

This document is promulgated solely for the purpose of providing a brief reference to City Council action. It is not to be construed as minutes of the City Council meeting or in any way the official record of said meeting.

Annotated

Notice of Meeting and Agenda

Naples City Council

City Council Chamber, 735 Eighth Street South, Naples, Florida

Mayor: Bill Barnett

Vice Mayor: John F. Sorey, III

City Council Members:

Doug Finlay, Teresa Lee Heitmann, Gary B. Price II, Sam J. Saad III, Margaret Sulick

City Attorney: Robert D. Pritt · City Clerk: Tara A. Norman · City Manager: A. William Moss

Welcome to today's City Council meeting. If you wish to address the Council regarding an item listed on this agenda, please complete a registration form at the rear of the room and place it in the Speaker Request Box located on the Council dais prior to consideration of that item. We ask that speakers limit their comments to 3 minutes and that large groups name a spokesperson whenever possible. Thank you for your interest and participation in City government.

Regular Meeting

Wednesday, February 15, 2012

Convened 8:29 a.m. / Adjourned 6:14 p.m.

All proposed ordinances and information on other items listed below, which have been provided in advance of this meeting, may be inspected in the office of the City Clerk, City Hall, or on the City of Naples website www.naplesgov.com or call the City Clerk's Office, 213-1015. All written, audio-visual and other materials presented to the City Council in conjunction with deliberations during this meeting will become the property of the City of Naples and will be retained by the City Clerk.

1. Roll call – ***All present.***
2. Invocation and Pledge of Allegiance – ***Reverend Lonnie Mills / Macedonia Baptist Church.***
3. Announcements
 - ***Canvass Results of the General Election of January 31, 2012 and Declaration of Results - City Clerk Tara Norman***
 - ***Recognition of City Council Members Completing Their Terms in Office - City Manager William Moss***
4. ***Swearing in of Mayor and newly elected City Council Members by the Honorable Hugh D. Hayes, 20th Judicial Circuit***
5. Recess – 30 minutes (***Roll call with new City Council – All present.***)
6. Set agenda (*add or remove items*) – Reconvene at approximately 9:30 a.m. – ***As submitted / Price / Finlay / 7-0***
7. Public Comment – ***R. Jacobsen, Collier County Special Olympics Basketball Gold Medal; and W. Kelly, high variance approval rate.***
8. Correspondence and Communications – ***Requested for June meetings one week apart (Barnett); concern that correspondence/communications will take up unwarranted time at start of agenda, requested workshop discussion in April for support on Clam Bay dredging (consensus to hear Dr. David Buser and Gary McAlpin from Collier County), and requested workshop on vessel speed issue in March (5-2 consensus) (Finlay); update on Emergency Medical Services (EMS) and fire services and will submit report to Council before upcoming County discussion (Price); report on her meeting with Florida Department of Transportation (FDOT), City and County representatives to discuss means of enhancing connectivity such as improvements at Four Corners (US 41 and Fifth Avenue South), and announcement that Council Member Saad elected as Vice Chair on Metropolitan Planning Organization / MPO (Sulick); concern that correspondence/communications at start of agenda will delay public awaiting Council decisions (Saad); suggested that correspondence/communication opportunity also at conclusion of agenda, and requested more discussion of Council on pending state legislation (Heitmann); March 26, 6:00 p.m. Town Hall meeting to be held in Council Chamber and need for suggestions of topics, and vessel speeds and other issues such as water quality, aesthetics, etc., considered by a new Naples Bay Advisory Committee (Sorey).***

City Council will not recess for lunch

NOTICE

Formal action may be taken on any item discussed or added to this agenda. Any person who decides to appeal any decision made by the City Council with respect to any matter considered at this meeting (or hearing) will need a record of the proceedings and may need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence upon which the appeal is to be heard. Any person with a disability requiring auxiliary aids and services for this meeting may call the City Clerk's Office at 213-1015 with requests at least two business days before the meeting date.

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Scheduled Agenda Items

Some of the items on the following agenda may have been scheduled for an estimated time, however, none of the items will be considered EARLIER than the scheduled time. This schedule will be followed as closely as possible for the convenience of any citizen(s) wishing to address the Council. Items not listed at an estimated time, including the Consent Agenda, will be considered at the discretion of the Council and may be taken out of numerical order.

SCHEDULED ITEMS

<p>Resolution – Quasi-Judicial Planning Conditional Use Petition 11-CU9 Petitioner: Le Lafayette French Restaurant Agent: Richard Yovanovich, Esquire Planning Advisory Board Recommendation for Approval Continued from 01/18/12 <u>12-13041 amended as follows: Section 2-3:</u> <u>“...by the business and shall be approved by staff prior to commencement of operation under the revised plan.”</u> Saad / Price / 5-2 (Heitmann and Sulick dissenting)</p>	<p>11:00 a.m. 9. Public Hearing to consider a Resolution determining Conditional Use Petition 11-CU9 pursuant to Sections 50-103 (e) and 50-107 of the Code of Ordinances, to grant approval of a parking needs analysis in order to allow Le Lafayette Restaurant to operate with 20 parking spaces where the Code requires 45 spaces, amending the prior conditions of approval in Resolution 09-12486 for property in the C1 Retail Shopping District, owned by Pratt Shoes, Inc., located at 375 13th Avenue South</p>
<p>2 Resolutions – Quasi-Judicial Planning Subdivision/Replat Petition 12-SD1 Site Plan with Deviations Petition 12-SPD1 Petitioner: RSII Properties, Inc. Agents: Matthew Kragh, AIA and Tim Hancock Planning Advisory Board Recommendation for Approval</p>	<p>1:00 p.m. 10. Consider the following as they relate to property owned by RSII Properties, Inc., located north of Fourth Avenue South, south of Third Avenue South, east of US 41 and west of Tenth Street South: a. Public Hearing to consider determining Preliminary and Final (Record) Plat approval for RSI Naples (Petition 12-SD1), a replat of Lots 1 through 5 inclusive, 11 through 32 inclusive, the north 4 feet of Lot 6, and the vacated north-south and east-west alleys, Block 17, Tier 10, Seaboard Replat as recorded in Plat Book 1, Page 59, to replat five existing parcels (27 lots more or less) into one parcel (approximately 2.305 acres) b. Public Hearing to consider determining Site Plan with Deviations Petition 12-SPD1 to allow for construction of an approximately 60,000 square foot commercial building</p>
<p>10-a) 12-13042 / Saad / Barnett / 7-0</p>	
<p>10-b) 12-13043 / Saad / Barnett 7-0</p>	

CONSENT AGENDA

All matters taken under this section are considered routine, and action will be taken by one motion. There will be no separate discussion of these items. If discussion is desired, that item(s) will be removed from the Consent Agenda and considered separately.

Approve Consent Agenda
(except 11-a) Barnett / Finlay / 7-0
City Clerk
Approval of Minutes
Approved / Barnett / Heitmann / 7-0

11-a. Approval of Minutes:
December 7, 2011 – Regular
December 12, 2011 – Workshop
December 14, 2011 – Regular

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**Community Services
Approval of Special Events**

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- 11-b. Approve the following special events:
1. McCabe's St. Patrick's Day Celebration 2012 – McCabe's Irish Pub and Grill – Sugden Plaza – 03/17/12
 2. Taste of Collier – Taste of Collier, Inc. – Bayfront – 05/06/12
 3. Naples Craft Beer Fest – Naples North Rotary Club Foundation – Bayfront – 03/10/12
 4. BID Directory Panel – Fifth Avenue South Business Improvement District – temporary construction wall – Fifth Avenue South and Park Street – through October 2012
 5. Evening on Fifth Mardi Gras – Fifth Avenue South Business Improvement District – Fifth Avenue South – 02/21/12
 6. Golisano Children's Museum of Naples (C'mon) – Cycling Event – Childrens Museum of Naples – Park Street / Cambier Park – 04/01/12
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Approved with Consent Agenda

**Resolution
Utilities
Amend CIP Scope to add Pump Station 17
and Professional Design Services**

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- 11-c. Approve amending the FY 2011-12 Budget adopted by Ordinance 11-12953 to modify the project description of Utilities Maintenance Capital Improvement Project 12X02 – Pump Station Conversions – to include Pump Station 17 and Professional Design Services for both Pump Stations 6 and 17
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12-13036 Approved with Consent Agenda

**Resolutions
City Clerk
Reappointments/Appointment to Various
Boards and Committees**

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- 11-d. Approve the following:
1. Reappoint William MacIrvine (City resident) to the Board of Trustees of the Police Officer's Retirement Trust Fund for a two-year term commencing February 20, 2012 and expiring February 19, 2014
 2. Recommend reappointing Robert Meister (City resident) to the Collier County Contractors Licensing Board for a three-year term in the category of Contractor; and directing the City Clerk to provide said recommendation to the Collier County Commission for appointment
 3. Appoint Annabel Drew (current Alternate) to the Code Enforcement Board for the balance of a three-year term expiring May 6, 2012
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11-d-1) 12-13037

11-d-2) 12-13038

11-d-3) 12-13039

Approved with Consent Agenda

END OF CONSENT AGENDA

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<p style="text-align: center;">Resolution City Manager Election and Swearing In of new Vice Mayor</p> <p><u>12-13040 G. Price / Nominated by Sorey / 7-0</u></p> <p style="text-align: center;">Mayor</p> <p style="text-align: center;">Discussion of proposed City Council Rules of Procedure</p> <p><u>Discussion only / Council Members to submit specific suggestions in writing to City Manager</u></p>	<p>12. Consider the following: a. Election of Vice Mayor, pursuant to Section 2.4 of the Charter of the City of Naples b. Swearing in of new Vice Mayor</p> <p>13. Review and discussion of proposed City Council Rules of Procedure</p>
<p style="text-align: center;">Resolution – Quasi-Judicial Planning Variance Petition 12-V1 Petitioner: HHH Investments Limited Partnership Agent: John G. Vega, Esquire Planning Advisory Board Recommendation for Approval</p> <p><u>12-13044 amended as follows: adding Section 2-3: “The sign shall not be illuminated.” Saad / Price / 7-0</u></p>	<p>14. Public Hearing to consider determining Variance Petition 12-V1 from Section 58- 914 (9) of the Code of Ordinances to allow a ground sign on a parcel fronting on 8th Street South in the D-Downtown District where ground signs are only permitted on parcels fronting US 41 and Goodlette- Frank Road, said property owned by HHH Investments Limited Partnership, located at 201 Eighth Street South</p>
<p style="text-align: center;">Resolution – Quasi-Judicial Planning Outdoor Dining Petition 12-ODPB1 Petitioner: The Café (Tops & Tado Holding Company, LLC) Agent: Flemming Madsen</p> <p><u>12-13045 amending as follows: adding condition that outdoor dining design shall substantially be in accordance with Exhibit “B” attached and that tables will be affixed to the sidewalk. / Sorey / Barnett / 6-1 (Heitmann dissenting)</u></p>	<p>15. Public Hearing to consider determining Outdoor Dining Petition 12-ODPB1 to allow a restaurant (The Café) to have outdoor dining exceeding 100 square feet in area on public property that is not directly abutting the storefront of which it serves, located at 821 Fifth Avenue South</p>
<p style="text-align: center;">Resolution – Quasi-Judicial Planning Outdoor Dining Petition 12-ODPB2 Petitioner: Bill and Gordon, Inc. Agent: Gordon Stojkoski</p> <p><u>12-13046 amended as follows: Section 3- 1: “...However, the tables...be omitted.” and deleting Section 3-2. / Barnett / Sorey / 5-2 (Heitmann and Sulick dissenting)</u></p>	<p>16. Public Hearing to consider determining Outdoor Dining Petition 12-ODPB2 to allow a restaurant (Aqua) to have outdoor dining exceeding 100 square feet in area on public property that is not directly abutting the storefront of which it serves, located at 862 Fifth Avenue South</p>

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**Resolution – Quasi-Judicial
Planning
Outdoor Live Entertainment
Petition 12-LE3**

**Petitioner: Osetra Caviar & Champagne
Agent: Anthony Chinaglia**

12-13047 amended as follows: Title: “A resolution determining indoor and outdoor live entertainment...effective date.”; Second Whereas: “Osetra... (midnight) and outdoor live...(midnight); and”; Section 1: “That Indoor and Outdoor Live...described as:...” and deleting Section 1-2. / Saad / Barnett / 7-0

**Resolution – Quasi-Judicial
Planning
Outdoor Live Entertainment
Petition 12-LE4**

**Petitioner: Bellini on Fifth
Agent: Max Furetta**

12-13048 amended as follows: Second Whereas, Section 2-1 and 2-2: “...up to 2 3 entertainers on Sundays through Thursdays Wednesdays from 5:00 p.m. to 10:00 p.m. 11:30 p.m. and on Fridays and Thursday through Saturdays from 5:00 p.m. to 12:00 a.m.(midnight)...” ;and Section 2-3: “...through Thursdays Wednesdays ...”. / Price / Barnett / 4-3 (Sulick, Heitmann and Saad dissenting)

**Resolution – Quasi-Judicial
Planning
Outdoor Live Entertainment
Petition 12-LE5**

**Petitioner: Café Luna
Agent: Shannon Tewell**

12-13049 amended as follows: Second Whereas: “...entertainers located indoors, doors and windows may remain open, on Fridays and Saturdays from 9:00 p.m. until 12:00 a.m. (midnight) Sundays through...6:00 p.m..”; and Section 2-1: “...entertainers on Fridays and Sundays through...Thursdays through Saturdays from 9:00 p.m. 6:00 p.m. until 12:00 a.m. (midnight).” Barnett / Price / 5-2 (Heitmann and Saad dissenting

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17. **Public Hearing** to consider determining Indoor and Outdoor Live Entertainment Petition 12-LE3 for Osetra Caviar & Champagne located at 469 Fifth Avenue South

(Petitioner withdrew Outdoor Live Entertainment request from petition during consideration.)

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18. **Public Hearing** to consider determining Indoor and Outdoor Live Entertainment Petition 12-LE4 for Bellini on Fifth located at 445 Fifth Avenue South

(Petitioner amended requested number of entertainers, days and hours of entertainment during consideration.)

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19. **Public Hearing** to consider determining Outdoor Live Entertainment Petition 12-LE5 for Café Luna located at 467 Fifth Avenue South

(Petitioner amended request, locating entertainers indoors with doors and windows open, Fridays and Saturdays, 9:00 p.m. to 12:00 a.m. (midnight).)

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Resolution – Quasi-Judicial
City Manager / Natural Resources
Marine Permit Application 11-3421
Petitioner: Thomas Dille
Agent: Garland and Garland, Inc.
Marine Permit Application for seawall
removal and construction

CONTINUED to March 7 / Price / Saad / 6-0
(Sulick absent)

City Attorney
Waiver of Conflict

Approved / Sorey / Finlay / 5-1
(Price dissenting and Sulick absent)

Resolution
Finance
Refinancing of 2007 Utility Bonds

12-13050 / Barnett / Finlay / 6-0
(Sulick absent)

City Manager
Selection of a Chair and Vice-Chair of the
Community Redevelopment Agency

Continued

Resolution
Streets and Stormwater
Award of Contract for street sweeper and
approve a Budget Amendment
Continued from 01/18/12

Continued

20. **Public Hearing** to consider determining a Marine Permit to remove a seawall and fill extending past the property line at 1493 Blue Point Avenue and to construct a new seawall along the property line

21. Waiver of Conflict to allow the City Attorney to continue to represent the City as Issuer's counsel for the 2007 A and B Bond Refunding issue

22. Consider a Supplemental Resolution authorizing the issuance of a not to exceed \$8,525,000 Public Utilities Refunding Revenue Bond, Series 2012A and a not to exceed \$4,975,000 Public Utilities Refunding Bond, Series 2012B to refund certain indebtedness and to pay costs related thereto; awarding the sale thereof to Branch Banking and Trust Company (BB&T) based on the conditions described in the Resolution

23. Consider selecting the Community Redevelopment Agency Chair and Vice-Chair pursuant to Article III, Officers, Section 3.1, Regular Officers, of the Community Redevelopment Agency By-Laws, and Florida Statute 163.356

24. a. Consider awarding a contract for the purchase of a new street sweeper and five-year turn-key maintenance plan: \ Vendor: Environmental Products of FL Corporation, Apopka, FL \ Cost: \$288,156 \ Funding: CIP 12V05 – Street Sweeper
b. Consider amending the 2011-12 Budget adopted by Ordinance 11-12953 to appropriate funds from the Fund Balance of the Streets Fund to increase the Budget of the street sweeper project – 12V05 – in the amount of \$28,158

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**First Reading of an Ordinance
Building
Change to Flood Damage Prevention
Ordinance**

APPROVED / Finlay / Barnett / 6-0
(Sulick absent)

**9 Resolutions
City Clerk
Selection of City Council Members for
various Boards and Committees**

Continued

**First Reading of an Ordinance
Finance
Amending the Utility Billing Ordinance**

APPROVED / Saad / Barnett / 6-0
(Sulick absent)

25. Consider an Ordinance amending Section 16-146, Subsections (1) and (2) of the Code of Ordinances, for the purpose of adopting the Federal Emergency Management Agency (FEMA) Flood Insurance Study (FIS) and Flood Insurance Rate Maps (FIRMs) revised May 16, 2012 for Collier County and incorporated areas

26. Consider appointing Members of City Council to the following Boards and Committees:

1. Airport Noise Compatibility Committee
2. Fire Pension Board
3. General Pension Board
4. Juvenile Justice Council
5. Metropolitan Planning Organization
6. Naples Art Association Board of Directors
7. Naples Players
8. Southwest Florida Regional Planning Council
9. Tourist Development Council

27. Utility Billing Ordinance
Consider an Ordinance amending the definition of City Managerial Employee in Section 2-972 of Article IX, Code of Ethics, amending Article I, Divisions 1 and 2 of Article II, amending Article III, amending Article IV, amending Section 30-342 of Chapter 30, Utilities, amending Section 48-62, amending Section 48-63 and amending Section 48-93 (a) of the Code of Ordinances, for the purpose of eliminating conflicts between previously adopted ordinances; ensuring current operations of the City's water, sewer and reclaimed water utilities; consolidating information such as utility rates, applications for service and discontinuation of services into one section of the Code; updating general regulations; revising the process for application of service, utility billing procedures and related billing regulations; and to correct the name of the Public Works Department to the Utilities Department

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2 Resolutions

Finance

Creating new Financial Policies

28-a) 12-13051 Finlay / Saad / 6-0
(Sulick absent)

28-b) 12-13052 / Finlay / Price / 6-0
(Sulick absent)

First Reading of an Ordinance

City Manager

**Police Officers Pension and Retirement
System amendments**

APPROVED / Price / Barnett / 5-1
(Finlay dissenting and Sulick absent)

Human Resources

Discussion of City Clerk Recruitment

CONSENSUS to short list to P.
Rambosk, J. Rosenberg, and V. Smith;
individual interviews on 2/17 and 2/21
except Council Member Heitmann who
will require rescheduling

28. Consider the following:
a. Consider creating a Financial Policy for the City that excludes the Fund Balance Policy and including policies for budgetary and financial planning, financial reporting, capital improvement, and debt management; and repealing and superseding the current Financial Policy adopted by Resolution 09-12512
b. Consider creating a separate Fund Balance Policy to conform to the Governmental Accounting Standards Board Statement 54

29. Consider an Ordinance relating to the Police Officers Pension and Retirement System of the City of Naples, Florida; amending Section 29-271, Definitions; amending Section 29-311, Contributions; amending Section 29-312, Requirements for Retirement; amending Section 29-317, Separation from Municipal Employment; creating a new Section 29-327, Deferred Retirement Option Plan; creating a new Section 29-328, Application of Ordinance No. _____; directing the City Clerk to file a copy of this ordinance with the Division of Retirement of the Florida Department of Management Services; and providing for conflicting provisions, severability and applicability

30. Review and discussion of the selection process for the City Clerk position including narrowing the pool of candidates and scheduling of interviews

Public Comment – None.

Adjourn – 6:14 p.m.

Order of consideration: 1, 2, 3, 4, 5, 6, 7, 8, 11-a, 11-b, 11-c, 11-d, 12, 13, 9, 10, 14, 15, 16, 17, 18, 19, 20, 21, 22, 25, 29, 30, 27, 28 (23, 24 and 26 continued).