



City of Naples

City Council Chamber
735 Eighth Street South
Naples, Florida 34102

City Council Regular Meeting - April 18, 2012 - 8:29 a.m.

Mayor Sorey called the meeting to order and presided.

ROLL CALL.....ITEM 1

Present:

John F. Sorey III, Mayor
Gary Price II, Vice Mayor

Council Members:

Bill Barnett
Douglas Finlay
Teresa Heitmann
Samuel Saad, III
Margaret Sulick (left 4:27 p.m.)

Also Present:

William Moss, City Manager
Robert Pritt, City Attorney
Roger Reinke, Assistant City Manager
Vicki Smith, Technical Writing Specialist
David Lykins, Community Services Director
Thomas Weschler, Police Chief
Bob Middleton, Utilities Director
Adam Benigni, Planner
Stephen McInerny, Fire Chief
Christa Carrera, Floodplain Coordinator
Michael Bauer, Natural Resources Manager
Michael Moose, Executive Assistant
Denise Perez, Human Resources Director
George Archibald, Traffic Engineer
Erica Goodwin, Planner
Thomas Vogel, Battalion Chief
Jayne Skindzier
Gregory Urbancic
Patrick White
Eric Reed
Bob Josselyn
Rocky Scofield
Sue Smith
Joan Colfer
Scott Tomar
Richard Garcia
Alan Weiss

Steven Wigdahl
Will Dempsey
Matthew Kragh
Henry Kennedy
William Kelly
Robert Wilder
Benjamin Mallah
John Remington
Maria Eaton
Gilgore Tuparov
Gary Foreman
Robert Wilder, Jr.
Dave Elliott
Liliana McGuire
Keith Riley
Dawn Kolderman
Patricia Primero
Stephanie Braun
Todd Foege
Lauren Governale
David Bolduc
Charlie Thomas
David Herman

Media:

Kristine Gill, Naples Daily News
Eric Staats, Naples Daily News
Other interested citizens and visitors

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

Pastor Steven Wigdahl, Emmanuel Lutheran Church.

ANNOUNCEMENTS.....ITEM 3
(8:29 a.m.) Mayor Sorey read the following proclamations: Crime Victim’s Rights Week (April 22 to 28); Sexual Assault Awareness Month (April); World Wide Parkinson’s Awareness Month (April); and Lipdub Naples Day (April 22). Retiring Executive Assistant to the Mayor and City Council, Michael Moose, was recognized for his years of service.

SET AGENDA (add or remove items).....ITEM 4
MOTION by Sulick to SET THE AGENDA removing Item 6-b-5 (iLearn Life, Inc. 239 Music Fest), Item 6-c (CDBG application), and Item 6-d (booth / vendor fee amendments) from the Consent Agenda for separate discussion. This motion was seconded by Saad and unanimously carried, all members present and voting (Barnett-yes, Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sulick-yes, Sorey-yes).

PUBLIC COMMENT.....ITEM 5
(8:49 a.m.) **Larry Schultz, Aqualane Shores**, reiterated his support for a citizens airport advisory committee discussed at that week’s workshop, explaining that he did not believe it would duplicate the function of the Noise Compatibility Committee. Not all curfew violations at the airport are reported, he added, noting that some aircraft tail numbers are obscured for security reasons and therefore flights are not logged. **John Remington, 3525 Gordon Drive**, commenting on Item 13 (see Page 10), explained that he supported administrative approval of Coastal Construction Setback Line (CCSL) variances due to the stringent state standards already in place. He also recommended reconsideration of regulations of lighting with regard to turtle protection. **William Kelly, PO Box 2584, Naples**, read into the record a timeline of complaints which he said had been ignored, noting that in such instances, deters the average citizen. Mayor Sorey requested that the City Manager provide written documentation of staff’s responses to Mr. Kelly, which is to be forwarded both to Council and to Mr. Kelly.

CONSENT AGENDA

APPROVAL OF MINUTES.....ITEM 6-a
March 7, 2012 Regular Meeting minutes; as submitted.

APPROVAL OF SPECIAL EVENTS.....ITEM 6-b
1) City Fest Spring 2012 - Sip of Fifth - Fifth Avenue South Business Improvement District (FASBID) - Fifth Avenue South - 05/04/12 (05/11/12 - Rain Date).
2) City Fest Spring 2012 - Blues, Brews & BBQ - Tin City - Tin City covered parking lot - 05/11/12 and 05/12/12.
3) 2012 Fourth of July Parade - City of Naples - Broad Avenue to Third Street South to Fifth Avenue South to Eighth Street South - 07/04/12.
4) 2012 Fourth of July Fireworks - City of Naples - Fishing Pier - 07/04/12.
5) Removed from Consent Agenda for separate discussion / see below,.

RESOLUTION (removed for separate discussion / see below).....ITEM 6-c

RESOLUTION (removed for separate discussion / see below).....ITEM 6-d-1

RESOLUTION (removed for separate discussion / see below).....ITEM 6-d-2

CLERK’S TRACKING #12-00012.....ITEM 6-e

AWARDING A CONTRACT FOR THE REMOVAL OF SAND AND GRIT FROM AERATION BASIN III LOCATED AT THE WASTEWATER TREATMENT PLANT: \ VENDOR: VISION ENVIRO SERVICES, LLC, DE BARY, FLORIDA / COST: \$72,300 \ FUNDING: CIP 12M05 - AERATION BASIN.

RESOLUTION 12-13101.....ITEM 6-f
A RESOLUTION REGARDING THE GOLDEN GATE CANAL TRANSMISSION MAIN; APPROVING A UTILITY EASEMENT PURCHASE AGREEMENT AND AUTHORIZING THE

MAYOR TO EXECUTE THE PURCHASE AGREEMENT; ACCEPTING A PERPETUAL WATER LINE AND TRANSMISSION MAIN EASEMENT; AND ACCEPTING A TEMPORARY CONSTRUCTION EASEMENT FROM HEADWATERS DEVELOPMENT LIMITED LIABILITY LIMITED PARTNERSHIP, LLLP, A FLORIDA LIMITED LIABILITY LIMITED PARTNERSHIP FOR CONSTRUCTION, ACCESS AND MAINTENANCE OF A 20-INCH TRANSMISSION MAIN FROM THE GOLDEN GATE CANAL INTAKE STRUCTURE ALONG THE NORTHERN AND WESTERN BOUNDARY OF THE HEADWATERS DEVELOPMENT PROPERTY; DIRECTING THE CITY CLERK TO RECORD THE PERPETUAL WATER LINE AND TRANSMISSION MAIN AND TEMPORARY CONSTRUCTION EASEMENTS; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 12-13102.....ITEM 6-g-1
A RESOLUTION REAPPOINTING BRETT BACKUS, A RESIDENT OF POLICE PATROL SECTOR 3, TO THE CITIZENS POLICE REVIEW BOARD FOR A THREE-YEAR TERM COMMENCING APRIL 18, 2012, AND EXPIRING APRIL 17, 2015; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 12-13103.....ITEM 6-g-2
A RESOLUTION REAPPOINTING RODNEY SCHWASINGER, A RESIDENT OF POLICE PATROL SECTOR 2, TO THE CITIZENS POLICE REVIEW BOARD FOR A THREE-YEAR TERM COMMENCING APRIL 18, 2012, AND EXPIRING APRIL 17, 2015; WAIVING THE TERM LIMIT REQUIREMENT PURSUANT TO SECTION 2-403 OF THE CODE OF ORDINANCES; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 12-13104.....ITEM 6-g-3
A RESOLUTION REAPPOINTING JAMES KRALL TO THE PLANNING ADVISORY BOARD FOR A THREE-YEAR TERM COMMENCING ON MAY 1, 2012, AND EXPIRING APRIL 30, 2015; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 12-13105.....ITEM 6-g-4
A RESOLUTION REAPPOINTING D. WAYNE ARNOLD TO THE PLANNING ADVISORY BOARD FOR A THREE-YEAR TERM COMMENCING ON MAY 1, 2012, AND EXPIRING APRIL 30, 2015; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 12-13106.....ITEM 6-h
A RESOLUTION CONFIRMING THE APPOINTMENT OF ONE NON-BARGAINING UNIT MEMBER TO THE BOARD OF TRUSTEES OF THE CITY OF NAPLES GENERAL RETIREMENT SYSTEM FOR THE BALANCE OF A FOUR-YEAR TERM COMMENCING APRIL 18, 2012, AND EXPIRING MARCH 3, 2015; AND PROVIDING AN EFFECTIVE DATE.

Title not read.

MOTION by Barnett to APPROVE CONSENT AGENDA except Items 6-b-5, 6-c and 6-d; seconded by Sulick and unanimously carried, all members present and voting (Barnett-yes, Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sulick-yes, Sorey-yes).

END CONSENT AGENDA

“ILEARN LIFE, INC.” 239 MUSIC FESTITEM 6-b-5
CITY FEST SPRING 2012 - ILEARN LIFE, INC. 239 MUSIC FEST - ILEARN LIFE, INC., FOUNDATION AND THE NAPLES DAILY NEWS - GOODLETTE-FRANK ROAD AND US 41 (commonly known as Renaissance Village property). (8:59 a.m.) Council Member Sulick noted her objection to this new event being placed on the Consent Agenda as it involves live entertainment occurring throughout the day; the event is scheduled to begin at 10:00 a.m. and conclude at 11:00 p.m., she added. Community Services Director David Lykins provided an overview of the festival as contained in his agenda memorandum (Attachment 1), explaining that the music will not be continuous and that the event has been downsized from the initial submittal. Attendance is not expected to be intense, he said.

Mayor Sorey pointed out that he had placed it on the Consent Agenda because it is to occur on private property; he also noted that any item on the Consent Agenda can be removed for

separate discussion.

Public Comment: (9:02 a.m.) None.

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

RESOLUTION 12-13098.....ITEM 6-c

A RESOLUTION RATIFYING AND CONFIRMING THE ACTION OF THE CITY MANAGER IN EXECUTING THE FISCAL YEAR 2012-2013 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) APPLICATION TO COLLIER COUNTY FOR THE SUPPORT OF VACANT LAND ACQUISITION; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (9:03 a.m.). City Manager William Moss introduced the item, providing background as contained in the agenda memorandum prepared by Grants Coordinator Greg Givens (Attachment 2). The parcel being considered for acquisition is a small area north of the Florida Power & Light (FPL) substation located along the southern portion of Goodlette-Frank Road. Council Member Heitmann questioned the appropriateness of its inclusion on the Consent Agenda, further asking whether the amount of the grant equated to the cost of the property. She maintained that additional information should have been provided to Council with regard to the prior appraisal so as to better determine priorities. Mr. Moss declined to provide information apart from confirming that the price is greater than the grant funding, although pursuing the grant does not obligate the City to purchase this particular parcel. It may be possible to amend the purpose for the grant should Council decide upon another purpose, he added.

In response to Council Member Finlay, Community Services Director David Lykins noted that the taxable value of the above noted parcel was approximately \$75,000 and the prior appraisal having been \$150,000.

Public Comment: (9:03 a.m.) None.

MOTION by Saad to APPROVE RESOLUTION 12-13098 as submitted; seconded by Price and unanimously carried, all members present and voting (Barnett-yes, Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sulick-yes, Sorey-yes).

It is noted for the record that Items 6-d-1 and 6-d-2 were read and considered concurrently.

RESOLUTION 12-13099.....ITEM 6-d-1

A RESOLUTION REGARDING APPENDIX "A", FEE SCHEDULE; REPEALING PARAGRAPH (e) OF SECTION 28-32(2); REPEALING PARAGRAPH (e) OF SECTION 28-32(3), OF APPENDIX "A", FEE SCHEDULE, OF THE CODE OF ORDINANCES, CITY OF NAPLES, FOR THE PURPOSE OF ELIMINATING BOOTH OR VENDOR FEES FOR CERTAIN SPECIAL EVENTS CONDUCTED WITHIN THE CITY; AND PROVIDING AN EFFECTIVE DATE.

RESOLUTION 12-13100.....ITEM 6-d-2

A RESOLUTION APPROVING AN AMENDED POLICY ESTABLISHING REVIEW AND APPROVAL CRITERIA FOR SPECIAL EVENTS FOR THE PURPOSE OF AMENDING BOOTH OR VENDOR FEES FOR CERTAIN SPECIAL EVENTS CONDUCTED WITHIN THE CITY; REPEALING RESOLUTION 10-12732; AND PROVIDING AN EFFECTIVE DATE. Title s read by City Attorney Robert Pritt (9:14 a.m.) Council Member Saad explained that he had removed this item from the Consent Agenda due to his opposition to eliminating the booth and/or vendor fees without other park or street use fees being in place. He then received confirmation from Community Services Director David Lykins that paragraph 5 (reference of the \$10.00 booth fee) of the subject policy had been deleted (Item 6-d(2)). Mayor Sorey added that staff would return with recommendations relative to a use fee plan for parks and streets although the impending planning cycle for the event sponsors prompted Council to move forward with the elimination of the existing fees. City Manager William Moss added that the

Community Services Advisory Board (CSAB) had reviewed the fees and Council had previously considered the CSAB recommendations during the most recent regular Council meeting; the CSAB will also review the proposed use fee, he added.

Public Comment: (9:23 a.m.) None.

MOTION by Saad to APPROVE RESOLUTIONS 12-13099 and 12-13100 as submitted; seconded by Finlay and carried 6-1(Heitmann-no, Finlay-yes, Price-yes, Barnett-yes, Sulick-yes, Saad-yes, Sorey-yes).

RESOLUTION 12-13107.....ITEM 7

A RESOLUTION DETERMINING SITE PLAN PETITION 12-SP4 TO ALLOW ACCESS POINTS ON MANDARIN ROAD AND ORCHID DRIVE FOR PROPERTY OWNED BY FIRST CHRISTIAN CHURCH OF NAPLES, INC, LOCATED IN THE HC, HIGHWAY COMMERCIAL DISTRICT AND LOCATED AT THE NORTHEAST CORNER OF MANDARIN ROAD AND ORCHID DRIVE, MORE FULLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (9:24 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: Heitmann and Sulick/visited the site but no contact; Saad and Sorey/visited the site and spoke with the petitioner and petitioner's agent; Price and Barnett/visited the site and spoke with the petitioner's agent, and Finlay/familiar with the site and spoke with the petitioner's agent. All indicated receipt of e-mails.

Attorney Will Dempsey, agent, explained that the petitioner's small software business would create little or no impacts upon the abutting residential neighborhood as most customers are served via the internet. He briefly reviewed the site plan (Attachment 3) which included a two-story, 11,000 square foot structure, with 36 on-site parking spaces planned for employees; the building will not be open to the general public, he added. He then provided a history of the parcel, referencing the 2009 rezoning which had involved a residential impact statement that limited egress/ingress via US 41 only. This site is now considered land-locked and therefore the Florida Department of Transportation (FDOT) will not allow an additional curb cut nor will the owner of the Moorings Plaza (located to the north of the subject property) allow access to US 41 via that property. The project has been presented to adjacent property owners and only positive responses have been received, including allowing ingress/egress from both Mandarin Road (to the west) and Orchid Drive (to the south) due to the nature of the business and the limited amount of traffic to be generated; Traffic Engineer George Archibald agrees with the low impact to traffic, Mr. Dempsey added. The petitioner also agrees to limit the use of the property to general office, which could be included as a condition for the site plan approval, he concluded.

Following the review of the petition by Planner Adam Benigni, as contained in his agenda memorandum (Attachment 4), Council discussed signage and the possibility of an interconnect along the northern boundary of the site. Attorney Dempsey indicated that the only signage will be on the building itself and that an interconnect would involve the loss of required parking spaces. Traffic Engineer Archibald explained that while the Code strongly recommends interconnects between compatible land uses, in the instant case this does not apply. The business use proposed differs from the retail use to the north, although should the use of the properties to the north differ or a use of lesser intensity occur, an interconnect should be considered. Council Member Price then recommended that final site plan approval come under Council's jurisdiction due to concerns by residents over time, and Planner Benigni advised that the approval that day involved access to the site.

Public Comment: (10:07 a.m.) **María Eaton, 740 Orchid Drive**, explained that, unlike the 2009 rezoning of the property, she supported this project. She further said that her key concern had been safety and cautioned against signage on the south façade of the building (Orchid Drive), recommending careful analysis of the Orchid Drive ingress/egress. In response to

Council Member Saad, Architect Matthew Kragh gave assurance that the design is virtually finalized. **Attorney Patrick White, representing Chabad of Naples, owners of the property to the west of the subject site, expressed support of the project.**

MOTION by Barnett to APPROVE RESOLUTION 12-13107 amended as follows: Section 2-1: "City Council Staff shall review...Floor Plan." This motion was seconded by Saad and unanimously carried, all members present and voting (Price-yes, Barnett-yes, Sulick-yes, Saad-yes, Finlay-yes, Heitmann-yes, Sorey-yes).

RESOLUTION 12-13108.....ITEM 8
A RESOLUTION ACCEPTING AND APPROVING THE PRELIMINARY AND FINAL (RECORD) PLAT FOR THE 697 & 699 FAIRWAY TERRACE PLAT, A REPLAT OF A PARCEL (APPROXIMATELY 14,250 SQUARE FEET) WITH AN EXISTING DUPLEX INTO 2 PLATTED LOTS OF APPROXIMATELY 7,125 SQUARE FEET, LOCATED AT 697 AND 699 FAIRWAY TERRACE, OWNED BY LIBERTY BANK, FSB, MORE FULLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (10:18 a.m.). This being a quasi-judicial proceeding, Notary Public Vicki Smith administered an oath to those intending to offer testimony; all responded in the affirmative. City Council Members then made ex parte disclosures to the effect that each was familiar with the site and had received an email from the petitioner's agent; no other contact since the last consideration of the item was indicated.

Attorney Jayne Skindzier, agent for the petitioner, provided a brief overview of the subdivision, noting that the Declaration of Party Wall and Reciprocal Easement Agreement reflects incorporation of all comments by Council and is referenced on the plat map. Mr. Pritt agreed that the plat map did in fact reference the agreement and Planner Adam Benigni entered the staff report into the record (Attachment 5), indicating that staff recommended approval.

Public Comment: (10:23 a.m.) None.

MOTION by Saad to APPROVE RESOLUTION 12-13108 as submitted; seconded by Price and unanimously carried, all members present and voting (Barnett-yes, Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sulick-yes, Sorey-yes).

Recess: 10:24 a.m. to 10:35 a.m. It is noted for the record that the same Council Members were present when the meeting reconvened. It is also noted that Item 9-a and 9-b were read and considered concurrently.

RESOLUTION 12-13109.....ITEM 9-a
A RESOLUTION APPROVING A PRELIMINARY PLAT REFERRED TO AS LUSSO, A REPLAT OF LOTS 1-7 OF THE PIENZA II SUBDIVISION (CONTAINING APPROXIMATELY 77,540 SQUARE FEET), CREATING 5 SEPARATE LOTS LOCATED AT 4882 WEST BOULEVARD COURT, MORE FULLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.

RESOLUTION 12-13110.....ITEM 9-b
A RESOLUTION DETERMINING Site plan with deviationS PETITION 12-spd2 TO ALLOW THE CREATION OF A MULTIFAMILY PARCEL WITH AN 11.5 FOOT SIDE YARD SETBACK FROM THE EAST PROPERTY LINE FOR AN EXISTING POOL WHERE 15 FEET IS REQUIRED; A FRONT YARD SETBACK OF 20.2 FEET TO THE WEST PROPERTY LINE ALONG WEST BOULEVARD FOR A NEW POOL WHERE 25 FEET IS REQUIRED; THE CREATION OF 4 SINGLE FAMILY LOTS WITH WIDTHS OF 57.60 FEET, 55.10 FEET, 55.10 FEET AND 58.51 FEET WHERE A MINIMUM LOT WIDTH OF 60 FEET IS REQUIRED; AND THE CONSTRUCTION OF 4 TWO-STORY, SINGLE FAMILY HOMES WITH 7.5 FOOT INTERIOR SIDE SETBACKS (15 FOOT SEPARATION BETWEEN STRUCTURES) WHERE 10 FEET IS REQUIRED FOR PROPERTY LOCATED IN THE R3-6, MULTIPLE FAMILY

RESIDENCE DISTRICT AT 4882 WEST BOULEVARD COURT, MORE FULLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Titles 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 the following ex parte disclosures: Barnett/visited the site and spoke with former City Manager Robert Lee regarding his e-mail to Council; Saad and Sorey/visited the site and spoke with the petitioner's agent; Sulick/visited the site but no contact; Finlay and Price/visited the site; Heitmann/visited the site, spoke with the petitioner's agent and reviewed the February 8, 2012, Planning Advisory Board (PAB) meeting. In addition, both Sorey and Price indicated participation in the PAB's review of the initial subdivision plat in 2003.

Architect Matthew Kragh utilized an electronic presentation during his overview of the request (a printed copy of which is contained in the file for this meeting in the City Clerk's Office), noting that the concept of detached row-homes with similar architectural features is becoming increasingly popular in the housing market. Mr. Kragh further noted that the site is located in an area zoned multi-family and in fact would be primarily surrounded by such dwellings. He then reviewed improvements to ingress/egress along West Boulevard Court, noting that it is a private access drive, not a public roadway. There are two deviations that apply to the existing multi-family structure on the western portion of the current plat as noted in the title above (Item 9-b). One deviation involves use of a pool previously filled when the encroachment had been discovered. He summarized by pointing out that the project, at 9 units, is lower in density than the allowable 11 units per acre and that the deviations are internal and do not affect the surrounding properties.

Architect Kragh confirmed for Council Member Finlay that the project is designed at 15 feet separation of the row-homes, although the Florida Building Code is 10 feet; he also assured Council Member Sulick that ingress/egress to each of the proposed row-homes had in fact been coordinated with the City's Traffic Engineer.

Planner Erica Goodwin briefly reviewed her agenda memorandum (Attachment 6), noting that staff and the PAB recommended approval, adding that while four communications reflecting opposition had been received (including the aforementioned e-mail, all had amended their opinions and now approve the development. In response to Mayor Sorey, City Manager William Moss explained that water flow for firefighting is not a consideration for new construction; however, it should be greater within new areas of development within the City, he added. In response to City Attorney Pritt, Attorney Gregory Urbancic, petitioner's agent, confirmed that access to the project, via numerous easements, does exist and is not an issue (a copy of Mr. Urbancic's letter detailing his opinion is contained in the file for this meeting in the City Clerk's Office). He also pointed out that a Maintenance and Cautionary Agreement would be entered into by both the existing condominium association and the homeowners association to be established with regard to the access roadway.

Public Comment: (11:13 a.m.) **William Kelly, PO Box 2584, Naples**, explained that while he appreciated what he termed smart development and had no objection to the subdivision, he continued his opposition to variances. The development should be designed without the need for approval of such deviations, he concluded. In response to Council, Planner Goodwin explained that the side yard setback deviation would not have been necessary if the structures had been one-story.

MOTION by Saad to APPROVE RESOLUTION 12-13109 as submitted; seconded by Barnett and unanimously carried, all members present and voting (Barnett-yes, Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sulick-yes, Sorey-yes).

MOTION by Saad to APPROVE RESOLUTION 12-13110 as submitted; seconded by Barnett and unanimously carried, all members present and voting (Barnett-yes, Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sulick-yes, Sorey-yes).

RESOLUTION 12-13111 (Denied / see motion below).....ITEM 10
A RESOLUTION DETERMINING VARIANCE PETITION 12-V3 FROM SECTION 58-1134(b)(4) OF THE CODE OF ORDINANCES FOR THE CONVERSION OF AN EXISTING DUMPSTER ENCLOSURE TO A DRY STORAGE ENCLOSURE WITHIN THE REQUIRED REAR SETBACK FOR VERGINA'S RESTAURANT ON PROPERTY ZONED C1-A AND WITHIN THE FIFTH AVENUE SOUTH SPECIAL OVERLAY DISTRICT, LOCATED AT 700 5TH AVENUE SOUTH, UNIT 100, OWNED BY FIFTH AVENUE OF NAPLES, INC., MORE FULLY DESCRIBED HEREIN, SUBJECT TO THE CONDITIONS LISTED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (11:18 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 either familiar with, or had visited the site, although no contact except Council Member Saad who stated that he had spoken with restaurant proprietor Lou Vlasho. Architect Gary Foreman, 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) to briefly explain that the subject dumpster enclosure is no longer in use as such and that the petitioner wishes to convert the structure to dry storage. The location would be maintained due to existing utilities and requested height was due to the storage of flood panels within. The intent is to mirror the appearance of the main structure, not screen the storage building from view with landscaping, he stated. Mayor Sorey agreed with Council Member Sulick that, especially with the location directly across from the VonLiebig Art Center, additional landscaping is needed.

Planner Erica Goodwin then provided an overview of the petition as contained in her agenda memorandum (Attachment 7), noting that staff recommended approval with two conditions contained in the resolution regarding flood-proofing of the enclosure and submittal of a list of items to be stored within. In response to Mayor Sorey, she explained that while the alterations to the enclosure do result in an enlargement, the visual impact is minor. City Manager William Moss observed that while no policy had been established, the dumpster enclosure is no longer being utilized as such, becoming an encroachment itself and should therefore be removed. During additional discussion of the proposed project, Gilgore Tuparov, owner of the subject property, reiterated that the structure could not be relocated due to utilities and that additional landscaping or potted flowering plants are being considered.

Public Comment: (11:46 a.m.) **Henry Kennedy, Naples**, cautioned that should this item not be denied, other similar requests would follow; the structure does not lend itself to the ambience of the Fifth Avenue South area, he said. **William Kelly, PO Box 2584, Naples**, agreed with the prior speaker's observation.

Council Member Price indicated that he did not believe that the variance met any of the general criteria and proffered the motion reflected below.

MOTION by Price to DENY RESOLUTION 12-13111 due to failure to meet specific variance criteria, Section 46-37(c)(2)a, 1 through 8. This motion was seconded by Sorey and unanimously carried, all members present and voting (Barnett-yes, Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sulick-yes, Sorey-yes).

EXECUTIVE SESSION.....ITEM 14
(11:57 a.m.) Mayor Sorey advised that Council would enter into an executive session pertaining to STATE OF FLORIDA v MICHAEL WILLIAM BAILEY, Collier County Court Case No. 11-2012

-IN-000096-AXXX-XX, before Judge Turner; and STATE OF FLORIDA v JAMES RICKNEY, Collier County Court Case No. 11-2012-IN-000097-AXXX-XX, before Judge Provost (combined for trial).

Executive Session: 11:58 a.m. to 12:54 p.m. It is noted for the record that the same Council Members were present when the meeting reconvened.

(12:54 p.m.) No action announced.

Recess: 12:55 p.m. to 1:15 p.m. It is noted for the record that the same Council Members were present when the meeting reconvened.

RESOLUTION 12-13112.....ITEM 11

A RESOLUTION REGARDING THE SALE OF JASMINE CAY APARTMENTS; APPROVING AND ACCEPTING A CORRECTIVE QUIT-CLAIM DEED FOR A PORTION OF THE PROPERTY; APPROVING GROUND LESSOR ESTOPPEL CERTIFICATE AND CONSENT TO ASSIGNMENT OF GROUND LEASE TO FANNIE MAE, WELLS FARGO BANK, NATIONAL ASSOCIATION AND COMMONWEALTH LAND TITLE INSURANCE COMPANY; AUTHORIZING THE CITY MANAGER TO EXECUTE THE GROUND LESSOR ESTOPPEL CERTIFICATE; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (1:15 p.m.). Mr. Pritt then briefly reviewed his agenda memorandum (Attachment 8) that provided background information regarding the need for the transaction, noting that staff recommended approval thereby allowing the sale of Jasmine Cay Apartments.

Public Comment: (1:20 p.m.) **Robert Wilder, Jr., current owner of Jasmine Cay Apartments,** explained that he had been party to the original development of the apartments 17 years ago. Since the complex is his only remaining investment in Florida the intent is to sell to someone with local affordable housing experience; Ben Mallah meets that criteria, he added.

Benjamin Mallah, 2208 Kines Point Drive, Largo, Florida, the principal of the company that is the potential purchaser of the development, provided a brief history of his experience in affordable housing management and the company's objective of improving and maintaining the complex. He confirmed for Council Member Finlay that the company's out-of-state assets had been disbursed and the focus now solely in Florida.

MOTION by Barnett to APPROVE RESOLUTION 12-13112 as submitted; seconded by Saad and unanimously carried, all members present and voting (Barnett-yes, Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sulick-yes, Sorey-yes).

It is noted for the record that Items 12-a, 12-b and 12-c were considered concurrently.

CLERK'S TRACKING #12-00013**ITEM 12-a**
AWARDING A CONTRACT TO PROVIDE ANNUAL ELECTRICAL MAINTENANCE AND REPAIR SERVICES FOR THE UTILITIES, STREETS & STORMWATER, AND COMMUNITY SERVICES DEPARTMENTS: \ VENDOR: BENTLEY ELECTRIC COMPANY OF NAPLES, INC, NAPLES FLORIDA \ COST: WORK ORDERS WILL BE LIMITED TO \$150,000 PER PROJECT OR ASSIGNMENT \ FUNDING: REPAIR AND MAINTENANCE ACCOUNTS IN THE UTILITIES, STREETS & STORMWATER, AND COMMUNITY SERVICES DEPARTMENTS ANNUAL BUDGETS.

CLERK'S TRACKING #12-00014**ITEM 12-b**
AWARDING A CONTRACT TO PROVIDE ANNUAL ELECTRICAL MAINTENANCE AND REPAIR SERVICES FOR THE UTILITIES, STREETS & STORMWATER, AND COMMUNITY SERVICES DEPARTMENTS: \ VENDOR: SIMMONDS ELECTRICAL OF NAPLES, INC., NAPLES, FLORIDA \ COST: WORK ORDERS WILL BE LIMITED TO \$150,000 PER PROJECT OR ASSIGNMENT \ FUNDING: REPAIR AND MAINTENANCE ACCOUNTS IN THE UTILITIES, STREETS & STORMWATER, AND COMMUNITY SERVICES DEPARTMENTS ANNUAL BUDGETS.

CLERK'S TRACKING #12-00014**ITEM 12-c**

AWARDING A CONTRACT TO PROVIDE ANNUAL ELECTRICAL MAINTENANCE AND REPAIR SERVICES FOR THE UTILITIES, STREETS & STORMWATER, AND COMMUNITY SERVICES DEPARTMENTS: \ VENDOR: DOYLE ELECTRIC SERVICES, INC., FORT MYERS, FLORIDA \ COST: WORK ORDERS WILL BE LIMITED TO \$150,000 PER PROJECT OR ASSIGNMENT \ FUNDING: REPAIR AND MAINTENANCE ACCOUNTS IN THE UTILITIES, STREETS & STORMWATER, AND COMMUNITY SERVICES DEPARTMENTS ANNUAL BUDGETS. (1:27 p.m.) City Manager William Moss briefly reviewed the agenda memorandum provided by Utilities Director Robert Middleton (Attachment 9), explaining for Council Member Saad that the request for proposal (RFP) was nationally noticed via the internet although a limited number of responses were received; diversity is nevertheless achieved with three service providers as well as competitive pricing, Mr. Moss added.

Public Comment: (1:29 p.m.) None.

MOTION by Saad to APPROVE ITEMS 12-a, 12-b AND 12-c as submitted; seconded by Finlay and unanimously carried, all members present and voting (Barnett-yes, Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sulick-yes, Sorey-yes).

ORDINANCE 12-13113.....ITEM 13
AN ORDINANCE RELATING TO COASTAL CONSTRUCTION; AMENDING SECTION 52-32, COASTAL CONSTRUCTION CODE, TO DEFINE THE ROLE COASTAL AREAS PLAY IN OUR COMMUNITY, UPDATE THE COASTAL CONSTRUCTION REQUIREMENTS AND DEFINITIONS TO BE IN COMPLIANCE WITH THE FLOOD DAMAGE PREVENTION ORDINANCE AND THE FLORIDA STATUTES, AND TO PROVIDE A HIGHER REGULATORY STANDARD IN PROTECTING OUR COASTAL AREAS; AMENDING SECTION 52-33, COASTAL CONSTRUCTION SETBACK LINE OF THE CODE OF ORDINANCES, TO REVISE THE REQUIREMENT TO OBTAIN A VARIANCE FOR RESIDENTIAL CONSTRUCTION SEAWARD OF THE COASTAL CONSTRUCTION SETBACK LINE AND ADDING A PROVISION THAT IMPROVES ENFORCEMENT OF THE CITY'S MARINE TURTLE PROTECTION REGULATIONS; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION; AND AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (1:29 p.m.). Floodplain Coordinator Christa Carrera provided an overview of the ordinance as contained in the agenda memorandum submitted by Natural Resources Manager Michael Bauer (Attachment 10), noting that staff recommended adoption. In response to Council Member Price, Dr. Bauer clarified that the intent of adding the provision regarding marine turtle protection had been to provide residents with a means by which the lighting portion of their building plans would be reviewed prior to construction, thereby avoiding violation of existing regulations. He added that additional information regarding marine turtle protection provisions would be brought to Council in May, including astronomical clocks, differences between existing and new development, and requiring tinting on windows being replaced.

Council Member Sulick stated that residents were concerned that lighting along the beach is prohibited year-round and that security is therefore an issue, especially during tourist season. Additional concern is the timing for design submittal recommended for greater flexibility, including automatic timers utilized on lights during turtle nesting season, she said. Dr. Bauer stated that the aforementioned Council workshop discussion will allow further public input. In response to Council Member Heitmann, Dr. Bauer confirmed that the Planning Advisory Board had not supported the amendment to the coastal construction setback line (CCSL) variance process, indicating that PAB review should be added rather than the intended simplification of the local process as FDEP (Florida Department of Environmental Protection) approval is also mandatory.

Discussion followed during which Vice Mayor Price observed that because Council would be

considering amendment to the turtle protection ordinance, that provision should be removed from the subject ordinance until such time as the amendments have been decided upon; Council agreed and the motion below was proffered.

Public Comment: (1:45 p.m.) **William Kelly, PO Box 2584, Naples**, urged that the variance approval remain with Council and that the projects should be required to have built-as-designed certification in addition to the Certificate of Occupancy (CO). **John Remington, 3525 Gordon Drive**, supported the approval of CCSL variances by staff, pointing out that monthly certifications to the FDEP are submitted during construction. He concluded by reiterating his above comments (see Item 5).

MOTION by Barnett to ADOPT ORDINANCE 12-13113 amended as follows:

Title: "...SETBACK LINE AND ADDING A PROVISION...PROTECTION REGULATIONS; Section 52-33(e)(1) reverts to original language; and deleting Section 52-33(e)(1)c. This motion was seconded by Saad and carried 4-3, all members present and voting (Saad-yes, Sulick-no, Heitmann-no, Finlay-yes, Price-no, Barnett-yes, Sorey-yes).

.....**ITEM 15**
DISCUSSION OF PROPOSED ACQUISITION OF TELESTAFF PUBLIC SAFETY SOFTWARE FOR TIME-KEEPING AND PAYROLL PROCESSING FOR THE POLICE AND FIRE-RESCUE DEPARTMENTS. (1:53 p.m.) Fire Chief Stephen McInerney described the software as contained in his agenda memorandum (Attachment 11.) (It is noted for the record that a printed copy of the presentation is contained in the file for this meeting in the City Clerk's Office.) He noted that it is specifically designed to address scheduling, payroll processing and reporting for public safety personnel. This will afford better management of employee on-duty time. In response to Council Member Saad, he indicated that staff would research the \$10,000 cost of the server and whether the provider has the capability to host data. Council Member Sulick observed that it had been her understanding that the City would not be utilizing cloud storage due to concerns with this new technology such as security and redaction.

Public Comment: (2:30 p.m.) **Henry Kennedy, Naples**, said that while he fully supported the software, he cautioned against cloud storage, especially for police and fire personnel whose personal information is redacted from public records. He further stated that compatible cellular phones should be provided to staff thereby utilizing the software to the fullest extent.

City Manager William Moss clarified for Council Member Saad that a direct line connecting City Hall and the Riverside Circle complex exists which would allow the local server to maintain security outside of the internet.

MOTION by Sulick to SUPPORT AS PRESENTED; ADDITIONAL INFORMATION AS TO COST OF SERVER TO BE PROVIDED; seconded by Heitmann and unanimously carried, all members present and voting (Barnett-yes, Finlay-yes, Heitmann-yes, Price-yes, Saad-yes, Sulick-yes, Sorey-yes).

(For additional information regarding server cost, see Correspondence and Communications below.)

(2:34 p.m.) It is noted for the record that due to the time certain scheduling of Item 19, Items 17 and 18 were continued at this time as reflected below.

COMMERCIAL VESSEL SIGNAGE (Continued / see above).....ITEM 17
DISCUSSION TO DETERMINE WHETHER THE REGULATIONS FOR SIGNAGE ON COMMERCIAL VESSELS DOCKED WITHIN THE CITY SHOULD BE MODIFIED, REMOVED OR REMAIN IN PLACE.

(Continued / see above).....ITEM 18
DISCUSSION OF A PROPOSED COMPREHENSIVE AMENDMENT TO THE CITY CODE OF ORDINANCES PERTAINING TO SEAWALL CONSTRUCTION STANDARDS.

.....**ITEM 16**

DISCUSSION RELATED TO INDOOR/OUTDOOR LIVE ENTERTAINMENT TO DETERMINE WHETHER TO STANDARDIZE DAYS, HOURS OF OPERATION, THE MAXIMUM NUMBER OF ENTERTAINERS, AND WHETHER TO ELIMINATE OUTDOOR AND INDOOR LIVE ENTERTAINMENT WHILE ALLOWING ONLY INDOOR LIVE ENTERTAINMENT WITH THE DOORS OPEN. (2:35 p.m.) Planner Adam Benigni briefly reviewed the possible live entertainment provision amendments as contained in his agenda memorandum utilizing an electronic presentation and providing additional details within his April 3 memorandum (Attachments 12 and 13, respectively). (It is noted for the record that a printed copy of the presentation is contained in the file for this meeting in the City Clerk's Office.) He then confirmed for Mayor Sorey that hours of operation are not being included in the discussion as they are a separate provision.

Vice Mayor Price observed that few verified noise complaints relative to live entertainment have been received over the past few years, therefore, he questioned the need for these amendments. If the noise ordinance is not effective it should be changed, he said, and therefore indicated that he would not support the proposed amendments.

Council Member Sulick stated that the accumulation of noise is in fact the issue, that while each individual establishment's entertainment may meet the maximum noise level, the live entertainment in numerous businesses located positioned closely together, especially along Fifth Avenue South and in the Third Street South area, becomes a cacophony of music and is therefore unacceptable. She suggested basing the number of entertainers on the square footage of a venue and prohibiting doors and windows from remaining open.

Council Member Saad explained that he believed the process to be the issue and that if the level of cumulative noise is too high, then the maximum allowable decibel level should be lowered. Live entertainment and its specifics should be determined by commercial business districts; all have differing characteristics throughout the City, he said. He recommended that live entertainment be allowed until 12:00 a.m. Thursday through Saturday and the remainder of the week until 10:00 p.m., with strict enforcement of the noise ordinance. Council Member Heitmann noted that to enforce the noise ordinance, decibel level meters are required, and the City does not have enough of them for proper monitoring.

Public Comment: (2:57 p.m.) **Liliana McGuire, 451 Bayfront Place #5208**, noted that she lives directly above a site that has become a sports bar and the transmission of sound into her living space adversely affects her quality of life. She recommended that either sound buffering insulation be mandatory in a mixed use environment, such as the Bayfront complex, or that no amplification be allowed. Council Member Saad suggested that this bar remove the speakers from the ceiling which should alleviate some of the noise and vibration. **Henry Kennedy, Naples**, cautioned against amending the Code, saying that Council should pursue the purchase of additional noise meters and insist on the noise ordinance being enforced.

Council Member Barnett indicated his agreement with Council Member Saad that the Bayfront complex is a unique situation and that the noise ordinance must be enforced. In response to Council Member Finlay, Code & Harbor Manager Roger Jacobsen stated that staff attempts to be proactive with noise monitoring although decibel meters do not accurately reflect the vibration from bass.

(3:11 p.m.) It is noted for the record that discussion of Item 16 was suspended at this time to allow discussion of Item 19, which had been scheduled for 3:00 p.m. time certain.

Recess: 3:11 p.m. to 3:19 p.m. It is noted for the record that the same Council Members were present when the meeting reconvened.

.....**ITEM 19**
DISCUSSION AND DIRECTION REGARDING THE USE OF FLUORIDE IN DRINKING

WATER. (3:19 p.m.) Collier County Department of Health Director Joan Colfer utilized an electronic presentation and video to defend the use of fluoride in drinking water. (It is noted for the record that a copy of the presentation is contained in the file for this meeting in the City Clerk's Office.) Joining Dr. Colfer and adding their comments in support of the process were Dr. Lauren Governale, Dr. Scott Tomar, Dr. Richard Garcia, and Dr. Alan Weiss. (Additional information relative to the presenters can be found in the agenda memorandum appended hereto as Attachment 14.)

David Bolduc, a resident who had previously submitted material to Council regarding dangers of fluoride, continued his opposition also utilizing an electronic presentation (a copy of which is contained in the file for this meeting in the City Clerk's Office). He requested that Council consider removal from the City's water.

It is noted for the record that Council Member Sulick left at 4:27 p.m. and did not return.

Public Comment: (4:27 p.m.) The following supported the practice of adding fluoride to drinking water: **Keith Riley, DDS; Dawn Kolderman, RN; Patricia Primero, DDS; Stephanie Braun, RN; Todd Foege, 6200 Shirley Street, Suite 206; and Eric Reed, DDS.**

A brief discussion followed during which the majority of Council supported continued use of fluoride, although requesting that the issue remain under review. (It is noted for the record that Mayor Sorey conveyed Council Member Sulick's support of the consensus below .

Consensus that fluoride remain in City drinking water with continuing review of pertinent information (4-3 / Heitmann, Price and Saad dissenting).

INDOOR / OUTDOOR LIVE ENTERTAINMENT (Continued from above).....ITEM 16

(5:12 p.m.) Mayor Sorey conveyed a statement provided by Council Member Sulick indicating her concern with the cumulative effect of loud music on residential areas throughout the City and observing that ten years ago, many of the venues were retail establishments with no live entertainment whatsoever. Council Member Heitmann agreed, adding that special events also generate greater cumulative noise levels since live entertainment continues during the evening events. The Bayfront complex is a unique situation, she said, recommending that measures to limit sound transmission between the floors of mixed use structures should be considered. Mrs. Heitmann referenced cellular phone applications for measuring noise levels, but staff noted that calibration of the noise meters is essential in prosecuting a violation. City Manager William Moss stated that while there are conflicts, there are no issues with noise and standardizing the process may avoid future problems. Special events, such as Thursdays on Third, do create noise but it is from the street entertainment and is balanced by the amount of business generated by the event, he added.

Consensus that no amendments are to be pursued at this time.

PUBLIC COMMENT.....

(5:33 p.m.) **Sue Smith, 11th Avenue South**, observed that she believed the overall level of noise, in general, City-wide has increased to unacceptable levels. She noted especially leaf blowers and the new City-owned street sweeper as well as aircraft, adding that a balance must be found.

CORRESPONDENCE AND COMMUNICATIONS.....

(5:36 p.m.) Mayor Sorey noted that the next Town Hall meeting was scheduled for 6:00 p.m. on May 1 and received consensus for a workshop discussion regarding lot width for single and multi-family dwellings. He also requested that staff follow up on issues discussed during Item 10 above and pointed out that Michelle Obama would be visiting the City on April 27. Both Mayor Sorey and Council Member Saad commended residents who recently graduated from the Citizens Police Academy. City Manager William Moss then indicated that the server cost for TeleStaff data storage (see Item 15 above) had been cited at \$5,000 and that use of the software automatic features did in fact require a server; hosting was not available, he added.

ADJOURN.....

5:45 p.m.

John F. Sorey III, Mayor

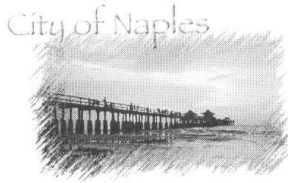
Tara A. Norman, City Clerk

Minutes prepared by:

Vicki L. Smith, Technical Writing Specialist

Minutes Approved: May 16, 2012

Attachment 1 / Page 1 of 1



NAPLES CITY COUNCIL AGENDA MEMORANDUM

Regular Meeting Date: April 18, 2012

Page Three

Agenda Item:

6-b

BACKGROUND (cont.):

Item #5 – City Fest Spring 2012 – The “iLearn Life, Inc.” 239 Music Fest (New Event):

“iLearn Life, Inc.” Foundation, in conjunction with the Naples Daily News as a part of City Fest, is hosting the first annual 239 Music Fest, 10:00 am until 11:00 pm, Saturday May 5, 2012. The 239 Music Fest, coordinated by City resident Dan Schmitt, with assistance from Dr. Lois Bolin, have organized a prototype event produced by the new Entrepreneurial Academy at Seacrest Country Day School in Collier County.

This one day music festival is scheduled to occur in Downtown Naples on private property at the corner of Goodlette-Frank Rd. and US 41 (Renaissance Village Site). Parking for this event will be on-site at the Renaissance Village property, 10th Street South and the private parking garage located behind Regions Bank on the south side of US 41. A total of three performance stages will be set for various performances allowing a single band to perform while other bands set up equipment in a day long sequenced schedule. The festival headliner will feature national touring acts Andy Grammer, and Mayday Parade. The alcohol-free event will begin at 10:00 am and feature local bands and community events throughout the day. Main stage activities begin at 4:00 pm for performances from Grammer and Mayday Parade. A food court will be provided and an on site “Innovation Café” will showcase robots built by students and include a texting contest.

This is a fee based event with three price points for admission. For patrons visiting from 10:00 am – 4:00 pm, daytime only events, the admission is \$5. For access to both the daytime events and the headlining evening concerts admission is \$30 if purchased in advance, and \$40 if purchased the day of the event. A portion of proceeds are dedicated to the Entrepreneurial Academy at Seacrest Country Day School. The 239 Music Fest’s vision is intended to provide an annual gathering for music lovers in the Naples area while creating opportunities for local groups to showcase their talents among nationally known groups.

Item #5 – City Fest Spring 2012 – The “iLearn Life, Inc.” 239 Music Fest Request:

City Council authorization for an event in excess of 1,500 participants and live amplified music at the Renaissance Village Site Saturday May 5, 2012 from 10:00 am until 11:00 pm. Anticipated attendance is 2,500.

RECOMMENDED ACTION:

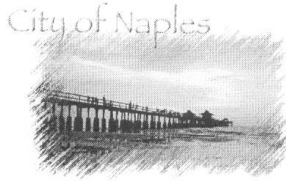
Approve the special event requests as submitted.

Reviewed by Department Director
Dave Lykins

Reviewed by Finance
N/A

Reviewed by City Manager
Bill Moss

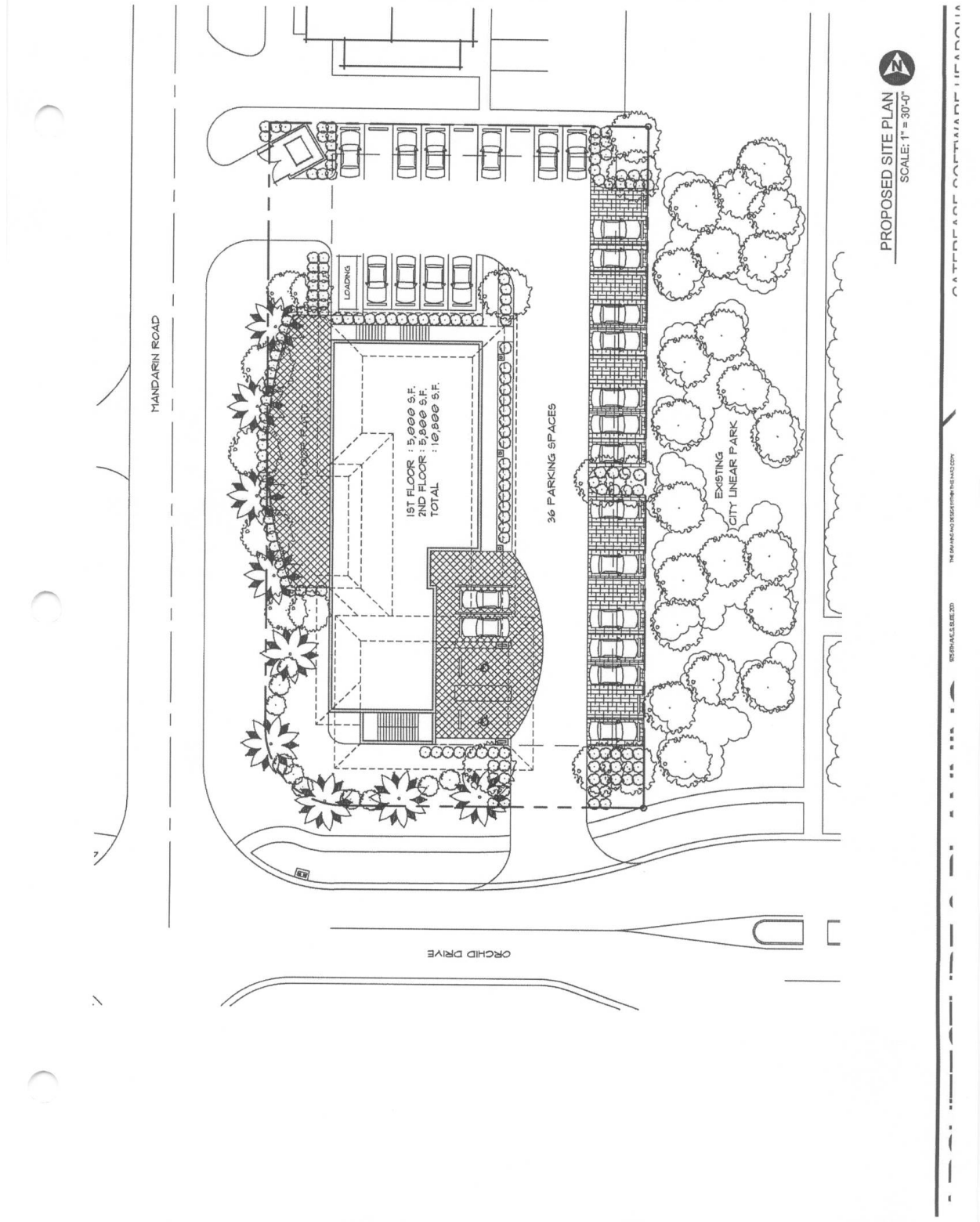
City Council Action:

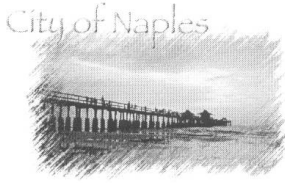


NAPLES CITY COUNCIL AGENDA MEMORANDUM

Regular Meeting Date: April 18, 2012

Agenda Section: Consent	Prepared By: Greg Givens, Grants Coordinator through Dave Lykins, Director Department: Community Services	
Agenda Item: 6-c	Legislative <input checked="" type="checkbox"/>	Quasi-Judicial <input type="checkbox"/>
SUBJECT: Resolution ratifying and confirming the action of the City Manager in executing the FY 2012 – 2013 Community Development Block Grant (CDBG) Application in the amount of \$105,835 to Collier County for the support of vacant land acquisition.		
SUMMARY: City Council is asked to consider a Resolution ratifying and confirming the action of the City Manager in executing the Fiscal Year 2012-2013 Community Development Block Grant (CDBG) Application in the amount of \$105,835 to Collier County for the support of vacant land acquisition.		
BACKGROUND: The Federal Department of Housing and Urban Development (HUD), under their FY 2011-2012 CDBG Entitlement program, has allocated \$105,835 to the City of Naples. An application has been put together to capture this funding to support vacant land acquisition within the River Park community. Because of the very tight 12 working day timeframe from the County's CDBG application release date to the application due date, this application is being considered by Council after the fact. Collier County, in accordance with a three year Cooperative Agreement with the City of Naples, passes the funds through to the City, but requires an annual application. This year the application supports the purchase of an undeveloped and vacant triangle shaped urban parcel of property (Folio Number 19060560005) near the River Park Community Center on 5 th Avenue North at the entrance to the FPL substation. The small parcel is between the FPL entrance and the low income apartments. The parcel will be immediately suitable for a combination of open space preservation, Community Center overflow parking and landscaping enhancements. The acquisition will include all documents, including appraisal, title reports, and environmental hazard assessments as well as other appropriate documents. This CDBG funding is for a worthwhile public purpose and supports Community Services objectives.		
FUNDING SOURCE: Community Development Block Grant funds do not require local matching funds.		
RECOMMENDED ACTION: Approve a Resolution ratifying and confirming the action of the City Manager in executing the Fiscal Year 2012 – 2013 Community Development Block Grant (CDBG) Application in the amount of \$105,835 to Collier County for the support of vacant land acquisition.		
Reviewed by Department Director Dave Lykins	Reviewed by Finance N/A	Reviewed by City Manager Bill Moss
City Council Action:		

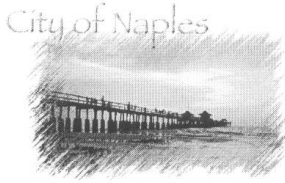




NAPLES CITY COUNCIL AGENDA MEMORANDUM

Regular Meeting Date: April 18, 2012

Agenda Section: Regular	Prepared By: Adam A. Benigni, AICP Department: Planning
Agenda Item: 7	Legislative <input type="checkbox"/> Quasi-Judicial <input checked="" type="checkbox"/>
SUBJECT: Resolution determining Site Plan Petition 12-SP4 to allow access points on Mandarin Road and Orchid Drive for property zoned HC, Highway Commercial District and located at the northeast corner of Mandarin Road and Orchid Drive.	
SUMMARY: City Council is asked to consider a Resolution determining Site Plan Petition 12-SP4 to allow access points on Mandarin Road and Orchid Drive for property owned by First Christian Church of Naples, Inc., located in the HC, Highway Commercial District at the northeast corner of Mandarin Road and Orchid Drive. In that this is a Quasi-Judicial matter, disclosures and the swearing in of those giving testimony are required.	
BACKGROUND: City Council approved a rezoning of the subject property from PS, Public Service to HC, Highway Commercial in December 2009 (Ord. No. 09-12570). In conjunction with the rezoning, City Council adopted Resolution 09-12571, approving a Residential Impact Statement (RIS). The RIS approval was subject to five conditions proposed by the attorney for the petitioner – installation of a Code compliant landscape buffer, a limitation on site access to U.S. 41, permitted emergency vehicle access from Mandarin Road, a limitation on the permitted uses on the property and a requirement that City Council would have final review authority of the site plan. Copies of the ordinance and resolution are included with this agenda item. The petitioner's attorney was to work with the property owners to the north in order to gain legal access to U.S. 41. If an access to U.S. 41 could not be obtained, the petitioner would have to either rezone the property to PS, Public Service (former zoning) and use the existing access points or gain City Council approval of alternate access to the site. The petitioner has confirmed with FDOT that a curb cut would not be allowed. The petitioner has included an email from FDOT detailing the situation with the petition. The owner of the Moorings Plaza to the north has confirmed that no access to this site would be granted, dedicated or permitted over and across its property. A letter from the owner of the Moorings Plaza is also included with the petition. At the March 14, 2012 Regular Meeting, City Council granted approval of a Conditional Use Petition for Goodwill Industries of SW Florida, owner of the property directly to the north of the subject property, in order to operate a used book store and a donation center. Initially, staff recommended a parking lot interconnection be made between both properties; however, after discussion with the owner of the Moorings Plaza regarding access and Goodwill expressing that they did not want the interconnection, City Council did not require the interconnection.	



NAPLES CITY COUNCIL AGENDA MEMORANDUM

Regular Meeting Date: April 18, 2012

Page Two

Agenda Item: 7		
BACKGROUND (cont.)		
Relative to the use restrictions in Resolution 09-12571, the petitioner has offered to further restrict the uses of the property to professional, business, financial, civic or public utility offices only. The restriction can be found in Exhibit A in the resolution.		
<p>The proposed project is to house the corporate headquarters for Horizon Business Services' internet business. The proposed building is approximately 10,800 square feet in area. The petitioner will not be seeking any variances or approval of a site plan with deviations. The petitioner is only seeking approval of the proposed access points on Mandarin Road and Orchid Drive, at this time. The petitioner will still be required to obtain administrative site plan approval (includes stormwater plan, utilities plan, landscaping plan, etc.) at a future date along with review and approval of the Design Review Board for the architecture of the building. This petition complies with the condition of Resolution 09-12571 requiring City Council review of the site plan.</p> <p>The City's Traffic Engineer has provided a traffic impact review based upon the proposed access points and the proposed use and has found that the proposed office use will not reduce the level of service on Orchid Drive, will not create a concurrency issue and that there will be substantial surplus trip capacity remaining on Orchid Drive after the development.</p>		
<p>File Reference: 12-SP4 Petitioner: Horizon Business Services, Inc. Agent: William J. Dempsey, Cheffy Passidomo Location: Northeast corner of Mandarin Road and Orchid Drive Zoning: HC, Highway Commercial</p>		
PUBLIC NOTIFICATION:		
On March 21, 2012, a total of 43 letters were mailed to all property owners located within 500 feet of the subject property. As of the date of this report, there has been no response to the mailing.		
RECOMMENDED ACTION:		
Adopt a Resolution determining Site Plan Petition 12-SP4 to allow access points on Mandarin Road and Orchid Drive for property owned by First Christian Church of Naples, Inc., located in the HC, Highway Commercial District at the northeast corner of Mandarin Road and Orchid Drive subject to the conditions found in the resolution.		
Reviewed by Department Director Robin Singer	Reviewed by Finance N/A	Reviewed by City Manager Bill Moss
City Council Action:		

Meeting of 03/14/12
Petitions 12-SD3

CITY OF NAPLES

STAFF REPORT

To: Planning Advisory Board
From: Planning Department
Subject: Subdivision/Replat Petition 12-SD3
Petitioner: Liberty Bank FSB
Owner: Liberty Bank FSB
Agent: Jayne M. Skindzier, Esq., Cummings & Lockwood LLC
Date: March 6, 2012

- **REQUEST:** A resolution determining Subdivision/Replat Petition 12-SD3 for the 697 & 699 Fairway Terrace preliminary and final (record) plat approval in order to replat a parcel (approximately 14,250 square feet) with an existing duplex into two platted lots of approximately 7,125 square feet each, owned by Liberty Bank, FSB.
- **STAFF RECOMMENDATION:** Staff has applied the subdivision standards to this request and believes that the subdivision standards have been met. Therefore, staff recommends approval of Subdivision/Replat Petition 12-SD3.
- **LOCATION:** 697 and 699 Fairway Terrace
- **SIZE OF PARCEL:** Total size of parcel is approximately 0.33 acres or 14,250 square feet
- **CURRENT ZONING:** R3-12 Multifamily Residential
- **PREVIOUS ACTION:** The petitioner applied for a variance to the side yard setback requirements in the R3-12 District, in order to split the lot down the common wall, in September 2011. In October 2011, the Planning Advisory Board recommended approval of the variance by a 6 to 1 vote. In November 2011, City Council denied the variance; however, in December 2011, City Council voted to reconsider the variance request. In January 2012, City Council granted the variance to allow a zero-foot side yard setback along the common wall of the building. A copy of the resolution is attached herein.
- **BACKGROUND:** The developer of the subject property constructed the duplex starting in 2007. The developer defaulted on the loan obtained from Liberty Bank, FSB. Liberty Bank acquired the title to the property in 2010. The petitioner listed the property for sale after acquiring ownership and, in August 2011, secured separate buyers for each townhome. The petitioner was granted a variance to the side yard setback requirements in the R3-12 District, in order to split the lot down the common wall and sell each unit with fee simple title.

At the January 18, 2012 City Council meeting, City Council stressed the importance of submitting an agreement, referenced on the plat, between both potential property owners that adequately addressed property maintenance, common structure and repair. The property owner's attorney has submitted a declaration of party wall and reciprocal easement agreement with the plat. The agreement is referenced on the plat. City staff has reviewed this agreement and believes that the agreement adequately addresses property maintenance, common structure and repair. The agreement also outlines a process for mediation if the owners cannot reach a mutual agreement as to their obligations as to maintenance or repairs or for damage or destruction to the party wall or common utilities. The attorney has also included a section in the agreement that requires City consent of any modifications or amendments to the agreement.

Staff Report 12-SD3
Page 2

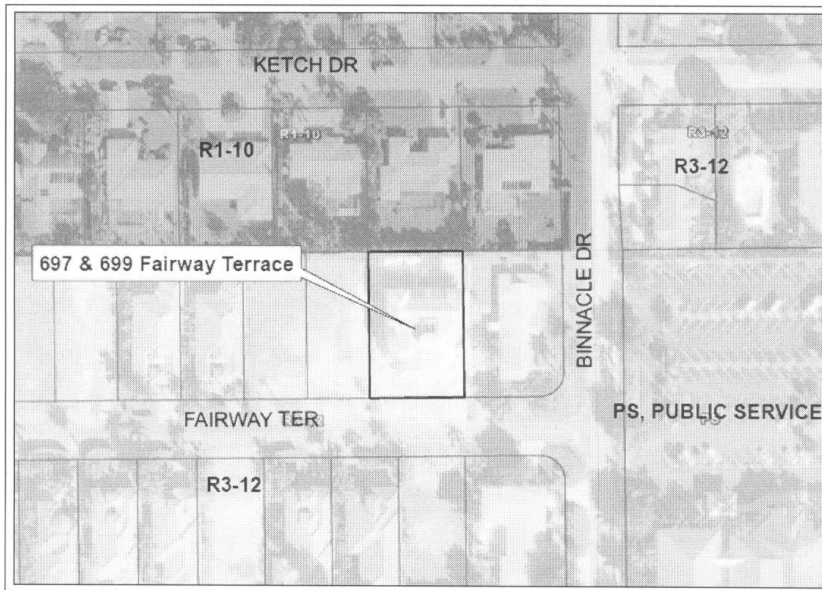
- **PENDING AND/OR SUBSEQUENT ACTION:** The Planning Advisory Board (PAB) will hold a public hearing on this petition at its meeting on Wednesday, March 14, 2012. At the close of the public hearing, the PAB will make a recommendation to the City Council. The City Council should consider the PAB's recommendation at its meeting on Wednesday, April 18, 2012, with final action by resolution.
- **COMPREHENSIVE PLAN:** This property is designated as Low Density Residential on the future land use map (FLUM) of the Comprehensive Plan. Low Density Residential areas designated on the Future Land Use Map are intended to accommodate single-family or other similar residential uses of up to a maximum of six (6) dwelling units per net acre. The residential housing types in these areas may include traditional single-family detached homes and innovative cluster housing types, when such housing types can introduce a positive element of diversity into a neighborhood. This land use type is the most sensitive to disruption from the encroachment of incompatible uses; and protective strategies, such as transition zones of higher density residential areas, landscaped buffer areas, natural barriers, and other screening devices may be required.
 - ***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 replat is approved for the property, each property would be approximately 0.16 acres in area. Based upon the density of the R3-12 district – 12 units per acre - each 0.16-acre property would be permitted to have up to 2 units apiece. The agreement restricts any increase in density over one unit per lot as long as the agreement is in effect.***
- **FUTURE LAND USE MAP**



Staff Report 12-SD3
Page 3

<input type="checkbox"/> AIRPORT	<input type="checkbox"/> RESIDENTIAL, HI DENSITY LOW RISE COQUINA SANDS
<input type="checkbox"/> BEACH FRONT ESTATES	<input type="checkbox"/> RESIDENTIAL, HI DENSITY LOW RISE MOORINGS
<input checked="" type="checkbox"/> COMMERCIAL, BUSINESS PARK	<input type="checkbox"/> RESIDENTIAL, HI DENSITY MID RISE
<input checked="" type="checkbox"/> COMMERCIAL, HIGHWAY	<input type="checkbox"/> RESIDENTIAL, HI DENSITY TOWER
<input type="checkbox"/> COMMERCIAL, LIMITED	<input type="checkbox"/> RESIDENTIAL, LOW DENSITY
<input checked="" type="checkbox"/> CONSERVATION	<input type="checkbox"/> RESIDENTIAL, MEDIUM DENSITY
<input type="checkbox"/> DOWNTOWN	<input type="checkbox"/> RESIDENTIAL, MOBILE HOME
<input type="checkbox"/> INSTITUTIONAL, PUBLIC, SEMI-PUBLIC	<input type="checkbox"/> RESIDENTIAL, SENIOR LIVING
<input checked="" type="checkbox"/> RECREATION, PUBLIC, SEMI-PUBLIC, PRIVATE	<input type="checkbox"/> RUNWAY
<input checked="" type="checkbox"/> RESIDENTIAL, HI DENSITY HIGH RISE	<input checked="" type="checkbox"/> WATERFRONT, MIXED USE

• ZONING MAP



• SURROUNDING PROPERTIES:

	North	South	East	West
Zoning	R1-10	R3-12	R3-12	R3-12
Existing Land Use	Single-family	Vacant Land	Duplex	Single-family
Future Land Use	Low Density Residential	Low Density Residential	Low Density Residential	Low Density Residential

• CRITERIA AND STANDARDS:

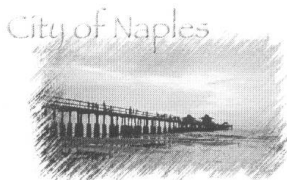
Subdivision/Replat

The petitioner has submitted a request for the replat of five existing parcels to create one parcel. Section 54-4(b) of the Naples Land Development Code allows for the approval of a subdivision in instances where the established criteria for approval are satisfied. A review of the petition in light of the required criteria is provided for your consideration. The applicant's response to each of the criteria is provided within the applicant's petition.

- (1) ***The subdivided plat complies with the provisions of this Code and any applicable provisions of the comprehensive plan and this Code;***
 - The replat is consistent with the objectives and policies of the Comprehensive Plan. The plat is compliant with the provisions of Chapter 54, Subdivision Standards of the Code of Ordinances.
 - (2) ***The subdivided plat, by itself or in combination with an adjacent parcel of land under common ownership or control, abuts a public street or a city council-approved vehicular access easement which provides the exclusive means of access to the subdivided plat;***
 - Both properties, if approved, will front on Fairway Terrace.
 - (3) ***The subdivided plat, by itself or in combination with an adjacent parcel of land under common ownership or control, meets the criteria for approval under section 54-31 for a subdivision plat of the subdivided plat, whether or not the entire original tract is then seeking or has previously obtained approval under section 54-31 for a subdivision plat;***
 - The City's Streets and Stormwater Department has determined that the proposed plat reflects appropriate dedications, easements and lot delineations and generally conforms to Section 54-31 of the Code and Florida Statute 177. It has been determined that the final replat can be concurrently processed with the preliminary replat.
 - (4) ***The only portion of the entire original tract for which a permit is then being requested in conjunction with a petition for approval under section 54-31 for a subdivision plat is the subdivided plat; and***
 - The proposed replat is consistent with this statement.
 - (5) ***The portion of the entire original tract for which approval under section 54-31 for a subdivision plat is not then being sought or has not previously been obtained abuts a public street or a city council-approved vehicular access easement.***
 - The properties will front on Fairway Terrace.
 - (6) ***New construction proposed for permitting of four or more units in multiple family districts or new development in non-residential districts shall meet minimum yard requirements to all platted lot lines and shall not straddle or cover platted lot lines or easements.***
 - There is no new construction proposed. There is an existing duplex on the property.
- **PUBLIC NOTIFICATION:** On February 28, 2012 a total of 115 letters were mailed to all property owners located within 500 feet of the subject property. To date there have been no responses to the mailing.
 - **STAFF FINDINGS:** Staff has applied the subdivision standards to this request and believes that the subdivision standards have been met. Therefore, staff recommends approval of Subdivision Plat Petition 12-SD3.

Respectfully submitted,

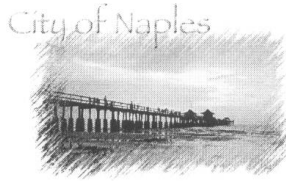
Adam A. Benigni, AICP
Senior Planner



NAPLES CITY COUNCIL AGENDA MEMORANDUM

Regular Meeting Date: April 18, 2012

Agenda Section: Regular	Prepared By: Erica J. Goodwin, AICP, Planner II Department: Planning
Agenda Item: 9 a and b	Legislative <input type="checkbox"/> Quasi-Judicial <input checked="" type="checkbox"/>
SUBJECT: Two Resolution for Subdivision/Replat Petition 12-SD2 and Site Plan with Deviations Petition 12-SPD2 to facilitate the creation of four single family parcels at 4882 West Boulevard Court.	
SUMMARY: City Council is asked to consider two Resolutions determining the following: <ul style="list-style-type: none"> o Subdivision/Replat Petition 12-SD2 to subdivide an existing 1.78 acre parcel in the R3-6, Multifamily Residence district to create five (5) separate lots including one currently developed multifamily lot and four (4) single family lots. o Site Plan with Deviations Petition 12-SPD2 to allow: the creation of a multifamily parcel with an 11.5 foot side yard setback from the east property line for an existing pool and spa where 15 feet is required; a front yard setback of 20.2 feet to the west property line along West Boulevard for a new pool where 25 feet is required; the creation of four (4) single family lots with widths of 57.60 feet, 55.10 feet, 55.10 feet and 58.51 feet where a minimum lot width of 60 feet is required; and the construction of four (4) two-story, single family homes with 7.5 foot interior side setbacks (15 foot separation between structures) where 10 feet is required for property located in the R3-6, Multiple Family Residence district at 4882 West Boulevard Court. <p>In that this is a Quasi-Judicial matter, disclosures and the swearing in of those giving testimony are required.</p> <p>BACKGROUND: In 2003, City Council approved Resolution 03-10215 for final plat approval to subdivide this property and create seven (7) residential lots to be developed as single family dwellings. These dwellings were never constructed. In 2005, the Design Review Board granted final approval of a condominium development called Pienza II containing 2 five-unit two-story townhouse buildings on the property. The DRB approval was revised in 2006 for minor architectural changes. The first of the two buildings was constructed on the western portion of the property in 2006. This condominium is now called Lusso Villas. The second building was never constructed. Recently, the new owner amended the condominium documents to remove Lots 4-7 in order to allow the remaining lots to be sold and developed.</p> <p>The petitioner is proposing to subdivide the parcel to create one lot containing the existing 5-unit multi-family building and creating four (4) single family lots on the remaining vacant portion of the property. The multi-family lot labeled 'Tract A' on the plans complies with the 6,000 square foot minimum lot area and 60 foot minimum lot width requirements of the R3-6 Multi-family Residential district. The four (4) newly created single family lots comply with the minimum lot area regulation of the R3-6 Multi-family Residential district, but are slightly below the 60 foot minimum lot width requirement of the district.</p>	

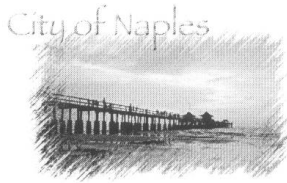


NAPLES CITY COUNCIL AGENDA MEMORANDUM

Regular Meeting Date: April 18, 2012

Page Two

Agenda Item: 9 a and b		
BACKGROUND (cont.):		
<p>The existing structure on Tract A will comply with the front, side and rear setback requirements at the perimeter of the property. The petitioner is asking for approval to deviate from the required 35' front yard setback to allow a pool to be located approximately 20.21 feet from the front property line along West Boulevard, and to deviate from the required 15' side yard setback to allow the existing pool and spa to remain approximately 11.5 feet from the newly created east side property line.</p> <p>The homes built on the four (4) newly created single family lots will comply with the required front, side and rear yard setbacks at the perimeter of the site; however, the petitioner is asking for approval to deviate from the required 10' side setback for two-story single family dwellings to allow 7.5' side yard setbacks on the interior properties. The existing lot is zoned R3-6, Multi-family Residence District and the proposed lots will retain this zoning designation. The minimum lot area for newly-created lots in the R3-6 district is 6,000 square feet and the minimum lot width for newly-created interior lots in the R3-6 district is 60 feet. The table below demonstrates the proposed lot area and lot width of each of the newly created lots. The lots will exceed the minimum lot area but will deviate from the minimum lot width requirement.</p>		
Proposed parcel dimensions:		
	LOT AREA	LOT WIDTH
TRACT A	0.92 ACRES/40,075 SF	242.25 FEET
LOT 1	0.22 ACRES/9,545 SF	57.60 FEET
LOT 2	0.21 ACRES/9,132 SF	55.10 FEET
LOT 3	0.21 ACRES/9,132 SF	55.10 FEET
LOT 4	0.22 ACRES/9,632 SF	58.51 FEET
<p>The Planning Advisory Board first heard these items at their February 8, 2012 meeting, and voted to continue them to the subsequent meeting, requesting that a number of issues be addressed including:</p> <ol style="list-style-type: none"> 1. The petitioners will provide evidence of Access Easements authorizing ingress/egress to and from the Site along West Boulevard Court. 2. The petitioners will provide the Condominium Documents for the five unit multifamily building, as well as the HOA Documents for the newly created four unit single family development. 3. The HOA Documents for the four unit single family development will include language which requires that any major exterior changes to the residences on these properties that are not consistent with the unified architectural theme approved by the Design Review Board will be reviewed and approved by the HOA. 		

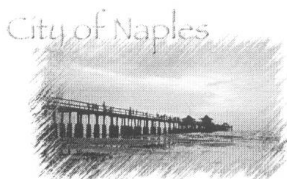


NAPLES CITY COUNCIL AGENDA MEMORANDUM

Regular Meeting Date: April 18, 2012

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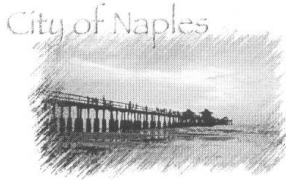
Agenda Item:		
9 a and b		
BACKGROUND (cont.):		
<p>4. The petitioners will address the fire truck turn around area to ensure adequate fire vehicle access and turn around.</p> <p>5. The petitioners will revise the Site Plan to show the spa location 11.5 feet from the newly created side property line of the multi-family parcel.</p>		
<p>The petitioners addressed each of the issues, provided the requested documents and submitted revised plans to increase the interior side yard setbacks from 5.9 feet to 7.5 feet and revise the dimensions of the proposed single family parcels. The PAB reviewed the revised submittal at their March 14, 2012 meeting and voted to recommend approval of Subdivision/Replat Petition 12-SD2 by a vote of 7 to 0 (Arnold abstained). The PAB also voted to recommend approval of Site Plan with Deviations Petition 12-SPD2 by a vote of 7 to 0 (Arnold abstained).</p>		
<p>File Reference: 12-SD2 & 12-SPD2 Petitioners: Everbank (Lusso) and WBC Partners, LLC Agent: Q. Grady Minor and Associates, P.A. Location: 4882 West Boulevard Court, Buildings 1 & 2; 4882-4886 West Boulevard Court Zoning: R3-6, Multifamily District</p>		
PUBLIC NOTIFICATION:		
<p>On January 13, 2012 a total of 140 letters were mailed to all property owners located within 500 feet of the subject property. Staff originally received four written responses to the mailing, one in support and three in objection. Staff has since received revised letters from three of the responders. Copies of these letters are attached to the PAB report.</p>		
RECOMMENDED ACTION:		
<p>Adopt a Resolution approving a Preliminary Plat for Lusso, a replat of Lots 1-7 of the Pienza II Subdivision (containing approximately 77,540 square feet), creating 5 separate lots located at 4882 West Boulevard Court.</p> <p>Adopt a Resolution approving Site Plan with Deviations Petition 12-SPD2 to allow the creation of a multifamily parcel with an 11.5 foot side yard setback from the east property line for an existing pool where 15 feet is required; a front yard setback of 20.2 feet to the west property line along West Boulevard for a new pool where 25 feet is required; the creation of 4 single family lots with widths of 57.60 feet, 55.10 feet, 55.10 feet and 58.51 feet where a minimum lot width of 60 feet is required; and the construction of 4 two-story, single family homes with 7.5 foot interior side setbacks (15 foot separation between structures) where 10 feet is required for property located in the R3-6, Multiple Family Residence District at 4882 West Boulevard Court.</p>		
Reviewed by Department Director Robin D. Singer	Reviewed by Finance N/A	Reviewed by City Manager Bill Moss
City Council Action:		



NAPLES CITY COUNCIL AGENDA MEMORANDUM

Regular Meeting Date: April 18, 2012

Agenda Section: Regular	Prepared By: Erica Goodwin, AICP Department: Planning
Agenda Item: 10	Legislative <input type="checkbox"/> Quasi-Judicial <input checked="" type="checkbox"/>
SUBJECT: Resolution determining Variance Petition 12-V3 to allow an existing dumpster enclosure to be converted to dry storage for the property located at 700 5 th Avenue South.	
SUMMARY: City Council is asked to consider a Resolution determining Variance Petition 12-V3 from Section 58-1134 (b) (4) of the Code of Ordinances for the conversion of an existing dumpster enclosure to a dry storage enclosure within the required rear setback for Vergina's Restaurant on property zoned C1-A and within the Fifth Avenue South Special Overlay District, located at 700 5 th Avenue South, Unit 100, owned by Fifth Avenue of Naples, Inc. In that this is a Quasi-Judicial matter, disclosures and the swearing in of those giving testimony are required.	
BACKGROUND: There is an existing dumpster enclosure on this property that is located approximately 11.4 feet from the centerline of the alley (1.4 feet from the rear property line). The Fifth Avenue South Special Overlay District requires a ground floor rear yard of 50 feet to the centerline of the alley. Dumpster enclosures in commercial districts are exempt from the rear yard requirement in order to ensure accessibility for solid waste collection vehicles. This dumpster enclosure was originally constructed to serve Vergina's Restaurant; however, the solid waste disposal for the restaurant is now handled by a neighborhood trash compactor and the dumpster enclosure is no longer utilized. As there is no reduction of the rear yard provided for storage buildings, a variance is necessary to convert the dumpster enclosure to a roofed storage space. The opening to the storage space will be reoriented to the northeast side of the structure facing the restaurant. The existing enclosure is approximately 6 feet 8 inches tall and the petitioner is proposing to increase the height of the structure to 12 feet with the roof addition. The petitioner also proposes the addition of two CMU screen walls finished with stucco to the southwest side of the existing enclosure to create an additional unroofed storage space. On March 14, 2012, the Planning Advisory Board voted 5-2 to recommend approval of this Variance petition. On February 21, 2012, a total of 62 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 no responses to the mailing.	
File Reference: Variance Petition 12-V3 Petitioner: Fifth Avenue of Naples, Inc. Agent: Gary D. Foreman, PE, AIA Location: 700 5 th Avenue South Zoning: C1-A, Commercial Core; Fifth Avenue South Special Overlay District	

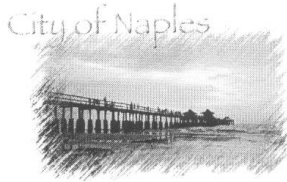


NAPLES CITY COUNCIL AGENDA MEMORANDUM

Regular Meeting Date: April 18, 2012

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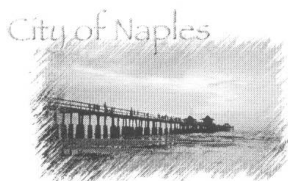
Agenda Item: 10		
RECOMMENDED ACTION: Adopt a Resolution approving Variance Petition 12-V3 from Section 58-1134 (b) (4) of the Code of Ordinances for the conversion of an existing dumpster enclosure to a dry storage enclosure within the required rear setback for Vergina's Restaurant on property zoned C1-A and within the Fifth Avenue South Special Overlay District, located at 700 5 th Avenue South, Unit 100, owned by Fifth Avenue of Naples, Inc. subject to the conditions listed in the resolution.		
Reviewed by Department Director Robin Singer	Reviewed by Finance N/A	Reviewed by City Manager Bill Moss
City Council Action:		



NAPLES CITY COUNCIL AGENDA MEMORANDUM

Regular Meeting Date: April 18, 2012

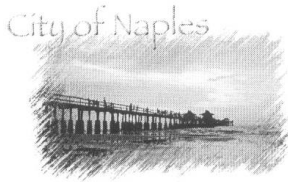
Agenda Section: Regular	Prepared By: Robert D. Pritt, City Attorney Department: Legal	
Agenda Item: 11	Legislative <input checked="" type="checkbox"/>	Quasi-Judicial <input type="checkbox"/>
SUBJECT: Resolution approving and accepting a corrective Quit-Claim Deed from Olde Naples Self Storage South, LLC, for a portion of the Jasmine Cay property; and approving the Ground Lessor Estoppel Certificate and Consent to Assignment of Ground Lease to Fannie Mae, Wells Fargo Bank, National Association and Commonwealth Land Title Insurance Company.		
SUMMARY City Council is asked to consider a Resolution regarding the Jasmine Cay Apartments; approving and accepting a corrective Quit-Claim Deed from Olde Naples Self Storage South, LLC, recorded in OR Book 4781, page 273, for a portion of the property; approving the Ground Lessor Estoppel Certificate and Consent to Assignment of Ground Lease to Fannie Mae, Wells Fargo Bank, National Association and Commonwealth Land Title Insurance Company; and authorizing the City Manager to execute the Ground Lessor Estoppel Certificate. This action is required to allow the sale of the Jasmine Cay Apartments.		
BACKGROUND: Jasmine Cay Apartments, 100 Jasmine Circle, Naples, Florida is being purchased by Jasmine Cay Apartments, LLC, the controlling principal of which is Benjamin Mallah. The City is the owner of the land beneath the buildings and has previously granted a Ground Lease to the owner of the property for a period of 50 years from December 21, 1994 to allow construction of affordable housing. A copy of that certain Ground Lease is attached hereto. The attorney for the owner of the project has done the title work and has disclosed a defective Deed conveyed by the City to a third party in 1995. In order to correct the title defect, it is necessary to accept a Quit-Claim Deed from Olde Naples Self Storage South, LLC for a portion of the 20' wide strip lying to the west of the easterly line of 12 th Street East. In addition, Fannie Mae requires a Ground Lessor Estoppel Certificate and Consent to Assignment of Ground Lease to be executed by the City Manager. Staff has obtained a Quit-Claim Deed from the third party and has checked bank references for the purchaser. For your reference, attached is a copy of the letter dated March 14, 2012, from Kenneth F. Jurist of Cuddy & Feder, the attorney representing the owner of the project.		
RECOMMENDED ACTION: Adopt a Resolution regarding the Jasmine Cay Apartments, 100 Jasmine Circle, Naples, FL, approving and accepting a corrective Quit-Claim Deed from Olde Naples Self Storage South, LLC, recorded in OR Book 4781, page 273, for a portion of the property; approving the Ground Lessor Estoppel Certificate and Consent to Assignment of Ground Lease to Fannie Mae, Wells Fargo Bank, National Association and Commonwealth Land Title Insurance Company; and authorizing the City Manager to execute the Ground Lessor Estoppel Certificate.		
Reviewed By Department Director Robert D. Pritt	Reviewed By Finance N/A	Reviewed By City Manager Bill Moss
City Council Action:		



NAPLES CITY COUNCIL AGENDA MEMORANDUM

Regular Meeting Date: April 18, 2012

Agenda Section: Regular	Prepared By: Bob Middleton, Director Department: Utilities Department
Agenda Item: 12	Legislative <input checked="" type="checkbox"/> Quasi-Judicial <input type="checkbox"/>
SUBJECT: Award of three contracts for annual electrical maintenance and repair services.	
SUMMARY: City Council is asked to consider awarding contracts to Bentley Electric Company of Naples, Inc., Simmonds Electrical of Naples, Inc., and Doyle Electric Services, Inc. to provide annual electrical maintenance and repair services for the Utilities, Streets and Traffic, Stormwater, and Community Services Departments. Work orders will limited to \$150,000 per project or assignment and will not exceed funds provided in the annual budget. The contracts will be for a period of three years, with the City's option to renew for two one-year renewal periods pursuant to the City's RFP 031-12.	
BACKGROUND: Funding for outsourced electrical maintenance and repair services is allocated annually within the Water/Sewer (Utilities), Community Services, Streets and Traffic, and Stormwater Funds. Work includes major and minor improvements and repairs to facilities owned and operated by the City. Some examples of the services these contracts will provide are, but not limited to:	
<ul style="list-style-type: none"> • Utilities maintenance and repair to control panels, wells, pump stations, plant maintenance and repair, instrumentation, and electrical service replacements. • Control Panel replacement program. Services would include the removal and installation of new control panels located at sewer pump stations and raw water production wells. • ASR Wellfield instrumentation and electrical installations. • Sewer pump station conversion and improvement projects. • Odor control system installations. • Traffic signal and street light repairs. • Facility building maintenance and repairs, including ball field lighting repairs. 	
On March 5, 2012, RFP 031-12 was publicly advertised, with a submittal date of March 26, 2012. Forty-two (42) H.T.E. vendors were notified, DemandStar sent two-hundred and sixty-nine (269) notices to potential vendors, six (6) plan holders were mailed a copy of the bid, and the bid was	



NAPLES CITY COUNCIL AGENDA MEMORANDUM

Regular Meeting Date: April 18, 2012

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BACKGROUND (cont.):

advertised in the Naples Daily News. Three (3) contractors responded, providing rates, qualifications, and references. A selection committee of five City staff members, appointed by the City Manager, reviewed submittals during a publicly advertised meeting held on April 3, 2012 and ranked the three submittals in the following order:

1. Bentley Electric Company of Naples, Inc.
2. Simmonds Electrical of Naples, Inc.
3. Doyle Electric Services, Inc., Fort Myers, FL

The selection committee recommended prequalification of the three companies. Bentley Electric Company of Naples, Inc. and Simmonds Electrical of Naples, Inc. has previously provided services for the City of Naples, and staff has been satisfied with their performance.

FUNDING SOURCE:

The total amount spent will depend on the level of funding allocated to the Water/Sewer (Utilities), Community Services, Streets and Traffic, and Stormwater Funds through the budget process. The annual budget has allocated approximately \$275,000 for Utilities projects and maintenance. The Streets and Traffic, and Stormwater Departments budget an additional \$125,000 for signal and street lighting repairs. The Community Services Department also has money budgeted in their Repair and Maintenance Account.

RECOMMENDED ACTION:

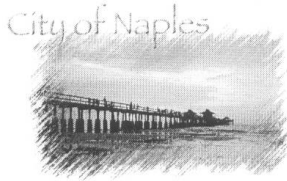
Award contracts to Bentley Electric Company of Naples, Inc., Simmonds Electrical of Naples, Inc., and Doyle Electric Services, Inc., Fort Myers, FL, for an annual electrical maintenance and repair services and authorize the City Manager to execute the contracts. Individual assignments will be limited to \$150,000 per project or assignment and shall be within the annual amount budgeted for such services, for a period of three years, beginning April 18 2012, with the City's option to renew for two one-year renewal periods

Reviewed by Department Director
Bob Middleton, Utilities Director

Reviewed by Finance
Ann Marie Ricardi

Reviewed by City Manager
Bill Moss

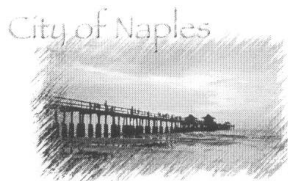
City Council Action:



NAPLES CITY COUNCIL AGENDA MEMORANDUM

Regular Meeting Date: April 18, 2012

Agenda Section: Regular	Prepared By: Michael R. Bauer, Natural Resources Manager Department: City Manager
Agenda Item: 13	Legislative <input checked="" type="checkbox"/> Quasi-Judicial <input type="checkbox"/>
SUBJECT: Second Reading of an Ordinance amending Sections 52-32 and 52-33 of the Code of Ordinances pertaining to the Coastal Construction Code.	
SUMMARY: City Council is asked to consider adopting an Ordinance on Second Reading relating to Coastal Construction; amending Section 52-32, Coastal Construction Code, to define the role coastal areas play in our community, update the coastal construction requirement and definitions to be in compliance with the Flood Damage Prevention Ordinance and the Florida Statutes, and to provide a higher regulatory standard in protecting our coastal areas; amending Section 52-33, Coastal Construction Setback Line (CCSL) of the Code of Ordinances, to revise the requirement to obtain a variance for residential construction seaward of the coastal construction setback line and adding a provision that improves enforcement of the City's marine turtle protection regulations.	
BACKGROUND: The Coastal Construction Setback Line Ordinance has been discussed by City Council at various times over the last few years as variances under this provision of the City Code are brought before Council by entities wishing to construct or substantially reconstruct beachfront residential properties. Currently, Section 52-32 of the Code of Ordinances constitutes the coastal construction code for construction within the coastal building zone and coastal barrier islands in the City. This Section provides minimum standards for the design and construction of buildings and structures to reduce the harmful effects of hurricanes and other natural disasters occurring along the coastal areas of the City, which fronts on the Gulf of Mexico. These standards specifically address design features which affect the structural stability of the beaches, dunes and topography of adjacent properties. Staff proposes amending Section 52-32 of the Code of Ordinances to add a <i>Findings</i> Section in which the role of the City's coastal areas is defined and to update the coastal construction requirements in Subsection (e) to ensure compliance with State statutes. By defining the role our community's coastal areas play in protecting our valuable resources and updating our coastal construction standards, the City of Naples may receive additional Community Rating System (CRS) credits. Due to our participation in the National Flood Insurance Program (NFIP) our residents can receive up to a 20% discount on their flood insurance policies. The requirement for the submittal of construction certification from a registered architect or engineer prior to the issuance of a Certificate of Occupancy (C/O) has been removed because it is not necessary. The plans submitted for a building permit are required to be signed and sealed by a registered architect or engineer, certifying that they are compliant with all applicable Construction Codes, including the Coastal Construction Code. The definitions in Subsection (f) have also been updated to	

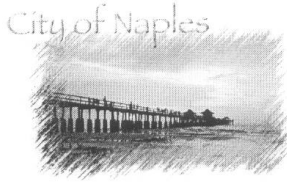


NAPLES CITY COUNCIL AGENDA MEMORANDUM

Regular Meeting Date: April 16, 2012

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<p>Agenda Item: 13</p>
<p>BACKGROUND (cont.): include definitions which are consistent with those provided in Chapter 161, Beach and Shore Preservation, of the State statutes.</p> <p>Section 52-33 of the Code of Ordinances currently requires a variance for the construction of new habitable structures, new shore protection structures, and any new construction seaward of the mean high water line. All other non-habitable construction, excavation, repair, or alterations to the topography or vegetation of the dune/beach system are only required to obtain a permit from the City Manager. A review of past CCSL variance requests reveals that these requests are rarely, if ever, denied. Therefore, the proposed amendments would remove the requirement to obtain a variance from City Council for construction of new habitable structures, new shore protection structures and any new construction seaward of the mean high water line or erosion control line. As an alternative, staff recommends a requirement that a permit be obtained administratively from the City Manager or his designee for such improvements. Should staff find that the proposed improvements are not consistent with the City's standards, the petitioner would still have the option of a variance from City Council.</p> <p>Section 52-61 of the Code addresses protection of the threatened and endangered marine turtles that nest along the beaches of the city by safeguarding marine turtle hatchlings from sources of artificial light and adult and hatchling marine turtles from injury or harassment. These regulations are in adherence to state and federal guidelines for the protection of marine turtles and provide specific interior and exterior lighting requirements for new and re-development on beachfront and/or beach-adjacent properties. In order to reinforce the marine turtle lighting regulations, Staff recommends that an exterior lighting plan be required in the submittal for an administrative permit for construction activity seaward of the CCSL, to ensure compliance with the requirements of Section 52-61.</p> <p>Staff recommends approval of the amendments as proposed, a copy of which is attached to this memorandum. The Title was read at the April 4, 2012 Regular City Council Meeting.</p> <p>PAB ACTION This Text Amendment was discussed by the Planning Advisory Board (PAB) at their meeting of February 8, 2012. The PAB voted 7 to 0 to recommend approval of Text Amendment 12-T2 to City Council, however, they did not recommend approval of the proposed amendments to Subsection 52-32(e), which removes the requirement of a building owner to provide the City with written certification by an architect or professional engineer. The PAB stated that this requirement should remain in the Code of Ordinances. The PAB also voted not to recommend approval of the amendments to Subsection 52-339(c) which removes the requirement for a variance from City Council. The PAB did not agree with the removal of the variance process, stating that there should be a Public Hearing process for such matters.</p>



NAPLES CITY COUNCIL AGENDA MEMORANDUM

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RECOMMENDED ACTION:

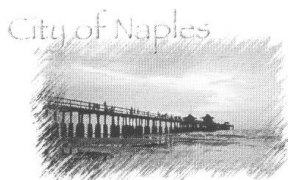
Adopt an Ordinance on Second Reading relating to Coastal Construction; amending Section 52-32, Coastal Construction Code, to define the role coastal areas play in our community, update the coastal construction requirement and definitions to be in compliance with the Flood Damage Prevention Ordinance and the Florida Statutes, and to provide a higher regulatory standard in protecting our coastal areas; amending Section 52-33, Coastal Construction Setback Line (CCSL) of the Code of Ordinances, to revise the requirement to obtain a variance for residential construction seaward of the coastal construction setback line and adding a provision that improves enforcement of the City's marine turtle protection regulations.

Reviewed by Department Director
Bill Moss

Reviewed by Finance
N/A

Reviewed by City Manager
Bill Moss

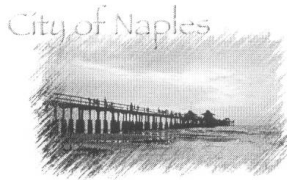
City Council Action:



NAPLES CITY COUNCIL AGENDA MEMORANDUM

Regular Meeting Date: April 18, 2012

Agenda Item:	15	Prepared By: Stephen R. McInerney II, Fire Chief & Thomas Weschler, Police Chief Department: Fire-Rescue Department & Police Department
SUBJECT: Kronos TeleStaff Public Safety Automated Scheduling Solution for payroll processing, scheduling, and reporting.		
BACKGROUND: Payroll processing and timekeeping are provided through Executime software. While sufficient for general employees, the application cannot be used for Police and Fire-Rescue operations due to scheduling and payroll requirements associated with public safety shifts and complex compensation requirements. During the presentation of zero-based budgets, City Council was informed that scheduling and timekeeping/payroll processing is performed manually for Police and Fire-Rescue. While Executime has promised revisions to their software to include Public Safety operations, staff has waited for over two years and has yet to receive firm commitments on the release date. Therefore, City Council is asked to consider a budget adjustment and award of contract at the next City Council meeting in order to acquire software provided by Kronos TeleStaff. The Fire-Rescue Department adopted budget for 2011/12 is \$7,972,640 of which 93% is personal services in the form of payroll costs. The Fire-Rescue Department consists of 63 employees and only 8 employees are currently tracked electronically in terms of hours worked and the associated payroll costs. 87% of Fire-Rescue employees who are paid \$7,398,609 are scheduled and processed manually through a "paper" process. The Police Department has 98.4 authorized employees that include 68 sworn police personnel, and the F.T.E. of 1.4 School Crossing Guards. The School Crossing Guards and 45 of 68 sworn officers, of administrative necessity, remain on paper time sheets and a data-entry accounting system. Approximately \$5,091,404 of \$9,884,211 total personal expenses is processed manually. Lack of sufficient software for scheduling and payroll processing challenges management oversight. It is difficult for multiple departments--Finance, Human Resources, Fire-Rescue and Police, to manage the multitude of complex public safety scheduling and associated payroll cost factors in a bi-weekly process, let alone researching historical data. The process is fragmented, tedious and the risk of accounting errors is troublesome. A report on purposes for which manpower is deployed (i.e. special events) is a manual and time-consuming process. In an effort to efficiently schedule Fire-Rescue and Police Department staff, an automated software solution has been identified that would electronically account for all employees within both departments. TeleStaff by Kronos has developed an automated system which was specifically designed for public safety agency staffing. The TeleStaff system has been widely accepted by public safety agencies in Florida with over 700 agencies across the country. Key benefits of software:		
<ul style="list-style-type: none"> ▪ Controls labor cost ▪ Eliminates costly scheduling errors ▪ Improves workforce productivity ▪ Automates the daily scheduling rules, saving significant time and effort ▪ Maintains compliance with federal and state labor laws, collective bargaining agreements 		

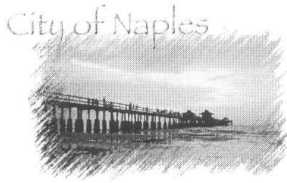


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Agenda Item: 15		
BACKGROUND (cont.):		
<ul style="list-style-type: none"> ▪ Simplifies staffing off-duty work ▪ Streamlines the workflow for employee requests and approvals based on policies ▪ Communicates information rapidly to specific groups, employees or the entire department ▪ Consistently applies overtime rules when scheduling employees, granting leave and processing time-off requests ▪ Ensures overtime positions are filled efficiently. 		
<p>Police and Fire-Rescue employees will be provided the opportunity to work smarter and efficiently, devoting more productive time to key administrative and services tasks and challenging assignments. Equally important, managers, given appropriate tools and resources, will be better held accountable for their employee costs and personnel time management.</p>		
<p>Staff has considered software solutions provided by Kronos TeleStaff over the past six months and consider it to be very capable of meeting the needs of the public safety departments, with the ability to integrate with the City's enterprise software that exists today and may be acquired in the near future. While the software can also handle the needs of general employees, staff believes the existing Executime software is sufficient and that the additional cost to acquire new software for general employees is not justified at this time.</p>		
<p>While there are other software providers, Kronos Telestaff is a demonstrated product used by many public safety agencies, including Fire, EMS and Police departments in Collier County, Cape Coral, Clearwater, St. Petersburg, Fort Lauderdale, Broward County, Miami-Dade County and many more.</p>		
<p>Section 2-666 (7) of the City Code provides that requirements for competitive bids or proposals may be waived "For telecommunications systems and information technology, including data processing equipment, systems software, and reproduction equipment".</p>		
<p>The full purchase cost of \$73,451 includes a server (\$10,000), the police module (\$35,373) and the Fire-Rescue module (\$28,078). The annual operating cost is \$6,497 after the first year. Because all the users are part of the General Fund, the General Fund contingency is a recommended source of funding. Alternatively, the Capital Improvement Fund could be used. If acquisition this fiscal year is not an acceptable alternative, the capital acquisition will again be proposed as a part of the FY 2012-13 proposed capital budget.</p>		
RECOMMENDATION:		
<p>City Council consensus is sought to consider an award of contract for the purchase of Kronos TeleStaff software in the combined total amount of \$73,451 to implement a comprehensive solution for public safety workforce management and to consider a budget adjustment to allocate funds from the General Fund Contingency Account. The available Contingency Account balance (after allocation of funds for CRA street light repairs) is \$344,741.</p>		
Reviewed by Department Director Stephen R. McInerney II, Fire Chief	Reviewed by Finance N/A	Reviewed by City Manager Bill Moss
City Council Action:		



NAPLES CITY COUNCIL AGENDA MEMORANDUM

Regular Meeting Date: April 18, 2012

Agenda Item: 16	Prepared By: Adam A. Benigni, AICP Department: Planning	
SUBJECT: Discussion on Live Entertainment Ordinance.		
BACKGROUND: City Council discussed the issue of outdoor live entertainment at the March 19, 2012 Workshop meeting. Council directed staff to examine the possibility of modifying the definitions of outdoor and indoor live entertainment, standardizing the hours for live entertainment and examining the possibility of having different days and hours for live entertainment based upon which commercial district the establishment is located. Attached is a memorandum that outlines possible amendments to Section 56-125, Live Entertainment Permits, regarding the following items:		
<ul style="list-style-type: none"> o Definitions of Outdoor and Indoor Live Entertainment o Live Entertainment Hours of Operation o Number of Performers o Amortization Clause for Existing Permits; o Review Authority and o Outdoor amplification 		
RECOMMENDATION: Staff recommends consideration of the following amendments to the Code:		
<ul style="list-style-type: none"> o <u>Definitions of Outdoor and Indoor Live Entertainment</u> – remove definitions of outdoor and indoor live entertainment and modify definition of live entertainment requiring location of performers and amplification to be inside of an establishment. The doors and windows can remain open during performances. o <u>Live Entertainment Hours of Operation</u> – provide standard operating hours for all establishments. o <u>Number of Performers</u> – limit the number of performers to four unless it is within a banquet facility and doors and windows are closed. o <u>Amortization Clause for Existing Permits</u> – all new permits approved under standard hours and existing permits re-approved under standard hours upon expiration. o <u>Review Authority</u> – staff recommends administrative approval of live entertainment permits (see supplemental memo). o Do not allow amplification outdoors whether or not associated with a live entertainment petition. 		
Reviewed by Department Director Robin D. Singer	Reviewed by Finance N/A	Reviewed by City Manager Bill Moss
City Council Action:		



Memo

Planning Department

TO: A. William Moss, City Manager
THROUGH: Robin D. Singer, Planning Director
FROM: Adam A. Benigni, Senior Planner
DATE: April 3, 2012
SUBJECT: Live Entertainment Discussion

City Council discussed the issue of outdoor live entertainment at the Workshop meeting of March 19, 2012. Council directed staff to examine different options that may help abate issues concerning outdoor entertainment. Staff has outlined options regarding the following issues: definitions of outdoor and indoor live entertainment, hours of operation, number of performers, amortization clause regarding existing permits and review authority.

Definitions:

The existing definitions of outdoor and indoor live entertainment are as follows:

- *Indoor live entertainment* means live entertainment that is provided inside a fully enclosed building with all doors and windows remaining closed during performances, with the exception of patron and staff ingress and egress during live entertainment performances.
- *Outdoor live entertainment* means live entertainment that is provided outside a fully enclosed building or inside the building but intentionally audible outside the building.

If Council decides to continue to permit outdoor entertainment with the location of entertainers being outside of an establishment, there is no need to eliminate the definitions from the Code. If Council decides to not permit outdoor entertainment with the location of entertainers being outside of an establishment, staff can draft an amendment that deletes the definitions and modifies the definition of "live entertainment" to include language limiting the location of entertainers to the interior of an establishment. The doors and windows can be open, as proposed by Council.

Hours of Operation:

City Council discussed two main options regarding hours of operation for live entertainment.

1. Standardizing the hours of operation such that every establishment is bound by the same hours making for easier enforcement.
2. Allowing different hours based upon which part of the City the establishment is located.

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Currently the hours of operation for outdoor and indoor entertainment are as follows:

- Hours of outdoor live entertainment shall be determined by city council and shall not extend beyond 10:00 p.m. Sunday through Wednesday and 12:00 midnight on Thursday, through Saturday.
- Hours of indoor live entertainment shall be determined by the city council and shall not extend past 11:30 p.m. Sunday through Wednesday and 12:00 midnight on Thursday through Saturday.

Although the City has specific ending hours for live entertainment, the provision that the hours "shall be determined by city council" as resulted in varying days and hours for each establishment. For instance, Ridgway's has finishing time of 11:30 p.m., while Campiello's has a finishing time of 11:00 p.m. and Sea Salt has a finishing time of 10:00 p.m. Standardizing the hours of operation would give every permitted establishment the same days and hours of live entertainment. One advantage to this would be ease of enforcement. If every establishment had the same days/hours approved, it would be significantly easier to determine whether or not there is an establishment is going beyond the approved time. Another advantage is the fairness and equity associated with uniform hours of live entertainment with introducing subjectivity associated with each separate partition. Council has discussed the following standardized hours, although there has been some discussion on whether or not Thursday's should have extended hours:

- Sunday to Wednesday – until 10:00 p.m.
- Thursday to Saturday – until 12:00 midnight

The second scenario suggests that different districts, because of their proximity to residential uses or location on water, should have different hours of operation. Staff does not recommend that Council adopt such a strategy as it may be cumbersome determining which district deserves the longest approval hours and nearly all commercial districts have residential properties nearby. If Council adopts restrictions on the location of entertainers and speakers, there should be a reduction in noise that can address the transmission of sound to residential areas.

Number of Performers

As with the differences in the days and hours of approved permits, the number of performers permitted at each establishment varies greatly. Aqua is permitted to have 4 performers, while Bella Maria Café is only permitted to have a solo entertainer and Ostera Caviar & Champagne is permitted to have two entertainers. Staff recommends that Council endorse one of the following strategies:

- Do not limit the number of entertainers. The City has a noise ordinance and if an establishment violates that ordinance the City Council can revoke a permit (Section 56-125(h)).
- Set a maximum number of entertainers. Out of all of the approved permits, the maximum number of entertainers approved is five (Hamilton Harbor). There are several establishments that have approval of four entertainers.

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Staff recommends not limiting the number of entertainers; however, if Council wishes to limit the number of entertainers, staff suggests limiting the number to four entertainers unless located in a fully enclosed banquet facility.

Amortization Clause

Staff has discussed the idea of an amortization clause with the City Attorney regarding the existing, approved permits. The City Attorney and staff feel that the best way to accomplish the goal of standardizing the live entertainment hours of operation would be through attrition. Currently, live entertainment permits expire after two years. After the two-year period, and depending upon violations, permits are administratively approved for another two-year term. Instead of approving permits with the existing live entertainment hours, staff can easily approve the standardized hours (if the Code is amended with standard hours). All new requests could be approved at the standardized hours.

Review Authority

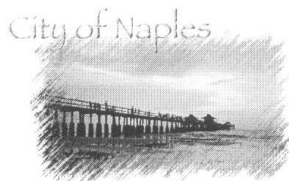
Currently, City Council reviews and approves each live entertainment request. If Council directs staff to amend Section 56-125 to standardize the hours of live entertainment, then staff can administratively review and approve these permits. If an establishment requests a live entertainment permit and can meet all of the Code requirements then the establishment should be able to obtain a live entertainment permit. Administrative approvals would greatly lessen the length of the approval process. Currently, the process takes approximately 30 days. Staff is required to notice the public in writing (within 500 feet of an establishment), write agenda memorandum and supplemental memorandum and present the item at a Council meeting. All of this has a cost – currently, the cost to the petitioner is \$350.00. If live entertainment permits can be handled administratively, the cost to the petitioner can be greatly reduced. Staff would still discuss the location of the entertainers with the Fire Marshal and conduct a site visit prior to permit issuance. In addition to this, staff would provide City Council a bi-annual report outlining the new and existing permits and any violations that have occurred.

An option to this alternative is that the notice to residents within 500 feet would continue. Comments from the public would be considered by staff. Either the petitioner or an affected resident (within 500 feet) could appeal an administrative decision to City Council.

Outdoor Amplification

There has been some discussion on the location of amplification devices for both live entertainment and other businesses that do not meet the definition of live entertainment. When the code was amended to no longer require amplified sound permits, it was intended that piped music could be allowed for restaurants and other businesses by simply requiring compliance with the noise ordinance. Staff has observed that businesses (restaurants and retail) are using amplified music with outdoor speakers to attract attention outside their establishments and that this is adding to excessive noise on the street. Staff recommends that all amplification devices, whether associated with a live entertainment establishment or not, be located indoors.

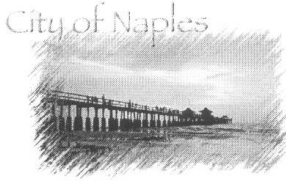
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NAPLES CITY COUNCIL AGENDA MEMORANDUM

Regular Meeting Date: April 18, 2012

Agenda Section: Regular	Prepared By: Bob Middleton, Director Department: Utilities
Agenda Item: 19	Legislative <input checked="" type="checkbox"/> Quasi-Judicial <input type="checkbox"/>
SUBJECT: Fluoridation of the Naples Public Water Supply	
SUMMARY: City Council is asked to receive public comment regarding the fluoridation of the City's public water supply and to provide further direction as to the use of fluoride.	
BACKGROUND: On May 4, 2011, Council Member Price proposed and City Council agreed to discuss fluoridation of the City's drinking water after the summer recess. On September 19, 2011, City staff made a presentation to City Council of the City's practice of potable water fluoridation. This presentation provided City Council with an overview regarding fluoridation of the public water supply. The presentation included the City's history regarding fluoridation, government regulations, organizations and references that recognize health benefits that prevent dental decay. Council Member Price requested and Council agreed to a follow-up presentation on fluoridation during the Regular City Council Meeting of April 18, 2012. City Council agreed to receive public comment, discuss and vote to continue or cease fluoridation. Fluoride occurs naturally in the City's ground water supply between 0.15 - 0.2 mg/l. To increase the amount of fluoride, the City of Naples began fluoridating the drinking water supply upon the adoption of an Ordinance in 1957. Historically, the fluoride was supplemented to increase the level between 0.8 – 0.84 mg/l, well below the Safe Drinking Water Act limit (SDWA) of 2.0 mg/l. In March 2011, in anticipation of a recommendation from the U.S. Health Department to lower this threshold, the supplemental fluoride was reduced to maintain a level of 0.7 mg/l. To ensure the desired level of fluoridation, samples are collected and tested on a monthly basis. Samples are taken from the raw water entering the plant, the finished water leaving the plant, and at several points in the water distribution system. Dr. Joan Colfer, Director, Collier County Health Department will provide information to City Council on the benefits of fluoridation in the public drinking water supply. Dr. Colfer will be followed by Dr. Lauren Governale, Clinic Director, Naples Children and Education Foundation Pediatric Dental Center, Dr. Scott Tomar, University of Florida Department of Community Dentistry & Behavioral Science, Dr. Richard Garcia, President of the Collier County Dental Society and Dr. Allen Weiss, President and CEO of Naples Community Healthcare System. Mr. David Bolduc will present information to discourage the use of fluoride in drinking water (PowerPoint attached).	



NAPLES CITY COUNCIL AGENDA MEMORANDUM

Regular Meeting Date: April 18, 2012

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Agenda Item:	19	
BACKGROUND (cont.): The attached memorandum provides a history of the use of fluoride in drinking water in the United States.		
RECOMMENDED ACTION: City Council is asked to receive presentations, accept public comments, and either endorse the continuation of the fluoridation program or direct that fluoride no longer be added to the City's drinking water.		
Reviewed by Department Director Bob Middleton	Reviewed by Finance N/A	Reviewed by City Manager Bill Moss
City Council Action:		