

City Council Chamber
735 Eighth Street South
Naples, Florida 34102

City Council Regular Meeting – November 16, 2011 – 8:32 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
Adam Benigni, Planner
Erica Goodwin, Planner
Robin Singer, Planning Director
Monique Barnhart, Administrative Coordinator
Michael Bauer, Natural Resources Manager
George Archibald, Traffic Engineer
Gregg Strakaluse, Streets & Stormwater Director
Lori Parsons, Risk Manager
Richard Yovanovich
John Passidomo

Gene Scott
Sue Smith
John Finstrom
Jackie Sloan
Daniel Summers
Judith Chirgwin
Kathy Kirby
Henry Kennedy
Agostino Nastasi
Beatriz Angeles
Marilyn Tempest
Jayne Skindzier

Media:

Kristine Gill, Naples Daily News
Other interested citizens and visitors

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

Pastor Gene Scott, Celebration Community Church.

ANNOUNCEMENTS..... ITEM 3

Mayor Barnett indicated that the proclamation regarding Naples Woman's Club Day had been previously presented and therefore withdrew the item.

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

MOTION by Sulick to SET THE AGENDA removing Item 6-d (horse-drawn carriage franchise) and Item 6-e (donation for trawling of Moorings Bay) from the Consent Agenda for separate discussion. This motion was seconded by Finlay and unanimously carried, all members present and voting (Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sorey-yes, Sulick-yes, Barnett-yes).

PUBLIC COMMENT ITEM 5
(8:37 a.m.) **Sue Smith, 11th Avenue South, and Jackie Sloan, 239 Broad Avenue South,** expressed support of the Natural Resources Division and its manager, Dr. Michael Bauer, taking issue with derogatory remarks by some Council Members during that week's workshop discussion of zero-based budgeting.

CONSENT AGENDA

APPROVAL OF MINUTES ITEM 6-a
October 17, 2011 Workshop and October 19, 2011 Regular Meeting; as submitted.

SPECIAL EVENTS ITEM 6-b
15th Annual Dr. Martin Luther King, Jr. Parade and Celebration – NAACP of Collier County and the City of Naples – Third Street South, Fifth Avenue South, and Eighth Street South – 01/16/12.

RESOLUTION 11-12987 ITEM 6-c
A RESOLUTION AMENDING THE 2011-12 BUDGET ADOPTED BY ORDINANCE 11-12953 TO CARRY FORWARD UNENCUMBERED FUNDS REMAINING IN A 2010-11 TECHNOLOGY SERVICES PROJECT; AND PROVIDING AN EFFECTIVE DATE. Title not read.

MOTION by Sulick to APPROVE THE CONSENT AGENDA except Items 6-d and 6-e; 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).

END CONSENT AGENDA

RESOLUTION 11-12988 ITEM 6-d
A RESOLUTION APPROVING A FRANCHISE AGREEMENT BETWEEN CHARLENE'S CLASSIC CARRIAGES, INC., AND THE CITY OF NAPLES, RELATING TO THE USE OF CITY STREETS AND DESIGNATED CARRIAGE STOPS WITHIN THE LIMITS OF THE CITY OF NAPLES FOR 3 HORSE-DRAWN CARRIAGES; AUTHORIZING THE CITY MANAGER TO EXECUTE THE FRANCHISE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (8:49 a.m.) who then reviewed the amended franchise agreement provided via a supplemental information packet, noting that it now included a \$500 fee (Section 17) as suggested by Council Member Finlay. In response to a query by Council Member Saad, he confirmed that the document did contain a breach of contract clause. Additionally, he assured Mr. Saad that Section 13 of the agreement had been clarified with regard to proper clean-up after the animals. (It is noted for the record that a printed copy of the amended agreement is contained in the file for this meeting in the City Clerk's Office.) Traffic Engineer George Archibald confirmed that any non-compliance issues could be addressed through the required right-of-way permit; he further stated that the subject vendor has an excellent record since 1997 and no problems are anticipated.

Public Comment: (8:54 a.m.) None.

MOTION by Finlay to APPROVE RESOLUTION 11-12988 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 11-12989 ITEM 6-e
A RESOLUTION ACCEPTING A DONATION FROM THE SAVE THE BAYS ORGANIZATION TO THE CITY OF NAPLES IN THE AMOUNT OF \$7,000.00 FOR THE PURPOSE OF CONDUCTING TRAWLING IN THE MOORINGS BAY SYSTEM; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (8:54 a.m.). Natural Resources Manager Michael Bauer provided a brief explanation of the merits of trawling, such as ascertaining the health of the ecosystem.

Council Member Finlay explained that prior funding for this activity by the Moorings Bay Special Taxing District had later been found to be a prohibited expenditure by the founding referendum of the District. Save the Bays, a long-standing organization of interested residents, then agreed to fund the trawling by Rookery Bay National Estuarine Research Reserve, which has the personnel, equipment and expertise to do so.

Public Comment: (8:59 a.m.) **Sue Smith, 11th Avenue South**, reiterated her support of Dr. Bauer and his staff, taking issue with negative comments made by various Council Members during that week's workshop regarding the Natural Resources Division's accomplishments over the past five years. The waterways did not become polluted and endangered over a five year period, she pointed out, nor will they be restored in a similar timeframe. Dr. Bauer and his staff should be supported in their efforts to improve the ecosystem and water quality of the City's estuaries, she concluded. **Marilyn Tempest, representing Save the Bays**, also supported Dr. Bauer and his efforts, adding that each project undertaken builds toward the restoration of the waterways and should be continued. She thanked the City for accepting the funding for the trawling. In response to Council, Dr. Bauer clarified that Rookery Bay is a state agency, and as such, cannot accept a donation from a non-governmental entity; therefore the need of the City as an intermediary. He also confirmed for Vice Mayor Sorey that City staff does in fact oversee the trawling process.

MOTION by Heitmann to APPROVE RESOLUTION 11-12989 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).

It is noted for the record that Mayor Barnett then confirmed for Council Member Heitmann that the November 14 e-mail from John Maynard had been sent to all Council Members and recommended that further discussion occur during Correspondence and Communications (see Page 9).

RESOLUTION 11-12990 ITEM 7
A RESOLUTION URGING LOCAL RETAILERS SELLING TOBACCO PRODUCTS TO
REFRAIN FROM SELLING AND MARKETING FLAVORED TOBACCO PRODUCTS, WHICH
TEND TO PROMOTE AND INFLUENCE UNDERAGE AND/OR YOUTHFUL CONSUMPTION;
AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (9:06 a.m.). Mayor Barnett noted his support of the resolution, introducing Golden Gate High School student, Beatriz Angeles, who then read into the record a statement of support for the legislation by SWAT (Students Working Against Tobacco). (It is noted for the record that a copy of Ms. Angeles' statement is contained in the file for this meeting in the City Clerk's Office.)

MOTION by Barnett to APPROVE RESOLUTION 11-12990 as submitted;
seconded by Finlay and carried 6-1, all members present and voting
(Finlay-yes, Heitmann-yes, Price-yes, Saad-no, Sorey-yes, Sulick-yes,
Barnett-yes).

Council Member Saad attributed his negative vote to the belief that government should not legislate how persons conduct themselves in their personal lives. Council Member Finlay explained that the resolution was however not actual legislation but merely a document urging local retailers to refrain from selling flavored tobacco products, especially to underage persons. Council Member Price stated that while he agreed with both observations, he thanked Ms. Angeles for her involvement in a governmental process. Mr. Price also characterized this request as one of the initiatives which the City may at times be asked to support for the betterment of the community, although he said he strongly supported the concept of government not intruding into people's private lives. Mr. Saad however took the position that Mr. Price's statements were dangerous and contradictory. He compared the matter under consideration to opposition to stores selling candy because obesity is the primary public health problem in the US relative to children. He continued that proposals like the one just approved

go to the heart of what is fundamentally wrong with government, citing instead parental responsibility in regard to preventing underage children from smoking. He further said that groups opposing the tobacco industry are just as dangerous as the tobacco industry itself in their utilization of funds from trial lawyers and lawsuits to promote their point of view and intrude on individuals' private decision-making. In conclusion, Mr. Saad characterized Council's action on the students' request as incredibly wrong. Council Member Heitmann however cited her involvement with the Juvenile Justice Council and Drug-Free Collier and commended Mayor Barnett for bringing this matter forward, urging SWAT to continue its efforts in educating youth.

Public Comment: (9:14 a.m.) **Sue Smith, 11th Avenue South**, commended Council's support of the initiative, although observing that if there was concern on the part of the City Council that people's lives should not be intruded upon, that was not reflected in its action to establish the Fifth Avenue South Business Improvement District (FASBID). She also pointed out that dangerous items are all too readily available to youngsters who risk the ruination of their future lives through use of progressively stronger illegal drugs. Mrs. Smith praised the young people present and commended the Mayor for his introduction of the matter to Council.

RESOLUTION 11-12991 ITEM 8
A RESOLUTION DETERMINING VARIANCE PETITION 11-V5 FROM SECTIONS 58-121(3) AND 58-121(4)(a) OF THE CODE OF ORDINANCES TO ALLOW FOR THE INSTALLATION OF A BOATLIFT 11 FEET FROM THE SIDE PROPERTY LINE ON AN EXISTING DOCK OWNED BY CYNTHIA R. LAUTENBACH, LOCATED AT 1801 GALLEON DRIVE, MORE FULLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (9:16 a.m.). This being a quasi-judicial proceeding, Notary Public Vicki Smith administered an oath to those intending to offer testimony; all responded in the affirmative. City Council Members then made the following ex parte disclosures: Saad and Heitmann/visited the site but no contact; Finlay, Sorey and Barnett/familiar with the site but no contact; and Sulick/personally acquainted with the petitioner and discussed matter with the Port Royal Property Owners Association. Planner Erica Goodwin provided a brief overview of the request as contained in her October 23 memorandum (Attachment 1), noting that the Planning Advisory Board (PAB) and staff recommend approval.

Council Member Price indicated a lack of support due to the request not meeting variance criteria, however, Attorney John Passidomo, agent for the petitioner, stressed that the request is to merely add a small, personal watercraft boat lift to an existing dock, 11 feet from the side property line. He then utilized an electronic presentation to show that the adjacent property owner placed a similar device 7.5 feet from the same property line. (It is noted for the record that a printed copy of Mr. Passidomo's presentation is contained in the file for this meeting in the City Clerk's Office.) This adjacent property owner, Mr. Passidomo further observed, as well as the Port Royal Property Owners Association, has submitted letters of support. Mr. Price maintained his previously stated opposition, but Mr. Passidomo pointed out that the staff report indicated compliance with variance criteria.

Discussion followed regarding the 2002 variance allowing the placement of the existing dock during which City Attorney Pritt noted that criteria had nevertheless been amended since.

Public Comment: (9:29 a.m.) None.

MOTION by Saad to APPROVE RESOLUTION 11-12991 as submitted; seconded by Sulick and carried 6-1, all members present and voting (Finlay-yes, Heitmann-yes, Price-no, Saad-yes, Sorey-yes, Sulick-yes, Barnett-yes).

Consensus that workshop discussion be scheduled regarding the governing ordinance of this item.

RESOLUTION (Continued – see motion below)..... ITEM 9
A RESOLUTION DETERMINING VARIANCE PETITION 11-V6 FROM SECTION 58-176 OF THE CODE OF ORDINANCES TO REBUILD A HOUSE AND AN ADDITION TO THE HOUSE AND RAISE THE EXISTING GUEST COTTAGE AT THE REAR OF THE PROPERTY TO BASE FLOOD ELEVATION, SAID PROPERTY BEING IN THE R1-10 RESIDENCE DISTRICT, OWNED BY ANTHONY M. AND KARLENE M. MARGOLIS, AND LOCATED AT 163 TENTH AVENUE SOUTH, MORE FULLY DESCRIBED HEREIN, SUBJECT TO THE CONDITIONS LISTED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (9:31 a.m.). This being a quasi-judicial proceeding, Notary Public Vicki Smith administered an oath to those intending to offer testimony; all responded in the affirmative. City Council Members then made the following ex parte disclosures: Saad/familiar with the site but no contact; and Finlay, Price, Barnett, Sulick, Heitmann and Sorey/visited the site but no contact. Planning Director Robin Singer detailed the renovations to the subject structure as reflected above and as contained in her October 31 memorandum (Attachment 2), noting that the Planning Advisory Board (PAB) and staff recommended approval.

Architect Daniel Summers, representing the petitioner, utilized an electronic presentation to depict the extent of the proposed renovations. (It is noted for the record that a printed copy of this presentation is contained in the file for this meeting in the City Clerk's Office.) He pointed out that the guesthouse, which remains primarily in its original state, is to be elevated to meet flood elevations and a new garage is to be constructed; he then reviewed numerous prior renovations to the main structure, explaining that, other than the front porch, the only remaining original element is a window. Vice Mayor Sorey questioned the requested setback variance when the main structure would be substantially demolished, but Mr. Summers indicated that the porch and front façade would most likely remain and should be considered the most important historical features to retain. The front porch would be dismantled and rebuilt, Mr. Summers however noted, and Mr. Sorey reiterated his opinion that the setbacks should be honored for the main structure; Council Member Price agreed.

Mr. Summers continued by explaining that the petitioners had found it cost prohibitive to elevate and renovate the existing main cottage resulting in the current proposal. He then offered to retain the cottage in its current configuration, and Council Member Sulick expressed her support thereby avoiding a larger home built to the limit of the lot; Council Member Heitmann agreed.

Vice Mayor Sorey then proffered a motion for denial as the project should meet the setback requirements, which Council Member Price seconded. Mr. Summers then requested the opportunity to confer with the petitioner with regard to altering the project to address Mr. Sorey's concern of retaining the contributing historical structure. The motion for denial and the second was withdrawn and a motion for continuance was proffered. City Attorney Pritt recommended the matter be considered during the January 18, 2012 regular meeting thereby allowing the petitioner the opportunity to review the matter.

Public Comment: (9:59 a.m.) None.

MOTION by Price to CONTINUE THIS ITEM TO REGULAR MEETING OF JANUARY 18, 2012; 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).

**RESOLUTION 11-12992 (Denied – see motion below)..... ITEM 10
A RESOLUTION DETERMINING VARIANCE PETITION 11-V7 FROM SECTION 58-296 OF
THE CODE OF ORDINANCES IN ORDER TO ALLOW A PARCEL (APPROXIMATELY
14,250 SQUARE FEET) WITH AN EXISTING DUPLEX TO BE SUBDIVIDED, SAID
PROPERTY OWNED BY LIBERTY BANK, FSB AND LOCATED AT 697-699 FAIRWAY
TERRACE, MORE FULLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.**

Title read by City Attorney Robert Pritt (9:59 a.m.). This being a quasi-judicial proceeding, Notary Public Vicki Smith administered an oath to those intending to offer testimony; all responded in the affirmative. City Council Members then made the following ex parte disclosures: Saad and Heitmann/familiar with the site but no contact; Finlay, Barnett, Sulick and Sorey/visited the site but no contact; and Price/visited the site and telephone contact with a neighboring resident in opposition to the petition. Planner Adam Benigni provided a brief overview of the petition as contained in his October 31 memorandum (Attachment 3), noting that the Planning Advisory Board (6-1) as well as staff recommended approval.

Attorney Jayne Skindzier, agent for the petitioner, explained that the property contained a duplex consisting of two, two-story townhouses which had entered into foreclosure. The requested variance would allow the petitioner to sell the individual units to two separate buyers resulting in fee simple title to the individual homes. While supporting the concept of fee simple title in this instance, Vice Mayor Sorey noted his concern with the practice of allowing such structures within the City. Council Member Sulick however pointed out that the City was being asked to waive its zoning regulations in order for the petitioner to market the dwellings.

Council Member Finlay observed that the structure would nevertheless remain the same; otherwise a condominium agreement would be necessary. Planner Benigni explained that the individual parcels resulting from a division at the common wall would meet minimum lot size requirements and no increase in density would occur. In addition, a common wall agreement would be submitted and referenced on the recorded subdivision plat. Mr. Benigni further pointed out that greater density would occur if an allowed four unit structure were constructed on the parcel. Referencing Mr. Benigni's comments, Vice Mayor Sorey concurred, observing that such a configuration as the one proposed could reduce density issues around the City. Council Member Sulick maintained her opposition and Council Member Price agreed, saying that he did not believe it met the variance criteria.

Council Member Finlay then proffered a motion for approval which however did not receive a second, and Council Member Sulick followed with the motion reflected below.

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

MOTION by Sulick to DENY RESOLUTION 11-12992 due to non-compliance with variance criteria; seconded by Heitmann and carried 6-1, all members present and voting (Price-yes, Sorey-yes, Sulick-yes, Saad-yes, Finlay-no, Heitmann-yes, Barnett-yes).

Vice Mayor Sorey then requested that a workshop discussion be scheduled in February regarding petitions such as this as he said he believed they result in some advantages to the City. City Manager William Moss reminded Council that the topic had been reviewed by the PAB at Council's request, resulting in a recommendation that no amendments to the Code of Ordinances be considered. City Attorney Pritt added that the PAB had recently indicated interest in reconsidering the fee simple ownership issue; Council indicated that the PAB discussion would be supported and that recommendations would be welcomed.

Recess: 10:21 a.m. to 10:35 a.m. It is noted for the record that the same Council Members were present when the meeting reconvened.

RESOLUTION 11-12993 ITEM 11

A RESOLUTION DETERMINING INDOOR AND OUTDOOR LIVE ENTERTAINMENT PETITION 11-LE4 FOR NAPLES HARBOUR YACHT CLUB LOCATED AT 475 NORTH ROAD, MORE FULLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Robert Pritt (10:35 a.m.). This being a quasi-judicial proceeding, Notary Public Vicki Smith administered an oath to those intending to offer testimony; all responded in the affirmative. City Council Members then made ex parte disclosures to the effect that all were familiar with the site but had had no contact except Mayor Barnett, who indicated that he had spoken with the petitioner. Planner Adam Benigni then reviewed the request as contained in his October 31 memorandum (Attachment 4), noting that staff recommended approval subject to the conditions contained in the resolution. Council Member Saad stated that he had been in contact with various residents of the nearby Avion Park neighborhood regarding other issues and that none had voiced concerns with the subject establishment and therefore proffered a motion for approval which Vice Mayor Sorey seconded.

Public Comment: (10:39 a.m.) **Sue Smith, 11th Avenue South**, received confirmation that letters notifying area residents had been mailed and that no responses had been received. **Kathy Kirby, 1545 Avion Place**, however, stated that as a nearby resident she was concerned that the late hours may now affect the enjoyment of her waterfront home, questioning whether loudspeakers could be directed away from the Avion Park area. Council Member Finlay agreed with her suggestion, further recommending that live entertainment cease at 10:00 p.m. on Thursday, thereby allowing him to support the petition.

Petitioner John Finstrom agreed with redirecting the speakers and noted that the club is open until 11:00 p.m. and entertainment ceases at 10:00 p.m.; the current request is to accommodate evening events such as wedding and anniversary parties and avoid obtaining special event permits for each. Following additional discussion of hours for the entertainment, the motion below was proffered.

MOTION by Saad to APPROVE RESOLUTION 11-12993 amended as follows:

Section 2(1): "...2:00 p.m. until 11:00 p.m. ~~11:30 p.m.~~, 6:00 p.m. until 11:00 p.m. ~~11:30 p.m.~~; Section 2(2) "... until 11:00 p.m. ~~12:00 a.m. (midnight);~~ adding a new Section 2(3): "Speakers shall be directed away from residential areas."; and renumbering subsequent sections. This motion was seconded by Sorey and carried 6-1, all members present and voting (Finlay-no, Heitmann-yes, Price-yes, Saad-yes, Sorey-yes, Sulick-yes, Barnett-yes).

RESOLUTION 11-12994 ITEM 12

A RESOLUTION DETERMINING OUTDOOR DINING PETITION 11-ODPV8 TO ALLOW A RESTAURANT (DOLCE AND SALATO) TO HAVE OUTDOOR DINING THAT FACES RESIDENTIALLY ZONED PROPERTY, LOCATED AT 300 FIFTH AVENUE SOUTH, OWNED BY M-P REALTY, LLC, SAID PROPERTY BEING MORE FULLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Robert Pritt (10:54 a.m.). This being a quasi-judicial proceeding, Notary Public Vicki Smith administered an oath to those intending to offer testimony; all responded in the affirmative. City Council Members then made ex parte disclosures: Saad, Finlay and Barnett/familiar with the site but no contact; and Price, Sulick, Heitmann and Sorey/visited the site but no contact. Planning Director Robin Singer provided a brief overview of her October 31 memorandum (Attachment 5), noting that staff and the Design Review Board (DRB) recommend approval with the conditions contained in the resolution. She also explained that the petitioner had not been aware of the City's approval process for outdoor dining prior to placing tables and chairs outside the premises and had been advised to remove them, along with signage and planters in the public right-of-way.

Petitioner Agostino Nastasi apologized for his lack of knowledge with respect to the City's outdoor dining regulations stating that his landlord had informed him that dining was allowed outdoors but failed to mention the need for a permit. He said that he believed that the outdoor dining area improved the ambience of the area, especially the alleyway, and that his establishment is never open beyond 8:00 p.m. Discussion followed during which Mr. Nastasi was urged by Council to contact nearby residents who had expressed concerns relative to the hours of operation.

Further discussion ensued regarding the amount of vehicular and pedestrian traffic in the alleyway and Mayor Barnett indicated his support, especially with the conditional screening and proffered a motion of approval.

Public Comment: (11:15 a.m.) None.

MOTION by Barnett to APPROVE RESOLUTION 11-12994 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).

RESOLUTION 11-12995 ITEM 13
A RESOLUTION AMENDING RESOLUTION 11-12927 WHICH APPROVED A SITE PLAN WITH DEVIATIONS FOR THE CONSTRUCTION OF A NEW MIXED USE BUILDING FOR THE PROPERTY OWNED BY PHILLIP J. MCCABE, TRUSTEE TO CORRECT THE MEASUREMENT OF THE REAR SETBACK OF THE BUILDING TO THE CENTERLINE OF THE ALLEY, LOCATED AT 690 FIFTH AVENUE SOUTH, MORE FULLY DESCRIBED HEREIN; PROVIDING THAT ALL OTHER PROVISIONS CONTAINED IN RESOLUTION 11-12927 REMAIN IN EFFECT; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (11:15 a.m.). In response to Council Member Price, Planning Director Robin Singer clarified that the original resolution should have reflected a 14-foot setback to the center of the alley at the rear of the property rather than 30 feet to the building and 10 feet to the edge of the second and third floor balconies as reflected in her memorandum dated November 7 (Attachment 6). Attorney John Passidomo, agent for the petitioner, agreed with her statement. Ms. Singer further noted that the error had been identified during the building permit review process.

Public Comment: (11:22 a.m.) None.

MOTION by Sorey to APPROVE RESOLUTION 11-12995 as submitted; seconded by Saad and carried 6-1, all members present and voting (Finlay-yes, Heitmann-no, Price-yes, Saad-yes, Sorey-yes, Sulick-yes, Barnett-yes).

Council Member Heitmann explained that her negative vote had been due to her opposition to what she termed such a significant deviation.

RESOLUTION 11-12996 ITEM 14-a
A RESOLUTION REAPPOINTING WILLIE ANTHONY TO THE COMMUNITY REDEVELOPMENT AGENCY ADVISORY BOARD (CRAAB) FOR A TWO-YEAR TERM COMMENCING DECEMBER 17, 2011, AND EXPIRING DECEMBER 16, 2013; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (11:23 a.m.) Deputy City Clerk Jessica Rosenberg provided a brief explanation of the waiver being required to reappoint Willie Anthony as he has served two, consecutive terms; he also resides within the redevelopment area, she added.

Public Comment: (11:24 a.m.) None.

MOTION by Barnett to APPROVE RESOLUTION 11-12996 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 11-12997 ITEM 14-b

A RESOLUTION REAPPOINTING JOHN NOCERA TO THE COMMUNITY REDEVELOPMENT AGENCY ADVISORY BOARD (CRAAB) FOR A TWO-YEAR TERM COMMENCING DECEMBER 17, 2011, AND EXPIRING DECEMBER 16, 2013; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (11:24 a.m.).

Public Comment: (11:24 a.m.) None.

MOTION by Sorey to APPROVE RESOLUTION 11-12997 as submitted; seconded by Barnett and unanimously carried, all members present and voting (Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sorey-yes, Sulick-yes, Barnett-yes).

RESOLUTION 11-12998 ITEM 14-c

A RESOLUTION REAPPOINTING ROBERT DECASTRO TO THE COMMUNITY REDEVELOPMENT AGENCY ADVISORY BOARD (CRAAB) FOR A TWO-YEAR TERM COMMENCING DECEMBER 20, 2011, AND EXPIRING DECEMBER 19, 2013; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (11:25 a.m.).

Public Comment: (11:25 a.m.) None.

MOTION by Finlay to APPROVE RESOLUTION 11-12998 as submitted, which unanimously carried, all members present and voting (Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sorey-yes, Sulick-yes, Barnett-yes).

RESOLUTION 11-12999 ITEM 14-d

A RESOLUTION APPOINTING ONE MEMBER TO THE COMMUNITY REDEVELOPMENT AGENCY ADVISORY BOARD (CRAAB) FOR A TWO-YEAR TERM COMMENCING DECEMBER 17, 2011, AND EXPIRING DECEMBER 16, 2013; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (11:26 a.m.).

Public Comment: (11:27 a.m.) None.

MOTION by Saad to APPROVE RESOLUTION 11-12999 APPOINTING ALAN RYKER which unanimously carried, all members present and voting (Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sorey-yes, Sulick-yes, Barnett-yes).

RESOLUTION 11-12300 ITEM 14-e

A RESOLUTION APPOINTING ONE MEMBER TO THE COMMUNITY REDEVELOPMENT AGENCY ADVISORY BOARD (CRAAB) FOR A TWO-YEAR TERM COMMENCING DECEMBER 17, 2011, AND EXPIRING DECEMBER 16, 2013; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (11:27 a.m.).

Public Comment: (11:29 a.m.) None.

MOTION by Sorey to APPROVE RESOLUTION 11-12300 APPOINTING JAMES CLAPPER FAILED 2-5, all members present and voting (Finlay-no, Saad-no, Sorey-yes, Sulick-no, Heitmann-no, Price-yes, Barnett-no).

MOTION by Heitmann to APPROVE RESOLUTION 11-12300 APPOINTING JAMES KNAFO unanimously carried, all members present and voting (Saad-yes, Sulick-yes, Heitmann-yes, Finlay-yes, Price-yes, Sorey-yes, Barnett-yes).

CORRESPONDENCE AND COMMUNICATIONS.....

(11:31 a.m.) In response to Council Member Sulick, Assistant City Manager Roger Reinke noted that the meeting scheduled for November 28 with the Florida Department of Transportation (FDOT) had been cancelled that morning by the state. The intent had been to discuss options regarding the re-designation of US 41 and is to be rescheduled for early next year. Council Member Price recommended that affected US 41 property owners be contacted for input prior to any additional meetings; Mrs. Sulick agreed to do so. Council Member

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Heitmann referenced materials provided via e-mail regarding economic development (*Six Pillars of Florida's Future Economy*) and information from the Florida League of Cities Energy and Environmental Quality Committee. Mrs. Heitmann additionally received consensus that the City Attorney and City Manager confer regarding an aforementioned e-mail of undisclosed content (see Page 3). Vice Mayor Sorey then requested results of a meeting with the FDOT regarding stormwater management issues in conjunction with the Publix Supermarket renovations at US 41 and Golden Gate Parkway; he further noted the reopening of the Mangrove Café.

PUBLIC COMMENT

(11:43 a.m.) **Sue Smith, 11th Avenue South**, explained that during the most recent Community Redevelopment Agency (CRA) meeting, she had been directed to await a response from the attorney representing the Fifth Avenue South Business Improvement District (FASBID) as to the process necessary to remove oneself from corporate membership in that entity. Membership had been established for Fifth Avenue South property owners when the assessment area was initiated, she said; she does not, nor had she ever, wished to be involved with this company. As she had not received any information to date, she requested that staff pursue a written response and consensus was reached that Assistant City Manager Roger Reinke would follow up.

EXECUTIVE SESSION..... ITEM 15

(11:46 a.m.) Executive session to discuss and approve the Risk Management Committee's recommendation for the settlement of a Worker's Compensation Claim.

Executive Session: 11:46 a.m. to 11:58 a.m. It is noted for the record that the same Council Members were present when the meeting reconvened.

(11:58 a.m.) Approval of resolution reflected below.

RESOLUTION 11-13001

A RESOLUTION APPROVING THE RISK MANAGEMENT COMMITTEE'S RECOMMENDATION FOR THE SETTLEMENT OF A WORKERS' COMPENSATION CLAIM; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (11:58 a.m.)

MOTION by Barnett to APPROVE RESOLUTION 11-13001 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).

ADJOURN

11:58 a.m.

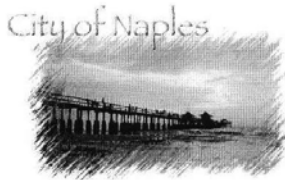
Bill Barnett, Mayor

Tara A. Norman, City Clerk

Minutes prepared by:

Vicki L. Smith, Technical Writing Specialist

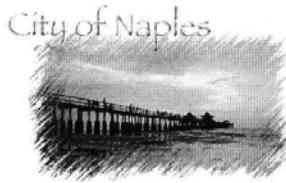
Minutes Approved: January 18, 2012



NAPLES CITY COUNCIL AGENDA MEMORANDUM

Regular Meeting Date: November 16, 2011

Agenda Section:	Regular	Prepared By: Erica J. Goodwin, Planner II
Agenda Item:	8	Date: October 23, 2011 Department: Planning
		Legislative <input type="checkbox"/> Quasi-Judicial <input checked="" type="checkbox"/>
SUBJECT: Resolution determining Variance Petition 11-V5 for the property located at 1801 Galleon Drive.		
SUMMARY: City Council is asked to consider a Resolution determining Variance Petition 11-V5 from Sections 58-121(3) and 58-121(4)(a) of the Code of Ordinances to allow for the installation of a boatlift 11 feet from the side property line on an existing dock where the dock is required to be centered on the property owned by Cynthia R. Lautenbach and located at 1801 Galleon Drive. In that this is a Quasi-Judicial matter, disclosures and the swearing in of those giving testimony are required.		
BACKGROUND: The owner of the subject property would like to add a second boat lift to their existing dock. No dredging is proposed as part of this request. Due to the length of the dock, the dock and lift are required to be centered on the property pursuant to Section 58-121(4)(a). On November 6, 2002, the Naples City Council approved Resolution 02-9862 granting approval of a Variance to allow the construction of a 120 foot long dock with boat lift at its current location based upon a determination that in order to reach a depth of 5 feet mean low water, the dock would need to extend up to 120 feet into the Bay. The dock and boatlift on this property were installed and completed in March of 2003, extending approximately 107 feet waterward from the toe of the rip rap and located 24 feet from the side property line with the boatlift located 7.5 feet from the side property line. The owner now wishes to install a second boatlift landward of the existing boatlift on the existing dock, approximately 11 feet from the side property line. City Council approved a similar Variance to allow the adjacent property owner at 1787 Galleon Drive to construct their dock within 7.5 feet of the shared side property line. The current owner of the neighboring property, which is most affected by this variance, submitted a letter of no objection. The following Code sections regulate docks and piers in the R1-15A district of Port Royal:		
<p><i>“(3) The side yard setback for all piers, including floating piers, vessels moored to piers, boat lifts, and vessels supported on boat lifts, constructed after September 15, 1999, the effective date of Ordinance No. 99-8638, is 20 feet from the side property lines and riparian lines, extended into the waterway. The setback shall be measured at a right angle to the extended property line.</i></p> <p><i>(4) Piers may not extend more than 22 feet waterward of the toe of the riprap revetment (the largest original stones at the bottom of the existing riprap), with the following exceptions:</i></p> <p><i>a. Piers on Naples Bay and Gordon Pass may extend beyond 22 feet in order to reach a maximum depth of five feet, mean low water (the maximum depth for maintenance dredging, as defined in F.A.C. 62-312.050(1)(e)). However, for every one foot beyond the 22-foot limit that the pier extends, the side yard setback shall</i></p>		

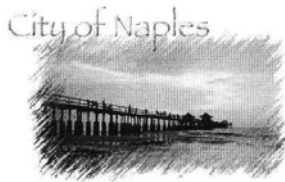


NAPLES CITY COUNCIL AGENDA MEMORANDUM

Regular Meeting Date: November 16, 2011

Page Two

Agenda Section:	Regular		Prepared By: Erica J. Goodwin, Planner II
Agenda Item:	8	Legislative <input type="checkbox"/>	Quasi-Judicial <input checked="" type="checkbox"/>
<p>BACKGROUND (cont.):</p> <p><i>increase by two feet. If the increased setback results in a pier that is centered along the rear property line and the length of the pier is still inadequate to reach a depth of five feet MLW, the pier can be extended the additional distance needed to reach a depth of five feet MLW. A pier is considered to be centered when the combined mass of pier and vessel moored to it are positioned opposite the midpoint of the rear property line. The maximum shore-parallel width of the pier and lifts shall not exceed 25 percent of the shore-parallel length of the waterfront property line. "</i></p> <p>The Planning Advisory Board (PAB) heard this item at their meeting on October 12, 2011 and voted 7-0 to recommend approval of the Variance request.</p> <p>File Reference: Variance Petition 11-V5 Petitioner: Cynthia R. Lautenbach Agent: John Passidomo, Esquire, Cheffy Passidomo Location: 1801 Galleon Drive Zoning: R1-15A, Residence District</p> <p>PUBLIC NOTICE: On September 20, 2011, a total of 20 letters were mailed to all property owners located within 500 feet of the subject property. As of the date of this report, Staff has received one letter in support of the Variance request from Lawrence H. Garatoni, neighbor. A copy of this letter is attached. An additional letter of support from the Port Royal Association is included in the petition submittal.</p> <p>RECOMMENDED ACTION: Adopt a Resolution approving Variance Petition 11-V5 from Sections 58-121(3) and 58-121(4)(a) of the Code of Ordinances to allow for the installation of a boatlift 11 feet from the side property line on an existing dock where the dock is required to be centered on the property owned by Cynthia R. Lautenbach and located at 1801 Galleon Drive.</p>			
Reviewed by Department Director Robin D. Singer	Reviewed by Finance N/A	Reviewed by City Manager A. William Moss	
City Council Action:			



NAPLES CITY COUNCIL AGENDA MEMORANDUM

Regular Meeting Date: November 16, 2011

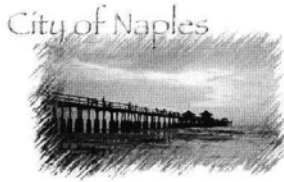
Agenda Section:	Regular	Prepared By: Robin D. Singer, Director
Agenda Item:	9	Date: October 31, 2011
		Department: Planning
		Legislative <input type="checkbox"/>
		Quasi-Judicial <input checked="" type="checkbox"/>

SUBJECT:
Consideration of a Resolution determining Variance Petition 11-V6 to allow a house and an addition to the house be rebuilt and a guest house to be elevated along existing nonconforming setback lines on property in the R1-10 Residence District located at 163 10 Avenue South.

SUMMARY:
City Council is asked to consider a Resolution determining Variance Petition 11-V6 from Section 58-176 of the Code of Ordinances in order to allow a house and an addition to the house be rebuilt approximately 25'-5" from the front (south) property line where 30 feet is required, allow a front porch to be constructed approximately 21'-5" from the front (south) property line where 30 feet is required and raise the existing guest cottage at the rear of the property to base flood elevation, which is located approximately 5'-6" from the rear (north) property line where 25 feet is required on property in the R1-10 Residence District located at 163 10th Avenue South. In that this is a Quasi-Judicial matter, disclosures and the swearing in of those giving testimony are required.

BACKGROUND:
The owner of the subject property would like to renovate the existing single family home and guest house. The guest house and a portion of the main house are listed as contributing structures in the City's historic district. The guest house is nonconforming as to the required rear yard and the main house is nonconforming as to the required front yard. The intent at this time is to demolish any improvements that are not historic, renovate and elevate the historic structures and build new additions on either side of the main house. They also plan on moving the guest house approximately 12 feet to the east along the existing rear setback line. Over the years there have been many modifications that have altered the historic structures and some delayed maintenance on the primary residence has resulted in damage to the structure that may make it impossible to retain it. The petitioner has applied for a variance rather than the expansion of a nonconformity in anticipation of the fact that the structures may not be salvageable. However, the proposed new home and guest house are designed to be very similar in design and scale to the existing historic structures.

The variance will make it possible to renovate and add on to the structures that are currently nonconforming as to the required front and rear yards. The existing house is approximately 25'-5" from the front property line where 30 feet is required. They would like to keep the home in this location and provide additions on the east and west side of the house along the same setback line. They would also like to add a front porch which will extend further into the required front yard. The variance will allow the guest home, which is currently 5'-6" from the rear property line where 25'-0" is required, to be elevated to meet minimum floodplain standards along the existing nonconforming rear setback and, in the event that the guest home has significant structural deterioration, replace the home in the same location. Staff has provided notice to adjacent property owners consistent with Section 16-112 regarding the demolition of historic structures which requires a 180 day waiting period.

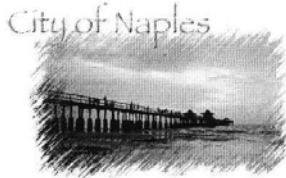


NAPLES CITY COUNCIL AGENDA MEMORANDUM

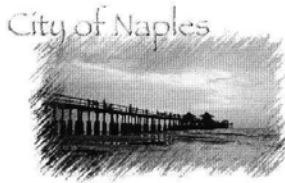
Regular Meeting Date: November 16, 2011

Page Two

Agenda Item: 9		
BACKGROUND (cont.):		
<p>File Reference: Variance Petition 11-V6 Petitioner: Anthony Margolis Agent: Daniel Alan Summers, AIA, BSSW Architects, Inc. Location: 163 10th Avenue South Zoning: R1-10 Residence District</p> <p>On September 28, 2011, the Planning Department mailed 69 notices of the subject petition to property owners within 500 feet of the subject property. Two responses were received, one in favor and one objection. Copies of the email responses are attached.</p> <p>On October 12, 2011, the Planning Advisory Board voted 7-0 to recommend approval of Variance Petition 11-V6 subject to the conditions recommended by staff.</p> <p>RECOMMENDED ACTION: Adopt a Resolution approving Variance Petition 11-V6 from Section 58-176 of the Code of Ordinances to rebuild a house and an addition to the house and raise the existing guest cottage at the rear of the property to base flood elevation said property being in the R1-10 Residence District, owned by Anthony M. and Karlene M. Margolis and located at 163 10th Avenue South.</p>		
Reviewed by Department Director Robin D. Singer	Reviewed by Finance N/A	Reviewed by City Manager A. William Moss
City Council Action:		

**NAPLES CITY COUNCIL AGENDA MEMORANDUM****Regular Meeting Date: November 16, 2011**

Agenda Section:	Regular	Prepared By: Adam A. Benigni, Sr. Planner
Agenda Item:	10	Date: October 31, 2011 Department: Planning
		Legislative <input type="checkbox"/> Quasi-Judicial <input checked="" type="checkbox"/>
SUBJECT: Resolution determining Variance Petition 11-V7 for the property located at 697-699 Fairway Terrace.		
SUMMARY: City Council is asked to consider a Resolution determining a Variance from Section 58-296 of the Code of Ordinances in order to allow a parcel (approximately 14,250 square feet) with an existing duplex to be subdivided (resulting in two parcels approximately 7,125 square feet each) with zero-foot side yards where 10-foot side yards are required, said property owned by Liberty Bank, FSB and located at 697-699 Fairway Terrace. In that this is a Quasi-Judicial matter, disclosures and the swearing in of those giving testimony are required.		
BACKGROUND: The developer of the subject property constructed the existing duplex in 2007. Liberty Bank acquired the title to the property in 2010 after the developer defaulted on their loan. The petitioner listed the property for sale after acquiring ownership and, in August 2011, secured separate buyers for each townhome. The variance would allow the petitioner to split the lot in a north/south fashion along the common wall of the duplex and sell each unit as a single-family residence rather than as condominiums or use the structure as a rental duplex. If the variance is approved, the petitioner would then apply for a replat in order to split the property. The property is 0.33 acres in area. The R3-12 zoning district allows up to 12 units per acre; therefore, a total of 4 units could have been constructed on the property. Currently, there are only 2 units on the property. If the variance is approved and the replat is processed successfully, each property would be approximately 0.16 acres in area. If the existing duplex were demolished in the future, each 0.16-acre property would be permitted to have up to 2 units apiece based upon the density requirement of the R3-12 zoning district. There would be no increase in density if the variance was approved. The Planning Advisory Board recommended approval of this request by a vote of 6 to 1 with the condition that the size of the property be divided equally based on an as-built survey of the common wall.		
File Reference: Variance Petition 11-V7 Petitioner: Liberty Bank, FSB Agent: Jayne M. Skindzier, Esq., Cummings & Lockwood, LLC Location: 697 & 699 Fairway Terrace Zoning: R3-12 Multifamily District		
RECOMMENDED ACTION: Adopt a Resolution approving Variance Petition 11-V7 from Section 58-296 of the Code of Ordinances in order to allow a parcel (approximately 14,250 square feet) with an existing duplex to be subdivided said property owned by Liberty Bank, FSB and located at 697-699 Fairway Terrace.		
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: November 16, 2011

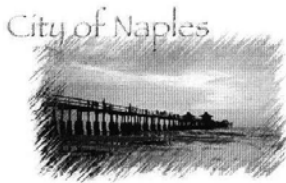
Agenda Section:	Regular	Prepared By: Adam A. Benigni, Sr. Planner
Agenda Item:	11	Date: October 31, 2011 Department: Planning
		Legislative <input type="checkbox"/> Quasi-Judicial <input checked="" type="checkbox"/>
SUBJECT: Resolution determining Indoor and Outdoor Live Entertainment Petition 11-LE4 for Naples Harbour Yacht Club located at 475 North Road.		
SUMMARY: City Council is asked to consider a resolution determining Live Entertainment Petition 11-LE4 for Naples Harbour Yacht Club for <u>indoor</u> live entertainment consisting of up to 3 musicians on Sundays from 2 p.m. until 11:30 p.m., Mondays through Saturday from 6 p.m. until 11:30 p.m., and <u>outdoor</u> live entertainment consisting of up to 3 musicians on Sundays from 2 p.m. until 10:00 p.m., Mondays through Wednesdays from 6 p.m. until 10:00 p.m. and Thursdays through Saturdays from 6 p.m. until 12:00 a.m. (midnight). In that this is a Quasi-Judicial matter, disclosures and the swearing in of those giving testimony are required.		
BACKGROUND: Naples Harbour Yacht Club first received a Live Entertainment Permit in April 2010. The live entertainment consisted of a maximum of 3 musicians to be located indoors on the second floor of the club Friday from 6:00 p.m. to 9:00 p.m. and outdoors (or indoors if inclement weather) on the south/southwest corner of the outdoor patio from 2:00 p.m. to 7:00 p.m. on Saturday and Sunday. After six months with no noise complaints, the petitioner reapplied and received City Council approval to add additional indoor live entertainment on the first floor of the clubhouse on Thursdays from 6:00 p.m. to 9:00 p.m. The petitioner has now reapplied to increase the hours of indoor and outdoor entertainment to be consistent with the indoor and outdoor live entertainment hours allowable in Section 56-125 of the Code of Ordinances. The Police Department has reviewed the Computer Aided Dispatch (CAD) and has found no noise complaints or code enforcement violations for this establishment.		
File Reference: Live Entertainment Petition 11-LE4 Petitioner: Naples Harbour Yacht Club Agent: Richard D. Yovanovich, Coleman Yovanovich & Koester, P.A. Location: 475 North Road Zoning: PD, Planned Development		
PUBLIC NOTICE: A total of 101 public notices were mailed out October 21, 2011. As of the date of this report, there have been no letters in support or opposition regarding the proposed entertainment.		
RECOMMENDED ACTION: Adopt a Resolution approving Indoor and Outdoor Live Entertainment Petition 11-LE4 for Naples Harbour Yacht Club located at 475 North Road subject to the conditions listed in the resolution.		
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: November 16, 2011

Agenda Section: Regular	Prepared By: Robin D. Singer, Planning Director Date: October 31, 2011 Department: Planning
Agenda Item: 12	Legislative <input type="checkbox"/> Quasi-Judicial <input checked="" type="checkbox"/>
SUBJECT: Resolution determining Outdoor Dining Petition 11-ODPV8 in order to allow Dolce and Salato located at 300 5 th Avenue South to provide outdoor dining on private property facing residentially zoned property.	
SUMMARY: City Council is asked to consider a Resolution determining Outdoor Dining Petition 11-ODPV8 to allow a restaurant, Dolce and Salato, to have outdoor dining on private property that faces residentially zoned property located at 300 5 th Avenue South pursuant to Section 56-126 (c) (1) d of the Code of Ordinances. In that this is a Quasi-Judicial matter, disclosures and the swearing in of those giving testimony are required.	
BACKGROUND: Dolce and Salato is a delicatessen and casual dining restaurant in the same building as Bice Ristorante at the corner of 5 th Avenue South and 3 rd Street South. Dolce and Salato occupies the tenant bay at the south end of the building and faces 3 rd Street South. The owners are proposing outdoor dining on the elevated patio where Bice also has tables and recently obtained approval for an awning. Dining is also proposed at grade in front of the restaurant and along the alley behind the restaurant. The at-grade seating area at the front of the restaurant is surrounded by planters and vine covered lattice. As the property is located in the Fifth Avenue South Special Overlay District, parking is not required however the review and approval of the Design Review Board (DRB) is required. The DRB reviewed the proposed seating at their October 26, 2011 meeting and approved the tables, chairs and seating layout with the condition that the owner add similar vine covered screening along the alley to buffer the seating in that area and that the owner consider a more permanent pergola structure for the at grade seating at some point in the future.	
Pursuant to Section 56-126 (c) (1) d, outdoor dining areas that face residentially zoned property require City Council approval:	
"(c) Permit. (1) Application for outdoor dining will be made to the city manager. All applications will be renewed and issued administratively through the city manager except in the following instances:	
a. Outdoor dining on public property exceeding 100 square feet in area for a single establishment; b. Outdoor dining on public property that is not directly abutting the storefront of the restaurant which it serves; c. Outdoor dining on public property abutting U.S. 41; d. The establishment or expansion of outdoor dining facing a residential zoning district."	



NAPLES CITY COUNCIL AGENDA MEMORANDUM

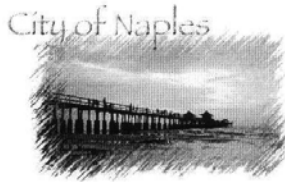
Regular Meeting Date: November 16, 2011

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Agenda Item: 12		
BACKGROUND (cont.): The proposed outdoor dining area faces R3T-12 Multiple Family residential to the west and south. If the petitioner meets the recommendations of the Design Review Board and keeps all service areas indoors, the proposed seating area should have minimal impact on the adjacent residential properties. On October 13, 2011, a total of 202 letters were mailed to adjacent property owners. One letter in support and two in protest were received. File Reference: Outdoor Dining on Private Property 11-ODPV8 Petitioner: Partenope, Inc. DBA Dolce and Salato Agent: Agostino Nastasi Location: 300 5 th Avenue South Zoning: PD Planned Development and Fifth Avenue South Special Overlay District RECOMMENDED ACTION: Adopt a Resolution approving Outdoor Dining Petition 11-ODPV8 to allow a restaurant, Dolce and Salato, to have outdoor dining that faces residentially zoned property, located at 300 5 th Avenue South, owned by M-P Realty, LLC.		
Reviewed by Department Director Robin D. Singer	Reviewed by Finance N/A	Reviewed by City Manager A. William Moss
City Council Action:		



Roll call votes by Council Members are recorded in random order, pursuant to City Council policy.



NAPLES CITY COUNCIL AGENDA MEMORANDUM

Regular Meeting Date: **November 16, 2011**
Page Two

Agenda Item: 13		
<p>BACKGROUND (cont.): of the balcony. When the plans were reviewed for approval of the Building Permit, the discrepancy was found. The petitioners have submitted revised drawings which accurately dimension the distance from the centerline.</p> <p>Approving this amendment to the resolution will not change the plans submitted and approved by City Council or the Design Review Board. It will provide accurate dimensions to allow the building permit plans to be granted zoning approval. Demolition and foundation work, not dependent on the approval of this amendment, have already commenced on site. The building permit plans are currently being reviewed by other departments.</p> <p>RECOMMENDED ACTION: Approve a Resolution amending Resolution 11-12927 which approved a Site Plan with Deviations for the construction of a new mixed use building for the property owned by Phillip J. McCabe, Trustee to correct the measurement of the rear setback of the building to the centerline of the alley, located at 690 5th Avenue South; and providing that all other provisions contained in Resolution 11-12927 remain in effect.</p>		
Reviewed by Department Director Robin D. Singer	Reviewed by Finance N/A	Reviewed by City Manager A. William Moss
City Council Action:		