter provision contains ambiguities (and this is one of them). The rule of legislative interpretation is that wherever possible, the intent of the body creating the ordinance be followed. However, that intent is to be derived from the specific language used in the document itself and not from outside sources, except where the written language is ambiguous. In this case, however, it appears that this is the exception to the general rule, since the language appears to be ambiguous.

Therefore, it is my opinion that the Planning Advisory Board and the City Council could determine that the proposed embellishments, being of no greater height than Vergina's, are allowable under the Charter amendment.

As with any opinion, this is based upon a set of facts described in the opinion. If the facts turn out to be different, or if they change, the opinion is subject to change. Further, this is designed to provide general guidance, and to City agents only.

CC Planning Advisory Board
A. William Moss, City Manager

Enclosures

L:opinion/pritt/archtural embellishments 071111

³ That section has since been amended (see Ord. 00-8818, Ord. 01-9291 and Ord. 10-12602) but the concept of interpreting embellishments as in addition to the 42 foot roof height appears to have been set at the February 16, 2000 meeting.

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661236 v_01 \ 016763.0001

Page 4
July 11, 2011

EXCERPT

*City Council Regular Meeting – February 16, 2000 – 9:00 a.m.
present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-yes,
Taylor-yes, Wiseman-yes, MacKenzie-yes).*

END CONSENT AGENDA

....

ORDINANCE 00-8775.....ITEM 7-a
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NAPLES
ACKNOWLEDGING AND CONFIRMING THE VOTE OF THE ELECTORS WITH
REGARD TO THE COMMERCIAL BUILDING HEIGHT CHARTER AMENDMENT
AND ESTABLISHING A LIMIT OF THREE FLOORS AND MAXIMUM BUILDING
HEIGHTS OF 42 FEET TO THE PEAK OF THE ROOF, MEASURED FROM THE
FIRST FLOOR, FEMA ELEVATION, FOR ALL STRUCTURES IN THE FOLLOWING
COMMERCIAL ZONING DISTRICTS INCLUDING HIGHWAY COMMERCIAL, C1
RETAIL SHOPPING, C1A COMMERCIAL CORE, C2 GENERAL COMMERCIAL,
C2A WATERFRONT COMMERCIAL, C3 HEAVY COMMERCIAL, C4 AIRPORT
COMMERCIAL, INDUSTRIAL, MEDICAL OFFICE, PLANNED DEVELOPMENT,
DOWNTOWN, AND ANY OTHER FUTURE COMMERCIAL ZONING DISTRICTS
THAT THE CITY OF NAPLES MAY CREATE; PROVIDING A SEVERABILITY
CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title read by City
Manager Kevin Rambosk.

RESOLUTION 00-8776..... ITEM 7-b
A RESOLUTION ACKNOWLEDGING APPROVAL OF THE COMMERCIAL
BUILDING HEIGHT CHARTER AMENDMENT BY THE ELECTORATE,
INCORPORATING THE AMENDMENT INTO THE CITY CHARTER AND
DIRECTING THAT THE REVISED CHARTER BE FILED WITH THE DEPARTMENT
OF STATE; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin
Rambosk.

**It is noted for the record that Items 7-a and 7-b were discussed concurrently. Council also
determined that the scope of Item 7 would be expanded to include a discussion of vested
rights.**

Mr. Rambosk also read into the record the definition of building height as codified by the City of
Vero Beach. (See Attachment 1.) Council then compared Vero Beach and Naples regulations, as
well as the recent charter amendment. Vice Mayor Herms made a motion, seconded by Council
Member MacIlvaine, to approve Item 7-a; however, further discussion ensued.

Mayor MacKenzie suggested property owners file claims under the existing vested rights
ordinance. City Attorney Kenneth Cuyler however recommended that Council establish certain
criteria, although no Council action could absolutely prevent litigation. Council proposed
criteria such as prior issuance of a building permit, the amount of money expended, and stage of
development. Vice Mayor Herms suggested allowing the court to determine vested rights
claims, but Mayor MacKenzie pointed out that the review process would afford Council insight

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661236 v_01 \ 016763.0001

Page 5
July 11, 2011

into possible claims and strengthen its position. Council Member Tarrant urged clear standards for those who may have begun projects.

Public Input: Lou Vlasho, 6525 Valen Way #305, developer of the 700 Building on Fifth Avenue, stated that his plan would complement the nearby theatre and other structures. Although it is currently suspended due to the new height limitation, he said he believed the amendment would not actually affect his project due to its advanced stage. Mr. Vlasho clarified that the 700 Building would be 42 feet to the eave and 53 feet to the finial. Nevertheless business plan deadlines prevent awaiting a vested rights procedure he said, and requested an immediate decision so that he could obtain a building permit.

Vice Mayor Herms suggested redrafting the building plans to comply with the 42-foot limit. Architect John Cooney stated that the structure is designed for three floors, with 12-foot ceilings on the first floor, 11-foot ceilings on the second floor and 10-foot 6-inch ceilings on the third floor; he provided further architectural details. Mr. Herms suggested omitting the proposed towers and lowering the mansard roof by approximately two feet to comply. Mr. Cooney indicated that he had researched this option and that, although possible, would increase costs and possibly diminish the architectural appeal. Vice Mayor Herms and Council Member MacIlvaine nevertheless urged that Mr. Vlasho comply with the charter amendment by making appropriate workable modifications. City Attorney Cuyler noted that part of this issue may be resolved upon Council's determination of architectural embellishments. Mr. Vlasho confirmed his total project cost to be approximately \$7 million.

Public Input: Bill Boggess, 1100 Eighth Street South, urged that Council uphold the 42-foot height requirement established by the Charter amendment. Council Member Galleberg explained that while Council intends to do so, it must nevertheless address the vested rights issue. City Manager Kevin Rambosk read into the record the City of Vero Beach Official Ballot General Election referendum on building height limitations. (See Attachment 2.)

City Attorney Cuyler noted that the ordinance under consideration reflected the amendments Council had previously directed. Council Member Galleberg reiterated that enacting this ordinance is superfluous, casts doubt on the referendum, and may lead to litigation. Council briefly discussed the applicability of architectural embellishments to the height limitation.

MOTION by Herms to ADOPT ORDINANCE 00-8775 ON SECOND READING (ITEM 7-a); seconded by MacIlvaine and carried 6-1, all members present and voting (Tarrant-yes, Galleberg-no, Herms-yes, Wiseman-yes, Taylor-yes, MacIlvaine-yes, MacKenzie-yes).

MOTION by Herms to APPROVE RESOLUTION 00-8776 (WITH CORRECTED EXHIBIT) (ITEM 7-b); seconded by Wiseman and unanimously carried, all members present and voting (Taylor-yes, Tarrant-yes, Wiseman-yes, Galleberg-yes, MacIlvaine-yes, Herms-yes, MacKenzie-yes).

MOTION by Herms to POSTPONE THE APPLICATION OF VESTED RIGHTS PROVISIONS TO THE CITY'S BUILDING HEIGHT CHARTER AMENDMENT; seconded by Taylor and carried 4-3, all members present and

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Page 6
July 11, 2011

voting (Galleberg-no, Taylor-yes, Tarrant-yes, Wiseman-no, Herms-yes, MacIlvaine-yes, MacKenzie-no).

City Attorney Cuyler confirmed that this latter issue could be reconsidered according to the Council's policy but that should any developers require immediate action, they must pursue mechanisms other than petitioning City Council.

Mayor MacKenzie requested Council consensus regarding issuing permits for buildings which exceed the 42-foot limitation. Vice Mayor Herms made a motion to limit all new building permits to a maximum of 42 feet to the peak of the roof; additionally, any permits issued prior to February 1st for structures which exceed that limitation would however be honored at their permitted height. Council Member Tarrant seconded this motion. Council discussed Section 110-39 (a) of the Code of Ordinances concerning embellishments exempted from height requirements. **Mayor MacKenzie and Council Member Wiseman advocated limiting minor embellishments as identified in the aforementioned Code to a maximum of 10 feet above the 42-foot regulation.** Vice Mayor Herms took the position that cupolas should be contained within the 42-foot limitation but that certain embellishments such as chimneys, television antennas, bell towers, religious symbols, and heating and air conditioning equipment should by their nature be permitted to exceed it. Council Members Galleberg and Tarrant however countered that the height limitation should apply solely to the peak of the roof. Building Official William Overstreet noted occasional difficulty in interpreting the intent of codes, and that he considers embellishments on a case-by-case basis.

Public Input: Henry Kennedy, 2178 Tarpon Road, advised Council that he is in the process of developing a project and is concerned about being able to obtain a building permit. He noted that the charter amendment did not indicate retroactivity, and that he believed any documents already filed with the Building Department should not be affected. City Attorney Cuyler recommended that because there is currently no process in place to determine vested rights, Council direct staff as to whether the 42-foot requirement includes embellishments. Council Member Wiseman expressed dismay that those without building permits are now forced to pursue litigation. Vice Mayor Herms however said that this would not be the case if they designed a building that meets the height requirements.

MOTION by Herms to LIMIT ALL NEW BUILDING PERMITS TO A MAXIMUM OF 42 FEET TO THE PEAK OF THE ROOF; PERMITS ISSUED PRIOR TO FEBRUARY 1ST THAT EXCEED THAT LIMITATION WILL HOWEVER BE HONORED AT THEIR PERMITTED HEIGHT; seconded by Tarrant and carried 4-3, all members present and voting (Wiseman-no, Tarrant-yes, Taylor-yes, Galleberg-no, Herms-yes, MacIlvaine-yes, MacKenzie-no).

Vice Mayor Herms proposed that staff research the embellishment issue for Council review at the next Regular Meeting. Mr. Vlasho however urged immediate direction.

MOTION by Wiseman to ALLOW MINOR ARCHITECTURAL EMBELLISHMENTS AS OUTLINED IN SECTION 110-39 OF THE CODE OR ORDINANCES; seconded by Galleberg and carried 5-2, all members present and voting (Herms-no, Galleberg-yes, Taylor-no, MacIlvaine-yes, Wiseman-yes, Tarrant-yes, MacKenzie-yes).

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661236 v_01 \ 016763.0001

Page 7
July 11, 2011

Agenda Item 13
Meeting of 3/15/00

RESOLUTION 00-8796

A RESOLUTION INTERPRETING AND CLARIFYING THE COMMERCIAL HEIGHT CHARTER AMENDMENT NOT TO BE APPLICABLE TO RESIDENTIAL PARCELS OR STRUCTURES WITHIN THE PARKSHORE PD; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the qualified electors of the City of Naples approved a commercial height Charter Amendment on February 1, 2000; and

WHEREAS, the City Council finds it appropriate and necessary to interpret and clarify whether said Charter Amendment is applicable to residential building heights within the Parkshore PD, a large mixed use PD including numerous separate residential and commercial tracts; and

WHEREAS, it is the position and the interpretation of the City Council that individual residential parcels or structures within the Parkshore PD, which do not include commercial uses or other uses listed within the Charter Amendment, within such residential structures, are not subject to or regulated by the height restrictions set forth in the commercial building height Charter Amendment;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NAPLES, FLORIDA:

Section 1. It is hereby interpreted and clarified that, with regard to the Parkshore PD, the Building Height Charter Amendment is not applicable to and does not regulate the height of structures on residential tracts or parcels which do not include commercial uses or other uses listed within the Charter Amendment, within such residential tracts or structures.

Section 2. This resolution shall take effect immediately upon adoption.

PASSED IN OPEN AND REGULAR SESSION OF THE CITY COUNCIL OF THE CITY OF NAPLES, FLORIDA, THIS 15TH DAY OF MARCH, 2000.

Bonnie R. MacKenzie, Mayor

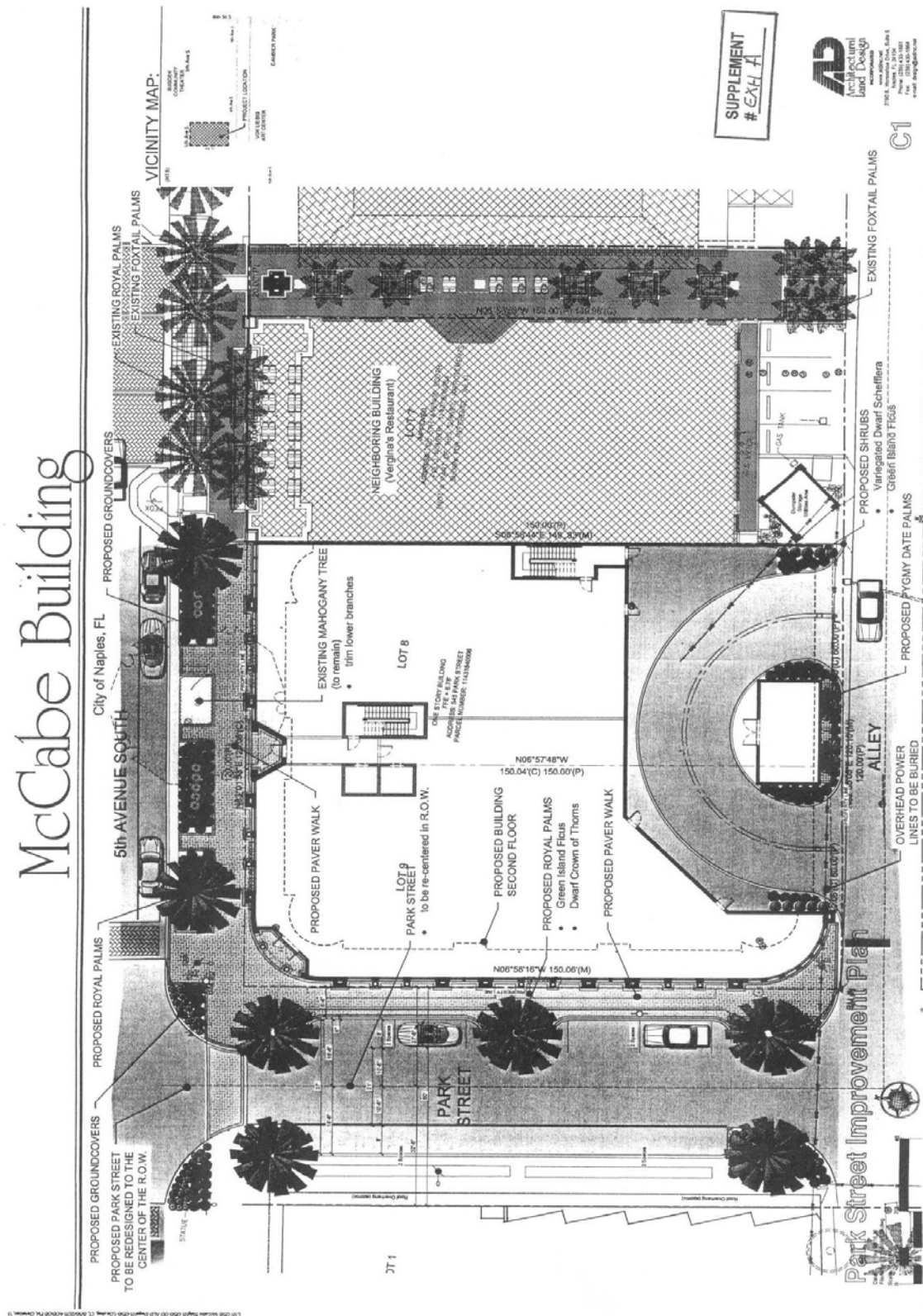
Attest:

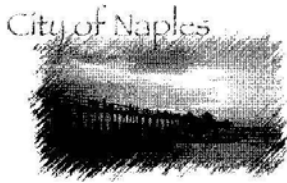
Approved as to form and legality:

Tara A. Norman, City Clerk
M:\REFCOUNCIL\RES\00-8796

Kenneth B. Cuyler, City Attorney

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NAPLES CITY COUNCIL AGENDA MEMORANDUM

Regular Meeting Date: August 17, 2011

Agenda Section:	Regular	Prepared By: Robin Singer, Director
Agenda Item:	9	Date: July 18, 2011 Department: Planning
		Legislative <input type="checkbox"/> Quasi-Judicial <input checked="" type="checkbox"/>
SUBJECT:		
Resolution determining Conditional Use Petition 11-CU6 to allow parking to be provided off-site but within 600 feet of the use that it serves on property located at 1135 3 rd Street South, 1250-1290 3 rd Street South (northwest corner of 3 rd Street South and 13 th Avenue South).		
SUMMARY:		
City Council is asked to consider a Resolution determining Conditional Use Petition 11-CU6 pursuant to Section 50-102 (b) of the Code of Ordinances in order to allow parking to be provided off-site but within 600 feet of the use that it serves on property zoned C-1 Retail Shopping District and PD Planned Development located at 1135 3 rd Street South, 1250-1290 3 rd Street South, and Parking Lot Folio Numbers 14012520001 and 14012760007 (northwest corner of 3 rd Street South and 13 th Avenue South). In that this is a Quasi-Judicial matter, disclosures and the swearing in of those giving testimony are required.		
BACKGROUND:		
This petition involves nine buildings and accessory parking lots in the Third Street South Overlay District. The Conditional Use will allow parking for all of the Neapolitan Enterprises buildings in parking lots that are adjacent to or within 600 feet of the buildings. The petition was initiated due to the addition of a new restaurant in Buildings G and H indicated on the site plan. While there is a large parking lot to the rear of these buildings (parking lot K), most of the parking in that lot has been allocated to other uses in the district. In order to accommodate this restaurant, off-site parking must be allocated.		
The petitioner and property owner, Neapolitan Enterprises, has enough parking among its properties in the Third Street District to accommodate this use and the existing uses within its buildings. This petition will allow Neapolitan Enterprises to utilize its full complement of parking, including those spaces located at the northeast corner of Third Street and Broad Avenue South (parking lot A) to meet the current and future parking needs for their tenants. To date the parking spaces in parking lot A have not been allocated to any other building or use. While the proposed restaurant is generating the need for this conditional use, the intent is that this conditional use will allow any new tenant in any of the buildings on the site plan to use any of the parking depicted on the site plan to meet parking requirements. The total available parking spaces including on-site parking, Lot A, Lot K and the parking behind Building J is 354 spaces. The total parking required including the new spaces required for a restaurant conversion with outdoor dining is 341 spaces. They will retain a surplus of 13 parking spaces for the use of future tenants.		
While the new restaurant in Buildings G and H will be more than 600 feet from Parking Lot A, all buildings (including G and H) owned by Neapolitan Enterprises are within 600 feet of adequate parking. Neapolitan Enterprises has indicated a commitment to having employees park in more remote parking lots in order to leave the closer spaces available for patrons.		



NAPLES CITY COUNCIL AGENDA MEMORANDUM

Regular Meeting Date: August 17, 2011

Page Two

Agenda Item:

9

BACKGROUND (cont.):

Section 50-102(b)(2) provides the following:

"(2) When practical difficulties prevent the establishment of such facilities upon the same lot, the facilities may be provided on land within a radius of 600 feet of the lot, provided the land is zoned so as to permit such parking facilities. The owner or lessee of the land upon which such required off-site parking facilities are located shall enter into a written agreement with the city, to be filed with the clerk of the circuit court, with enforcement running to the city, providing that the land comprising the required off-site parking facilities shall not be encroached upon, used, sold, leased or conveyed for any purpose except in conjunction with the building or use which the required off-site parking serves, so long as the parking facilities are needed. Relief granted under this subsection shall be by the approval of a conditional use petition in accordance with this land development code."

File Reference: 11-CU6

Petitioner: Neapolitan Enterprises, LLC

Agent: Matthew Kragh, AIA, MHK Architecture and Planning

Location: 1135 3rd Street South; 1250-1290 3rd Street South, Parking Lot Folio #14012520001 and #14012760007 (north west corner of 3rd Street South and 13th Avenue South)

Zoning: C-1 Retail Shopping District and PD Planned Development

On June 22, 2011, the Planning Department mailed 377 notices of the subject petitions to the property owners within 500 feet of the subject property. As of the date of this report, staff has received no correspondence. The Planning Advisory Board reviewed this petition at their July 13, 2011 meeting and voted 7-0 to recommend approval.

RECOMMENDED ACTION:

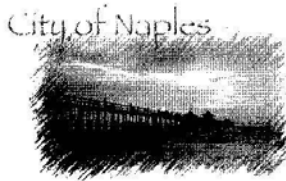
Adopt a Resolution approving Conditional Use Petition 11-CU6 in order to allow parking to be provided off-site but within 600 feet of the use that it serves on property zoned C-1 Retail Shopping and PD Planned Development, owned by Neapolitan Enterprises LLC and located at 1135 3rd Street South, 1250-1290 3rd Street South and the parking lots identified by Folio Numbers 14012520001 and 14012760007.

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: August 17, 2011**

Agenda Section:	Prepared By: Robin Singer, Director	
Regular	Date: July 18, 2011	Department: Planning
Agenda Item:	Legislative <input type="checkbox"/>	Quasi-Judicial <input checked="" type="checkbox"/>
10		
SUBJECT:		
Resolution determining Variance Petition 11-V3 to allow a freestanding sign in the main entrance median on property located at 1490-1540 5 th Avenue South (Naples Bay Resort).		
SUMMARY:		
<p>City Council is asked to consider a Resolution determining Variance Petition 11-V3 from Section 50-35 of the Code of Ordinances in order to allow a freestanding sign within the main entrance median to Naples Bay Resort approximately one foot from the drive entrance and egress on either side where signs are required to be setback 10 feet from the edge of any drive on property zoned C2-A, owned by NBR Shoppes, LLC, located at 1490-1540 5th Avenue South. In that this is a Quasi-Judicial matter, disclosures and the swearing in of those giving testimony are required.</p>		
BACKGROUND:		
<p>The Petitioners wish to place two new freestanding signs on the subject property at Naples Bay Resort. One is to be located on the west end of the frontage along US 41 (5th Avenue South). That sign will meet all size and setback requirements of the Code. The second sign meets the size and height restrictions but it is to be located in the landscaped median which places it too close to the drive isles on either side. A variance approved in 2008 for this property allowed tenant identification signs on the outside wall of the building in lieu of freestanding signs, although there are identification signs for the development flanking the entrance. Under this petition they would like to keep the wall signs but are willing to remove the signs flanking the entry. These two new signs will have tenant identifications on them.</p> <p>The Planning Advisory Board voted 7-0 to recommend approval of this petition at their July 13, 2011 meeting subject to removal of the two existing signs. On June 22, 2011, the Planning Department mailed 422 notices of the subject petitions to the property owners within 500 feet of the subject property. No responses have been received.</p>		
<p>File Reference: Variance Petition 11-V3 Petitioner: NBR Shoppes, LLC Agent: Matthew Kragh, AIA, MHK Architecture and Planning Location: 1490-1540 5th Avenue South Zoning: C2-A Waterfront Commercial District</p>		
RECOMMENDED ACTION:		
<p>Adopt a resolution approving Variance Petition 11-V3 from Section 50-35 of the Code of Ordinances in order to allow a freestanding sign within the main entrance median to Naples Bay Resort approximately one foot from the drive entrance and egress on either side where signs are required to be setback 10 feet from the edge of any drive on property zoned C2-A, owned by NBR Shoppes, LLC, located at 1490-1540 5th Avenue South.</p>		
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: August 17, 2011**

Agenda Section:	Prepared By: Bob Middleton, Director	
Regular	Date: July 13, 2011	Department: Utilities
Agenda Item:	Legislative <input checked="" type="checkbox"/>	Quasi-Judicial <input type="checkbox"/>
11		
SUBJECT:		
Award of contract to Wellmasters, Inc. for the rehabilitation of ten production wells for the Water Treatment Plant.		
SUMMARY:		
City Council is asked to consider awarding a contract to Wellmasters, Inc. to provide rehabilitation services for ten production wells that provide raw water to the Water Treatment Plant in an amount not to exceed \$91,197.		
BACKGROUND:		
<p>The City's drinking water is obtained from 54 public water supply wells located in the Golden Gate and Coastal Ridge wellfields. The water supply is from the Lower Tamiami Aquifer. Over time, sand and other deposits plug the pores in the geologic formation that reduce performance of the well.</p> <p>City staff monitors performance of all water supply wells and have determined 10 wells should be rehabilitated to increase the water yield, reduce groundwater drawdown and increase recovery.</p> <p>Chemical testing of the wells has been completed and a bid specification has been created based on the results for each well. The rehabilitation process includes acidization and chlorination of each well, mechanical scrubbing of each well casing, and the redevelopment of the well to remove all dislodged materials. A video log and step drawdown test will be conducted before and after each well is cleaned in order to verify the increase in performance.</p> <p>Bid 041-11 was publicly advertised on June 3, 2011. Twenty (20) H.T.E. vendors were mailed notices, DemandStar sent eighty-five (85) notices to potential vendors, twenty-seven (27) plan holders were mailed a copy of the bid, and the bid was advertised in the Naples Daily News. Five (5) vendors responded to the bid. Staff has evaluated all bid proposals and Wellmasters, Inc. of Mulberry Florida has been identified as the low bidder meeting specifications. Wellmasters, Inc. has previously provided well rehabilitation services for the City, and staff has been satisfied with their performance.</p>		
FUNDING SOURCE:		
Funding is allocated in the FY 2011 budget within the Water Sewer Fund – Account 420.2030.533.3104 (Other Contractual Services) in the amount of \$180,000.		
RECOMMENDED ACTION:		
Motion to award a contract to Wellmasters, Inc. of Mulberry, Florida to provide rehabilitation services for ten production wells that provide raw water to the Water Treatment Plant for \$91,197 and authorize the City Manager to execute the contract.		
Reviewed by Department Director Bob Middleton	Reviewed by Finance Ann Marie Ricardi	Reviewed by City Manager A. William Moss
City Council Action:		

Subj: **Street Sweeping–Outsourcing**
Date: 08/16/2011 5:29:38 P.M. Eastern Daylight Time
From: Djfinlay@aol.com
To: bmoss@naplesgov.com, gstrakaluse@naplesgov.com, garchibald@naplesgov.com

Bill,

I just spoke with Neil Dorrell, the Administrator of the Pelican Bay Services Division. As you know, Pelican Bay street cleaning is outsourced to Precision Cleaning, a Naples area company. Basically, the presentation made to Council on Monday stated the city would not save any money outsourcing street cleaning. Instead, it would be best to move forward with the purchase of a new \$260,000 street sweeper and keep the service in house. There are several items I want to offer which challenge that thinking.

Pelican Bay is currently paying \$17.90 per lane mile for weekly sweeping of Pelican Bay Blvd, or \$179 weekly to sweep all 4 lanes of PB Blvd (each week). This is far less than the outsource rate which was offered to Council (\$28.50-\$35.00). Pelican Bay sweeps other streets on a monthly basis and dead ends every 6 weeks. Lane per mile costs may differ for those streets. Neil Dorrell stated he is very pleased with service offered by Precision Cleaning as well as High Tek Cleaning, a competitor servicing Lely Estates.

In looking over the cost comparisons offered to Council, it appears to me the in house costs may have been slightly understated and the outsourced costs over stated. Example of the latter. When talking to Precision they had no problem taking off the table the \$27,300 annual disposal fee at contract rate of \$28.50 per mile. My guess is, based on the cost per mile PB is paying, if we put this matter out to bid we will secure a better deal than what I received over the phone--\$28.50, no disposal fee, because I was not negotiating, just inquiring.

Since we are facing the immediate capital cost of a \$260,000 street sweeper, would it not be in the city's best interest to bid this out and see what offers come back? What could it hurt? There are apparently at least 3 local firms which would bid. Only then can we get a true cost/benefit analysis as to whether we should outsource street sweeping. Finally, Precision does have a vacuum truck and it is used in Pelican Bay.

Thanks,

Doug

SUPPLEMENT
#C.C. Finlay

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