



City of Naples

City Council Chamber
735 Eighth Street South
Naples, Florida 34102

City Council Regular Meeting – June 6, 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

Also Present:

A. William Moss, City Manager
Robert D. Pritt, City Attorney
Patricia L. Rambosk, City Clerk
Roger Reinke, Assistant City Manager
Vicki Smith, Deputy City Clerk
Stephen McInerney, Fire Chief
Thomas Weschler, Police Chief
Paul Bollenback, Building Services Director
Robert Middleton, Utilities Director
Roger Jacobsen, Code & Harbor Manager
Christa Carrera, Floodplain Coordinator
John Dunnuck, Purchasing Manager
Robin Singer, Planning Director
Ann Marie Ricardi, Finance Director
Communications Supervisor, Beverly Griffith
Firefighter/Paramedic Eric Saavedra
Firefighter/Paramedic Kyle Rambosk
Firefighter/Paramedic Joseph Fetzer
Firefighter/Paramedic Cesar Macay
Firefighter/Paramedic Christian Bice

Joanna Pluc, Telecommunicator
Steve Kofsky, Driver Engineer
Kristin Lewis, Collier County
Pam Williams, Collier County
Gordy Hoff
Vangie Hoff
Jim Paul
Rhonda Cummings
Ron Young
Henry Kennedy
Lou Vlasho
Byron Donalds
William Kelly
Jim Boula
Louay Fiore
Willie Anthony
Charles Thomas
Lise Sundria

Media:

Kristine Gill, Naples Daily News
Other interested citizens and visitors

INVOCATION AND PLEDGE OF ALLEGIANCE ITEM 2

City Attorney Robert D. Pritt.

ANNOUNCEMENTS ITEM 3

(8:31 a.m.) Fire Chief Stephen McInerney commended the efforts of various City and County emergency personnel as well as Vangie Hoff who had each assisted in saving the life of Gordy Hoff who had suffered cardiac arrest. Mayor Sorey read the following proclamations: Mother Perry Youth Empowerment Project Second Annual Serving to Save Our Youth Brunch and

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Classical South Florida, WNPS 88.7 FM Day. He also read a letter from the Sample Foundation with regard to its contribution to the River Park pool project, a copy of which is on file in the City Clerk's Office. City Manager William Moss recognized Finance Director Ann Marie Ricardi and read a press release noting that Naples had received the Government Finance Officers Association (GFOA) Distinguished Budget Presentation Award and the Certificate of Achievement for Financial Reporting.

SET AGENDA (add or remove items)..... ITEM 4
MOTION by Saad to SET THE AGENDA as submitted; 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).

PUBLIC COMMENT ITEM 5
(9:00 a.m.) **Byron Donalds, 226 Mentor Drive**, introduced himself as a candidate for the local Congressional seat and gave a brief presentation.

CONSENT AGENDA

APPROVAL OF MINUTES ITEM 6-a
March 26, 2012 Town Hall, April 16, 2012 Workshop, and May 1, 2012 Town Hall meeting minutes; as submitted.

RESOLUTION 12-13128 ITEM 6-b
A RESOLUTION AMENDING THE FISCAL YEAR 2011-12 BUDGET ADOPTED BY ORDINANCE 11-12953 TO CLARIFY THAT THE POSITION OF AQUATIC SUPERVISOR AT THE RIVER PARK POOL BE DESIGNATED AS A REGULAR FULL-TIME POSITION; AND PROVIDING AN EFFECTIVE DATE.

RESOLUTION 12-13129 ITEM 6-c
A RESOLUTION APPOINTING VICKI SMITH AS DEPUTY CITY CLERK; AND PROVIDING AN EFFECTIVE DATE.

MOTION by Sulick to APPROVE CONSENT AGENDA 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).

END CONSENT AGENDA

RESOLUTION 12-13130 ITEM 7
A RESOLUTION DETERMINING CONDITIONAL USE PETITION 12-CU2, PURSUANT TO SECTION 58-503, TO ALLOW THE RETAIL SALE OF SECONDHAND MERCHANDISE IN THE HIGHWAY COMMERCIAL ZONING DISTRICT, ON PROPERTY OWNED BY NAPLES PRIVATE FINANCIAL GROUP, LLC, LOCATED AT 2840 9TH STREET NORTH, MORE FULLY DESCRIBED HEREIN; AND PROVIDING AN EXPIRATION DATE AND AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (9:03 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/no contact; Saad and Sulick/visited the site but no contact; Sorey/visited the site and greeted the petitioner that morning; and Price, Finlay and Barnett/familiar with the site but no contact. Jim Paul, agent for the petitioner, The Posh Plum, explained that the business is an upscale furniture consignment store. Planning Director Robin Singer stated that the site is the former location of Robb & Stucky Patio. She stated that there is another building on the property that uses the parking lot, but that there is adequate parking to accommodate both buildings and uses. Noting that the petition meets all the criteria for a conditional use, staff as well as the Planning Advisory Board (PAB) have recommended approval. In response to Vice Mayor Price, Ms. Singer clarified that there is no difference in terms of parking standards for a consignment store, and that the exact same calculation had been applied to Robb & Stucky Patio.

Public Comment: (9:07 a.m.) None.

MOTION by Price to APPROVE RESOLUTION 12-13130 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).

ORDINANCE 12-13131 ITEM 8
AN ORDINANCE RELATING TO OUTDOOR DINING; AMENDING SECTION 56-126 (c)(1); MOVING SECTION 56-127, OUTDOOR DINING ON PUBLIC PROPERTY, TO SECTION 56-126, OUTDOOR DINING, FOR THE PURPOSE OF COMBINING PROVISIONS REGARDING OUTDOOR DINING UNDER ONE HEADING IN THE CODE OF ORDINANCES; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION; AND AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (9:07 a.m.). Planning Director Robin Singer stated that this ordinance would clarify the circumstances under which outdoor dining would require City Council review. It would also combine all provisions including liability, insurance, revocation, suspension and appeal under one heading in the Code of Ordinances.

Public Comment: (9:08 a.m.) None.

MOTION by Price to ADOPT ORDINANCE 12-13131 as submitted; seconded by Barnett and carried 6-1, all members present and voting (Barnett-yes, Finlay-yes, Heitmann-no, Price-yes, Saad-yes, Sulick-yes, Sorey-yes).

RESOLUTION 12-13132 ITEM 9
A RESOLUTION DETERMINING THE REQUEST TO RELEASE A LIEN UNDER CODE ENFORCEMENT BOARD CASE NO. 11-294; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (9:09 a.m.). Code and Harbor Manager Roger Jacobsen explained that the property, located at 318 7th Street South, had been abandoned by the previous owner and was in disrepair. After its purchase in March, 2011, staff had begun to work with the new owner, Louay Fiore, to correct the violations. These efforts, however, did not produce compliance and on June 9, 2011 a Notice of Violation was issued. A Notice of Hearing before the Code Enforcement Board was held July 28, 2011; the Board found there was a violation, and ordered a \$100 per day fine until its correction. At the January 26, 2012 Code Enforcement Board hearing, a lien of \$14,800 was imposed; daily fines continued for 15 more days for a total of \$1,500. On May 24, 2012, Mr. Fiore requested a reduction in the on-going daily fines. After learning the staff costs for this case were estimated at \$630, it was the consensus of the Board to reduce the fine by \$750 as the property had been brought into compliance. Only City Council, however, has the authority to reduce or eliminate the lien.

Mayor Sorey asserted for the record that the new owner had been non-responsive in correcting the violation. Mr. Fiore stated he had some miscommunication with his general contractor with regard to Building Codes and Federal Emergency Management Agency (FEMA) law. After discovering the daily fines in November, 2011, he said he resolved to correct the situation. The work has since been completed, and the property is being landscaped and maintained. Mr. Fiore thereby requested a reduction in the lien.

Public Comment: (9:27 a.m.) **William Kelly, PO Box 2584**, said he watched the work progress daily on this project, and that the result is a vastly improved, attractive property.

City Attorney Pritt noted several court cases that provide guidance such as *Massey v Charlotte County* and *Stratton v Sarasota County*. Pursuant to Chapter 162.09, Florida Statutes, he also recommended that Council, when deciding whether to reduce or eliminate the lien, consider the gravity of the violation, the attempts, if any, to correct the violation, and whether there were other violations by the same violator. After a brief discussion, the following motion was proffered.

MOTION by Barnett to APPROVE RESOLUTION 12-13132 reducing the fine to \$10,000 contingent upon receipt of funds within 10 working days. This motion was seconded by Finlay and carried 5-2, all members present and voting (Barnett-yes, Finlay-yes, Heitmann-yes, Price-no, Saad-yes, Sulick-no, Sorey-yes).

**CLERK'S TRACKING #12-00029..... ITEM 10
AWARDING A CONTRACT FOR SEALING AND PAINTING THE POTABLE WATER
GROUND STORAGE TANKS AND BUILDINGS LOCATED AT EAST NAPLES, SOLANA
ROAD AND PORT ROYAL \ VENDOR: GEMINI INC. OF FLORIDA, TARPON SPRINGS,
FLORIDA \ COST: \$124,500 \ FUNDING: CIP 12K17 – TANK SEALING AND PAINTING.**
(9:42 a.m.) Utilities Director Robert Middleton stated that upon routine inspection, these tanks, which were last painted in 2001, were found to have tight surface cracks and therefore require paint and sealing maintenance. The bid was publicly advertised on April 17, 2012; the City received responses from 11 vendors for this project. The lowest responsive bidder was Gemini Inc., in the amount of \$124,500.

In response to Mayor Sorey, Director Middleton affirmed that staff had questioned the low price offered for this bid. After conducting discussions with Gemini, however, Director Middleton said he felt confident this vendor could perform the work at the price bid and meet the specifications. In further discussion, Director Middleton explained that work would begin at the Port Royal tank site, which is in the worst condition. Vice Mayor Price however predicted there would be an issue with this vendor in terms of meeting the paint thickness standard required in the contract. In response to Council Member Finlay, Purchasing Manager John Dunnuck stated that under the City's policy, vendors are not required to post a bond for contracts under \$125,000, but that the City can ask the vendor to do so. After the Port Royal tank is finished, staff can reevaluate and continue with the same vendor, or possibly re-bid the other two tanks, if necessary. Mr. Dunnuck however said that after the discussions and contacting the references, he felt confident in proceeding with Gemini. City Attorney Robert Pritt noted that the contract had not yet been signed due to some proposed changes. Mr. Dunnuck explained that these were minor changes requested by staff, and that they have since been resolved.

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

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

**ORDINANCE (First Reading) ITEM 11
AN ORDINANCE RELATING TO FLOODPLAIN MANAGEMENT; AMENDING CHAPTER 16-82
VARIANCES TO FLOODPLAIN MANAGEMENT REGULATIONS; AMENDING CHAPTER 16-
112 FLORIDA BUILDING CODE ADOPTED; AMENDMENTS; AMENDING CHAPTER 16,
ARTICLE IV OF THE FLOOD DAMAGE PREVENTION ORDINANCE OF THE CODE OF
ORDINANCES, CITY OF NAPLES, FLORIDA FOR THE PURPOSE OF DESIGNATING A
FLOODPLAIN ADMINISTRATOR, ADOPTING PROCEDURES AND CRITERIA FOR
DEVELOPMENT IN FLOOD HAZARD AREAS, AND FOR OTHER PURPOSES; AND
ADOPTING LOCAL ADMINISTRATIVE AMENDMENTS TO THE FLORIDA BUILDING CODE;
PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE
DATE.** Title read by City Attorney Robert Pritt (10:03 a.m.). Mayor Sorey declared first reading of the ordinance and indicated that second reading would occur on June 13, 2012.

**ORDINANCE (First Reading) ITEM 12
AN ORDINANCE RELATING TO THE RETIREMENT SYSTEM OF THE CITY OF NAPLES,
FLORIDA; ADDING PARAGRAPH (e) TO SECTION 29-66, ESTABLISHED, EFFECTIVE
DATE, MERGER OF SYSTEMS; AMENDING PARAGRAPH (a) OF SECTION 29-113,**

VOLUNTARY RETIREMENT; OF THE CODE OF ORDINANCES, CITY OF NAPLES, FLORIDA, FOR THE PURPOSE OF CLARIFYING THAT THE BENEFITS WILL NOT BE REDUCED FOR MEMBERS WHO ATTAINED NORMAL RETIREMENT AGE AS OF SEPTEMBER 30, 2011; DIRECTING THE CITY CLERK TO FILE A COPY OF THIS ORDINANCE WITH THE DIVISION OF RETIREMENT OF THE FLORIDA DEPARTMENT OF MANAGEMENT SERVICES; PROVIDING FOR CONFLICTING PROVISIONS, SEVERABILITY AND APPLICABILITY; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (10:04 a.m.). Mayor Sorey declared first reading of the ordinance and indicated that second reading would occur on June 13, 2012.

RESOLUTION 12-13133 ITEM 13

A RESOLUTION APPROVING AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF NAPLES AND THE CITY OF NAPLES AIRPORT AUTHORITY FOR AIRPORT RESCUE FIREFIGHTING STAFFING; AUTHORIZING THE CITY MANAGER TO EXECUTE THE INTERLOCAL AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (10:05 a.m.). In response to Council, Fire Chief Stephen McInerney stated that there would be two fire personnel on the airport property at all times. This has not changed from the prior agreement. He further explained that there was not appropriate staff or equipment to handle structural fires at the airport; the personnel assigned there are solely for aircraft incidents. There are, however, nearby fire stations in North Naples and East Naples with that capability.

Public Comment: (10:17 a.m.) None.

MOTION by Sulick to APPROVE RESOLUTION 12-13133 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).

Recess: 10:18 a.m. to 10:28 a.m. It is noted for the record that the same Council Members were present when the meeting reconvened.

DISCUSSION OF HORTICULTURE COLLECTION ITEM 14

THE DISCUSSION WILL BE A SUMMARY OF THE CITY CODE PERTAINING TO HORTICULTURAL COLLECTION THAT IS MANAGED BY THE SOLID WASTE DIVISION. LANDSCAPE DEBRIS IS PLACED ON THE PUBLIC RIGHTS-OF-WAY ON A WEEKLY BASIS FOR COLLECTION. (10:28 a.m.) Noting unsightly accumulations in several areas of the City, including Gordon Drive, Council Member Sulick recommended prohibiting horticultural waste to be set out before 6:00 p.m. preceding the day of normal pick-up. Mayor Sorey said this may be impractical for many residents. Utilities Director Robert Middleton explained that the Code allows placing material on the rights-of-way for once per week collection, but does not specify the size or volume allowed; the owners could however put it on their own property. Vice Mayor Price said he believed the City does an excellent job in horticultural waste pickup. He suggested asking just those few affected owners to set out their waste the day before pick-up. Mayor Sorey suggested informing the Solid Waste staff of Council's concerns, and asking them to present recommendations at a future Council meeting.

It is noted for the record that public comment was inadvertently omitted for Item 14 and was therefore heard during Item 15; it is reflected below.

Public Comment: (10:44 a.m.) **William Kelly, PO Box 2584**, agreed with staff dealing directly with the affected property owners, suggesting use of a garden trailer for hauling waste. Mr. Kelly also noted use of a private commercial refuse container located on City property by those wishing to avoid hauling fees. This container, he maintained, should be placed on private property where it will not require maintenance by the City.

LAND DEVELOPMENT REGULATIONS DISCUSSION ITEM 15
THE DISCUSSION WILL SUMMARIZE CONCEPTUAL AMENDMENTS TO THE LAND DEVELOPMENT REGULATIONS THAT WILL UPDATE REGULATIONS, REMOVE CONFLICTS, AND DECREASE THE TIME ASSOCIATED WITH THE DEVELOPMENT REVIEW PROCESS. (10:43 a.m.) City Manager William Moss explained that this item concerns possible Code changes the Council may want to consider in order to expedite the permitting process. If there is interest in proceeding, staff would present the concept to the Planning Advisory Board (PAB) and then back to City Council. Planning Director Robin Singer said although some amendments had been made, there are other areas of the Code that need to be addressed. For instance, she said she believed that each interpretation in the book of zoning interpretations should be codified in order to aid those planning their projects. Another area is permitted and conditional uses, wherein Ms. Singer recommended standardizing the nomenclature. There are a number of aspects with reference to the parking requirements that should be amended including the ratios, the incentive programs and the needs analyses. She then said the quality of landscaping in the City is actually better than the Code requires in many cases, but that the Code is difficult to interpret; she suggested contacting local landscape architects who have dealt with other city codes. She also noted the need for updating and clarifying Chapter 48 (concurrency management/mobility), Chapter 54 (subdivision standards) and Chapter 56 (supplemental standards). In addition, Ms. Singer noted a previous suggestion made during the zero-based budgeting discussions that the Planning Advisory Board (PAB) become the Planning and Zoning Board to achieve greater efficiency. This new board, she explained, would have the authority to resolve quasi-judicial items without further hearings; legislative issues would still be heard by Council.

Vice Mayor Price said his priorities were parking and subdivisions and that he did not favor a Planning and Zoning Board. Council Member Sulick concurred. She also recommended addressing those properties that are being used as parking lots, which are not paved or maintained as such, saying that they degrade the surrounding areas. She then suggested assigning greater importance to the parking needs analysis developed by the staff than the one presented by a petitioner's consultant; Council Member Heitmann concurred and Mayor Sorey recommended developing standards and methodology. Council Members Finlay and Barnett expressed concurrence with the comments made. Council Member Saad said although he believes in greater efficiency, the Council must make the final decisions especially in terms of variances. He also advocated consistency in the Codes, maintaining high landscape standards and requiring a parking needs analysis for all but the smallest projects. Council Member Saad further suggested reviewing the parking space fees for the smallest lots to incentivize development. Council Member Heitmann recommended a discussion on the mobility fees, clarification on changes concerning special events, and a list of the changes already made to the Land Development Code. She said she also agreed with comments made concerning the Planning and Zoning Board. Mayor Sorey indicated his agreement with the recommendation to codify the interpretations so the regulations are clear. He also requested additional discussion on constructing sidewalks in residential areas and concurred with the importance of landscaping requirements.

Public Comment: (11:23 a.m.) None.

Consensus of no support for establishment of Zoning and Planning Board; remainder of topics to proceed as discussed above.

PUBLIC COMMENT
(11:23 a.m.) None.

CORRESPONDENCE AND COMMUNICATIONS.....

(11:23 a.m.) Council Member Barnett stated that Council had recently received a memo from the City Manager with regard to a recent environmental study concerning aircraft pollution residue in the Old Naples area. City Manager William Moss explained that an independent study determined that there were no petroleum based products in the residue, and that the material was found to be pollen. (A copy of the report is contained in the file for this meeting in the City Clerk’s Office.) Council Member Finlay expressed appreciation to the Sample foundation for its contribution to the River Park pool project, as well as to the Mayor and former Vice Mayor Penny Taylor for their work in securing additional donations. He also commended staff for receiving awards for the City’s budget. Mayor Sorey recognized new City Clerk Patricia Rambosk, who expressed appreciation for the opportunity and said she looked forward to working with everyone in her new role. Mayor Sorey said that the Naples Players recently submitted its annual report, which is required by its use agreement. He then noted recent discussions with various groups with regard to the potential for a private hotel/convention center at the Renaissance Village property (northwest corner of US 41 and Goodlette-Frank Road). He explained that such a use could not be accommodated on the 22-acre site and be economically feasible with the current height limitation. Therefore, he asked that Council consider whether it had any interest in a possible referendum regarding a waiver of the height limitation. In further discussion, Mayor Sorey said he knew of multiple developers who were interested in purchasing the property. Council Member Sulick urged consultation with the residents on this issue in terms of potential implications on the quality of life in the City. Council Member Saad also expressed appreciation to the Sample Foundation, adding that he would be interested in hearing proposals for the convention center. Council Member Heitmann questioned the loss of two parking spaces abutting Riley Park (located along Gordon Drive between 18th and 21st Avenues South). Mayor Sorey said that the City Manager would address this issue. Mrs. Heitmann also expressed appreciation to staff for restriping of the crosswalks on Third Street South.

ADJOURN.....

11:40 a.m.

John F. Sorey III, Mayor

Patricia L. Rambosk, City Clerk

Minutes prepared by:

Jessica R. Rosenberg, Deputy City Clerk

Minutes Approved: _____