



City Council Chamber  
735 Eighth Street South  
Naples, Florida 34102

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**City Council Regular Meeting –Wednesday, April 5, 2006 – 9:00 a.m.**

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Mayor Barnett called the meeting to order and presided.

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**ROLL CALL .....ITEM 1**

**Present:**

Bill Barnett, Mayor  
Johnny Nocera, Vice Mayor

**Council Members:**

William MacIlvaine  
Gary Price  
William Willkomm  
John Sorey, III  
Penny Taylor

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**Also Present:**

Robert Lee, City Manager  
Robert Pritt, City Attorney  
Tara Norman, City Clerk  
Jessica Rosenberg, Deputy City Clerk  
Vicki Smith, Technical Writing Specialist  
David Lykins, Community Services Director  
Michael Bauer, Natural Resources Manager  
Robin Singer, Community Development Director  
George Archibald, Traffic Engineer  
Denise Perez, Human Resources Director  
Steven Moore, Chief of Police & Emergency Services  
Paulette Naureth, Telecommunicator II  
Dan Mercer, Public Works Director  
Stephen Olmsted, Planning Administrator  
Stanley Hole  
Doug Finley  
Pastor Roy Shuck  
Will Dempsey

Don Wingard  
Emily Gutchess  
Susan Shea  
James Elson  
Amy Rego  
Mary Lynn Stahnke  
Sue Smith  
Lillian Peeler  
Falconer Jones  
Kathleen Slebodnik  
Eileen Arsenault  
Carol Olsen  
William Lowery  
Lori Nissen  
Herb Hill

**Media:**

Aisling Swift, Naples Daily News  
Other interested residents and visitors

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

Pastor Roy Shuck, Faith Community Church

**ANNOUNCEMENTS .....ITEM 3**

Autism Awareness Month proclamation  
Red Hat Day proclamation  
National Public Safety Telecommunicators Week proclamation  
Mary Margaret Gruszka (Community Services Department retiree) proclamation

Employee Service Awards (It is noted for the record that a listing of employees recognized is contained in the file for this meeting in the City Clerk's Office.)

**SET AGENDA.....ITEM 4**

***MOTION*** by Nocera to ***SET THE AGENDA*** removing Items 8-e and 8-k from the Consent Agenda for separate discussion; and adding Item 17 (ranking of pathways consultant), Item 18 (opposing changes to State CRA legislation) and Item 19 (requesting waiver of attorney fees motion re: Pratus v City of Naples). This motion was seconded by Taylor and unanimously carried, all members present and voting (MacIlvaine-yes, Nocera-yes, Price-yes, Sorey-yes, Taylor-yes, Willkomm-yes, and Barnett-yes).

**PUBLIC COMMENT.....ITEM 5**

None (9:43 a.m.)

**2005 AUDIT AND COMPREHENSIVE ANNUAL FINANCIAL REPORT.....ITEM 6**

(It is noted for the record that a copy of this document is contained in the file for this meeting in the City Clerk's Office.)

***MOTION*** by Taylor to ***ACCEPT REPORT*** as presented; seconded by MacIlvaine and unanimously carried, all members present and voting (MacIlvaine-yes, Nocera-yes, Price-yes, Sorey-yes, Taylor-yes, Willkomm-yes, and Barnett-yes).

**CONSENT AGENDA**

**APPROVAL OF MINUTES .....ITEM 8-a**

February 27, 2006, Workshop and March 1, 2006, Regular Meeting, as submitted.

**RESOLUTION 06-11164..... ITEM 8-b**

**A RESOLUTION APPROVING AN URBAN AND COMMUNITY FORESTRY GRANT APPLICATION FOR THE PURCHASE OF A TOWABLE, SELF-PROPELLED POLECAT AERIAL LIFT FOR THE TRIMMING OF TREES AND HEDGES THROUGHOUT THE CITY OF NAPLES; AUTHORIZING THE CITY MANAGER TO EXECUTE THE APPLICATION; AND PROVIDING AN EFFECTIVE DATE.** Title not read.

**RESOLUTION 06-11165 .....ITEM 8-c**

**A RESOLUTION APPROVING A CATEGORY "A" GRANT APPLICATION TO THE TOURIST DEVELOPMENT COUNCIL OF COLLIER COUNTY FOR FUNDING RELATED TO THE REHABILITATION OF THE NORTH JETTY AT THE ENTRANCE TO DOCTORS PASS AND THE MOORINGS BAY WATERWAYS SYSTEM; AUTHORIZING THE CITY MANAGER TO EXECUTE THE GRANT APPLICATION; AND PROVIDING AN EFFECTIVE DATE.** Title not read.

**RESOLUTION 06-11166..... ITEM 8-d**

**A RESOLUTION AMENDING THE 2005-06 BUDGET AS APPROVED BY ORDINANCE 05-10966 FOR THE DOCTORS PASS LIGHT REPAIRS; AND PROVIDING AN EFFECTIVE DATE.** Title not read.

**RESOLUTION 06-11167..... ITEM 8-f**

**A RESOLUTION APPROVING AN AGREEMENT WITH TEAM PAIN ENTERPRISES, INC., TO PROVIDE DESIGN AND INSTALLATION OF A SKATE PARK CONCRETE PLAZA TO BE LOCATED AT FLEISCHMANN PARK; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.** Title not read.

**RESOLUTION 06-11168 ..... ITEM 8-g**  
**A RESOLUTION RATIFYING AND CONFIRMING THE ACTION OF THE CITY MANAGER TO CONTRACT WITH MOWREY ELEVATOR SERVICE, INC., FOR REPAIRS TO THE WEST ELEVATOR LOCATED WITHIN THE EIGHTH STREET SOUTH PARKING GARAGE; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AMENDMENT; AMENDING THE 2005-06 BUDGET FOR THE FUNDING OF THE ELEVATOR REPAIRS; AND PROVIDING AN EFFECTIVE DATE. Title not read.**

**RESOLUTION 06-11169 ..... ITEM 8-h**  
**A RESOLUTION APPROVING AN AGREEMENT WITH GRANICUS, INC., FOR PURCHASE, IMPLEMENTATION AND MANAGEMENT OF A STREAMING VIDEO SYSTEM ON THE CITY OF NAPLES WEBSITE; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.**

**RESOLUTION 06-11170..... ITEM 8-i**  
**A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF NAPLES AND DGG TASER AND TACTICAL SUPPLY TO FURNISH SIXTY X-26 ADVANCED TASERS, ASSOCIATED ACCESSORIES AND TRAINING FOR INSTRUCTOR CERTIFICATION; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. Title not read.**

**RESOLUTION 06-11171..... ITEM 8-j**  
**A RESOLUTION APPROVING A FIRST AMENDMENT TO THE CONSULTING SERVICES AGREEMENT WITH CAPRI ENGINEERING, LLC, TO CONTINUE THE PROFESSIONAL INSPECTOR AND PLAN REVIEW SERVICES FOR THE CITY'S COMMUNITY DEVELOPMENT DEPARTMENT; AMENDING THE 2005-06 BUDGET AS APPROVED BY ORDINANCE 05-10962, AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. Title not read.**

**RESOLUTION 06-11172..... ITEM 8-l**  
**A RESOLUTION APPROVING A THIRD AMENDMENT TO THE AGREEMENT WITH JOHNSON ENGINEERING, INC., TO PROVIDE PROFESSIONAL ENGINEERING SERVICES TO DEVELOP A MASTER SEWER PLAN FOR THE CITY'S UNSEWERED AREAS; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. Title not read.**

**RESOLUTION 06-11173..... ITEM 8-m**  
**A RESOLUTION WAIVING COMPETITIVE BIDS AND APPROVING AN AGREEMENT WITH RDP TECHNOLOGIES, INC., FOR THE FABRICATION AND INSTALLATION OF A THERMO-BLENDER SLUDGE STABILIZING UNIT AND UPGRADE/MODIFY THE EXISTING HEAT SYSTEM PANEL AT THE WASTEWATER TREATMENT PLANT; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. Title not read.**

**RESOLUTION 06-11174..... ITME 8-n**  
**A RESOLUTION OF THE CITY OF NAPLES, FLORIDA, AMENDING THE 2005-06 BUDGET AS APPROVED BY ORDINANCE 05-10962 FOR THE RED CROSS CONTRIBUTION MATCH AND PELICAN BAY ANNEXATION LEGAL EXPENSES; AND PROVIDING AN EFFECTIVE DATE. Title not read.**

**RESOLUTION 06-11175.....ITEM 8-o(1)**

**A RESOLUTION APPROVING AN INTERLOCAL AGREEMENT BETWEEN COLLIER COUNTY TAX COLLECTOR, COLLIER COUNTY PROPERTY APPRAISER AND THE CITY OF NAPLES RELATING TO THE USE OF THE TAX COLLECTION METHOD FOR THE COLLECTION OF NON AD VALOREM ASSESSMENTS FOR THE WEST NAPLES BAY DREDGING DISTRICT; AUTHORIZING THE MAYOR TO EXECUTE THE INTERLOCAL AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. Title not read.**

**RESOLUTION 06-11176.....ITEM 8-o(2)**

**A RESOLUTION APPROVING AN INTERLOCAL AGREEMENT BETWEEN COLLIER COUNTY TAX COLLECTOR, COLLIER COUNTY PROPERTY APPRAISER AND THE CITY OF NAPLES RELATING TO THE USE OF THE TAX COLLECTION METHOD FOR THE COLLECTION OF NON AD VALOREM ASSESSMENTS FOR THE CITY OF NAPLES REUSE LINE EXTENSION PHASE I; AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. Title not read.**

***MOTION by Nocera to APPROVE CONSENT AGENDA except items 8-e and 8-k; seconded by Taylor and unanimously carried, all members present and voting (MacIlvaine-yes, Nocera-yes, Price-yes, Sorey-yes, Taylor-yes, Willkomm-yes, Barnett-yes)***

**END CONSENT AGENDA**

**RESOLUTION 06-11177.....ITEM 8-e**

**A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT FOR ENHANCED ENVIRONMENTAL RESOURCES PERMITTING BETWEEN THE CITY OF NAPLES, BASIL STREET PARTNERS LLC, AND THE STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION FOR THE FUNDING OF A MARINA COMPLIANCE SPECIALIST POSITION FOR THE CITY OF NAPLES; AUTHORIZING THE MAYOR TO EXECUTE THE INTERGOVERNMENTAL AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (9:43 a.m.). Council Member Taylor asked for clarification of the funding source for this endeavor, and City Manager Robert Lee explained that the funding would be provided directly by the Department of Environmental Protection (DEP), but Basil Street Partners, LLC, is also responsible as part of its restitution. Council Member Sorey then voiced the hope that funding from the DEP would continue as this is a much needed position and should be implemented.**

***MOTION by Sorey to APPROVE RESOLUTION 06-11177 as submitted; seconded by Taylor and unanimously carried, all members present and voting (MacIlvaine-yes, Nocera-yes, Price-yes, Sorey-yes, Taylor-yes, Willkomm-yes, and Barnett-yes).***

**RESOLUTION (Continued) .....ITEM 8-k**

**A RESOLUTION APPROVING A FIRST AMENDMENT TO THE AGREEMENT WITH BONNESS, INC., TO PROVIDE ROAD, UTILITY AND INFRASTRUCTURE IMPROVEMENTS TO SOLANA ROAD; AMENDING THE 2005-06 BUDGET AS APPROVED BY ORDINANCE 05-10962; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (9:45 a.m.). Council Member Taylor noted that this project had**

consistently been a source of controversy and that she felt further discussion was necessary regarding the increasing cost. She went on to suggest that some degree of cost sharing (by the Royal Poinciana Golf Club) would be advantageous. Council Member Willkomm however said that the source of his concern was the stated amount of land that had actually been annexed, referencing Page 1 of the annexation agreement which gives specifics in this regard. Having obtained tax folio information, Mr. Willkomm said that it should first be clarified whether the 13 acres between Goodlette-Frank Road and the main property had been included in the annexation. **Public Comment:** (9:51 a.m.) **William Lowery, 1255 Gulf Shore Boulevard North, Apt. 6-South**, stated that he had been the Royal Poinciana Golf Club (RPGC) Board Secretary at the time of the annexation and explained that the development agreement contains a meets and bounds description as well as a map of the property being annexed and that it is approximately 360 acres, including the (13-acre) entrance parcel in question. Council Member Willkomm requested a copy of these documents, especially the meets and bounds survey by Wilson Miller. (It is noted for the record that a copy of these documents is included in the file for this meeting in the City Clerk's Office.) City Attorney Pritt indicated that staff had provided this and other documents to him immediately prior to that meeting, therefore, they had not been included in City Council's meeting packet.

Although a motion to continue to April 19 was made by Council Member Willkomm, further discussion occurred. Council Member Sorey asked Public Works Director Dan Mercer whether delaying Council action for two weeks would adversely affect the roadway project. Mr. Mercer said that there would be a concern regarding the timing for closing the existing intersection and the completion of the new one. In addition, he voiced concern with the time needed to acquire a box culvert which is necessary for the completion of the new intersection.

**Public Comment:** (continued 10:13 a.m.) **Stanley Hole, 3303 Gin Lane**, stated that with this project the widening of the right-of-way would commence and that the new entry onto Solana Road would cost RPGC approximately \$1-million. Vice Mayor Nocera then asked Mr. Hole whether he would be willing to approach RPGC with regard to sharing of the increased cost of the project. Mr. Hole replied that while he would bring it to the attention of the committee, the club's initial cost was to have been \$250,000 and had risen to approximately \$1-million due to the delay.

In further discussion, Mr. Lowery explained that there were to have been three stages to the improvement of Burning Tree Drive (which extends to the east from the intersection of Solana and Goodlette-Frank Road), but the first phase had been delayed for over three years because of a pending lawsuit. Council Member Sorey said that it would then be prudent for dialog to occur regarding possible cost sharing. Council Member Taylor requested that a prior legal opinion regarding the actual annexed property be provided to the Council before reconsidering this matter, and City Attorney Pritt indicated that all pertinent decision making documentation would be included. City Manager Robert Lee recommended that all the necessary easements from Collier County, referred to in the 1999 agreement (page 5, 11-a) between the City and RPGC, be secured before Council reconsiders this item. (It is noted for the record that a copy of the aforementioned agreement is contained in the file for this meeting in the City Clerk's Office.) Council Member Sorey also requested that the property tax record of RPGC since the 1999 agreement be provided and that clarification be made on the two parcels previously mentioned by Council Member Willkomm.

**MOTION** by Willkomm to **CONTINUE ITEM 8-k** to the April 9, 2006, City Council Regular Meeting; seconded by Taylor and unanimously carried, all members present and voting (MacIlvaine-yes, Taylor-yes, Price-yes, Sorey-yes, Nocera-yes, Willkomm-yes, and Barnett-yes).

**ORDINANCE 06-11178.....ITEM 9**  
**AN ORDINANCE DETERMINING REZONE PETITION 06-R1 FOR BEAR’S PAW COUNTRY CLUB LOCATED AT 2500 GOLDEN GATE PARKWAY, MORE PARTICULARLY DESCRIBED HEREIN, IN ORDER TO PERMIT REZONING FROM PLANNED DEVELOPMENT (PD) TO A NEW PLANNED DEVELOPMENT (PD) IN ORDER TO REPLACE A HURRICANE-DAMAGED CHAIN LINK FENCE WITH AN 8-FOOT HIGH MASONRY WALL; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.** Title read by City Attorney Robert Pritt (10:46 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: Willkomm, Price, Nocera, Barnett and MacIlvaine/no contact; Taylor/brief conversation regarding the wall; and Sorey/conversation with James MacArthur.

**Public Comment:** None (10:47 a.m.)

**MOTION** by Taylor to **ADOPT ORDINANCE 06-11178** as submitted; seconded by MacIlvaine and unanimously carried, all members present and voting (MacIlvaine-yes, Nocera-yes, Price-yes, Sorey-yes, Taylor-yes, Willkomm-yes, and Barnett-yes.)

**ORDINANCE 06-11179.....ITEM 10**  
**AN ORDINANCE AMENDING SECTION 104.1.11 OF CHAPTER 1, ADMINISTRATION OF SECTION 94-32(c), BUILDING CODE, OF THE NAPLES CODE OF ORDINANCES PERTAINING TO DEMOLITION PERMITS FOR CONTRIBUTING STRUCTURES FOR THE PURPOSE OF INCREASING THE REQUIRED WAITING PERIOD FOR ISSUANCE OF A PERMIT FOR THE DEMOLITION OF A CONTRIBUTING BUILDING IN AN HISTORIC DISTRICT FROM 45 DAYS TO 180 DAYS; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.** Title read by City Attorney Robert Pritt (10:48 a.m.). Planning Administrator Steve Olmsted assured City Council that the required notification letters had been sent to surrounding property owners and that responses received are in the supplement provided. (It is noted for the record that this material is contained in the file for this meeting in the City Clerk’s Office.) Mr. Olmsted then stated that the Planning Advisory Board (PAB) and staff both recommend approval. Council Member Taylor expressed the need for further clarification of the number of notices sent, and the number and nature of responses. Mr. Olmsted replied that approximately 90 letters were mailed and two responses received (one in support and the other stating that a particular residence is not included in the Historic District). Council Member Sorey then also mentioned an email of support from Mary Watkins (also contained in the file of this meeting in the City Clerk’s Office).

**Public Comment:** (10:53 a.m.) **Don Wingard, 130 11<sup>th</sup> Avenue South**, expressed support of the proposed ordinance, adding that this sends an educational message to the area with reference to preserving the City’s various historic structures. **Emily Gutchess, 91 Broad Avenue South**, also indicated support, but said that she feels a 60-day waiting period would be more appropriate. **Susan Shea, 88 Broad Avenue South**, expressed support. **Amy Rego, 1060 Sixth Street South**, also expressed support as a member of the Naples Historical Society and a resident of the area in

question. She stressed the monetary commitment of owning the homes classified as contributing structures and the difficulty of maintaining them in good repair. Ms. Rego concluded by saying that the historic area must be preserved. **Carol Olsen, 546 Broad Avenue South**, stated support and referred to the decline in the number of older homes still in existence. She then exhibited a piece of board she said had come from the Haldeman home and another from the Captain Stewart home which she said were all that remained of these historic structures in the City. She concluded by saying that she hoped that this ordinance is just the first step in preserving the fabric of Old Naples. **Mary Lynn Stahnke, 759 Portside Drive**, expressed support. **Kathleen Slebodnik, 32 Pebble Beach Boulevard**, stated that she is a member of the Naples Historical Society and also in favor of the proposed ordinance. She then extended an invitation to Council Members to take the walking tour organized to highlight various sites in the City. **Sue Smith, 11<sup>th</sup> Avenue South**, noted that she resides in one of the affected homes and took issue with the manner in which homes were deemed historic. This assignment method, she said, violates her rights as a private property owner. Mrs. Smith also said that she is speaking for future generations in this regard and cautioned that Council Members must use their power wisely. **Lillian Peeler, 2085 Snook Drive**, said that she supports the ordinance. **Falconer Jones, 1255 Cobia Court**, began by stating his advocacy for private property rights, but that he also supports passage of the ordinance. He also said that he favors voluntary measures which give incentives to retain historical properties intact, such as exemptions from the Federal Emergency Management Agency (FEMA) regulations and exemptions from setback requirements which allow such things as garages on alleys and guesthouses. He concluded by saying that with cooperation from the City, these homes can be updated and preserved at the same time. Council Member Taylor thanked Mr. Jones for pointing out the increase in value of historic homes if they are interiorly modernized, but the traditional exterior maintained in good repair. Council Member Sorey suggested approaching Collier County with regard to property tax rate incentives. Council Member Price said that he agreed with the incentive approach to preservation but also stressed that he would support future measures to assist in preserving historic homes. Miss Taylor again emphasized the need for Council to meet with the County Commissioners and the Collier County School Board with regard to tax relief in these areas.

***MOTION by Sorey to ADOPT ORDINANCE 06-11179 as submitted; seconded by Taylor and unanimously carried, all members present and voting (MacIlvaine-yes, Nocera-yes, Price-yes, Sorey-yes, Taylor-yes, Willkomm-yes, and Barnett-yes.)***

**RESOLUTION 06-11180.....ITEM 11**  
**A RESOLUTION DETERMINING FENCE AND WALL WAIVER PETITION 06-FWW4 FOR A SIX-FOOT BLACK CHAIN LINK FENCE IN THE FRONT SETBACK AREAS ALONG THE EAST AND WEST PROPERTY LINES FOR PROPERTY LOCATED AT 1880 GULF SHORE BOULEVARD SOUTH, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.** Title read by City Attorney Robert Pritt (11:19 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: Willkomm, Price, Nocera, Barnett, Taylor, and MacIlvaine/no contact; and Sorey/visited site but no contact. At this time Steve Olmsted, Planning Administrator, reviewed the proposed fence and stated that staff recommends denial because the design does not comply with the Code and the installation would not be consistent with surrounding fences. Herb Hill, Surety Construction Company, representing the petitioner, explained that in recent years numerous instances of trespassing had

occurred on the property, which included use of the pool and outdoor grill. Strangers also request to use the restroom and recently a sunbather was on the property. Mr. Hill stressed that most of the requested six foot chain link fencing would be hidden by existing landscaping and would be too high to scale. Vice Mayor Nocera asked whether alternative fencing material allowed under code had been considered. Mr. Olmsted responded to the effect that three foot high fencing, with 18 inches of decorative material is in fact allowed on the front and rear while six foot high fencing is allowed along the sides of the property. Council Member Sorey added that, having visited the site, gates might be considered to alleviate areas where vegetation is sparse.

**Public Comment:** None (11:28 a.m.).

**MOTION by Taylor TO DENY (RESOLUTION 06-11180) WALL WAIVER PETITION 06-FWW4 seconded by MacIlvaine, and unanimously carried, all members present and voting (MacIlvaine-yes, Nocera-yes, Price-yes, Sorey-yes, Taylor-yes, Willkomm-yes, and Barnett-yes.)**

**Recess: 11:29 a.m. to 11:41 a.m. It is noted for the record that the same Council Members were present when the meeting reconvened.**

**EXECUTIVE SESSION (11:42 a.m.) .....ITEM 7**  
Mayor Barnett advised that City Council would enter into an executive session with City Attorney Robert Pritt pertaining to Biasella v. City of Naples, U.S. District Court, Middle District of Florida, Case No. 2:04-cv-320-FtM29DNF. (It is noted for the record that a copy of the executive session notice is contained in the file for this meeting in the City Clerk's Office.)

**Executive Session: 11:43 a.m. to 11:57 a.m. It is noted for the record that the entire Council was present when the meeting reconvened. There was no action taken on this item.**

**ORDINANCE (First Reading).....ITEM 12**  
**AN ORDINANCE DETERMINING TEXT AMENDMENT PETITION 06-T4 TO AMEND SECTION 110-35 OF THE CODE OF ORDINANCES PERTAINING TO MAXIMUM BUILDING LENGTH IN ORDER TO PROVIDE ADDITIONAL EXPLANATION AND CLARIFICATION OF THE REQUIREMENT LIMITING MAXIMUM BUILDING LENGTH AND WIDTH TO 200 FEET FOR SINGLE BUILDINGS AND 170 FEET FOR ATTACHED BUILDINGS IN THE RESIDENTIAL, OFFICE AND PD ZONING DISTRICTS INTENDED FOR RESIDENTIAL, TRANSIENT LODGING OR OFFICE USE; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.** Title read by City Attorney Robert Pritt (11:57 a.m.). Planning Administrator Steve Olmsted stated that this proposal is actually clarification of an existing measurement clause; the Design Review Board (DRB) and staff recommends approval.

**Public Comment:** None (11:59 a.m.).

**MOTION by Taylor to APPROVE THIS ORDINANCE on First Reading as submitted; seconded by Sorey and unanimously carried, all members present and voting (MacIlvaine-yes, Sorey-yes, Nocera-yes, Price-yes, Taylor-yes, Willkomm-yes, Barnett-yes).**

Council Member Price then expressed appreciation to the Planning Advisory Board (PAB) and the DRB for rectifying this situation, and Council Member Sorey asked that a response be sent to the American Institute of Architects (AIA) with regard to their letter concerning this matter. (It is noted for the record that a copy of the AIA letter is contained in the file for this meeting in the City Clerk's Office.)

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**RESOLUTION 06-11181.....ITEM 13**  
**A RESOLUTION DETERMINING SAC WAIVER 06-SAC1 FROM SECTION 102-1095(b)(4)a. AND 102(b)(1)c. OF THE CODE OF ORDINANCES TO ALLOW REDUCTIONS IN THE REQUIRED FRONT THIRD FLOOR SETBACK AND REAR FIRST FLOOR SETBACK FOR PROPERTY LOCATED IN THE FIFTH AVENUE SOUTH SPECIAL OVERLAY DISTRICT FOR A NEW THREE-STORY STRUCTURE LOCATED AT 602 5TH AVENUE SOUTH, MORE PARTICULARLY DESCRIBED HEREIN, AND PROVIDING AN EFFECTIVE DATE.** Title read by City Attorney Robert Pritt (12:04 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: Willkomm and Barnett/no contact; Price, Taylor, MacIlvaine, and Sorey/visited the site but no contact; and Nocera/ visited the site and spoke with the petitioner. Community Development Director Robin Singer stated that staff had conducted a full review of the intent which they feel is to accommodate architectural detail and variation in texture addressing the street, and therefore recommends approval. Attorney Will Dempsey, representing the petitioner, emphasized that the alley in question is not functional, that it is impossible to navigate even as a pedestrian. Furthermore, the rear of the proposed building would not prevent development of a fully functioning alley should it be deemed necessary in the future. He then agreed with Director Singer's comments that the design is to achieve relief among similar facades in this area.

Council Member Sorey said that he agreed with the front three foot setback but questioned the necessity of the rear setback, stating that the building will be enlarged by 16 feet. Council Member Price also questioned the parking situation and stated that he could not support further encroachment into rights-of-way. Council Member Taylor asked the reason for the alley not being used and noted that traffic circulation in the downtown area is vital. Traffic Engineer George Archibald responded that the dilemma is between the parcel at 602 Fifth Avenue South and Park Street to the east since a portion of the alley is private, with a utility easement only but no deeded right-of-way for a 20-foot alley, which is the necessary width. Property owners have however been asked to donate the needed rights-of-way, he said, and some dedications had to date been obtained by the City. During the roll call vote below, Vice Mayor Nocera stated that he felt the petitioner's design would be an improvement.

**Public Comment:** None (12:19 p.m.).

**MOTION by Willkomm to DENY (RESOLUTION 06-11181) SAC WAIVER 06-SAC1 due to waiver standards not being met; seconded by Taylor and carried 6-1, all members present and voting (Willkomm-yes, MacIlvaine-yes, Price-yes, Sorey-yes, Nocera-no, Taylor-yes, and Barnett-yes).**

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**It is noted for the record that Items 14-a, 14-b, and 14-c were considered concurrently.**

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**RESOLUTION 06-11182.....ITEM 14-a**  
**A RESOLUTION DETERMINING PETITION 06-EV1 TO VACATE AN EXISTING RIGHT-OF-WAY LOCATED TO THE WEST OF GOODLETTE-FRANK ROAD, SOUTH OF GOODLETTE SELF STORAGE, AT THE EASTERN END OF 3<sup>RD</sup> AVENUE NORTH, MORE PARTICULARLY DESCRIBED HEREIN; AUTHORIZING THE CONVEYANCE OF CERTAIN CITY-OWNED LANDS TO GOODLETTE SELF STORAGE, LLC; PROVIDING FOR THE CONVEYANCE OF A UTILITY EASEMENT FROM GOODLETTE SELF STORAGE, LLC TO THE CITY; PROVIDING FOR THE**

**EXPRESS RESERVATION OF CERTAIN PLATTED DEDICATIONS; AND PROVIDING AN EFFECTIVE DATE.**

**RESOLUTION 06-11183..... ITEM 14-b  
A RESOLUTION DETERMINING PETITION 06-N1 FOR AN EXPANSION OF A NON-CONFORMING USE IN ORDER TO ADD ONE ADDITIONAL SELF-STORAGE BUILDING AT 400 GOODLETTE-FRANK ROAD NORTH, MORE PARTICULARLY DESCRIBED HEREIN, AND PROVIDING AN EFFECTIVE DATE.**

**RESOLUTION 06-11184.....ITEM 14-c  
A RESOLUTION DETERMINING A RESIDENTIAL IMPACT STATEMENT FOR PETITION 06-RIS2 LOCATED AT 400 GOODLETTE-FRANK ROAD NORTH, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.**

Titles read by City Attorney Robert Pritt (12:23 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: Willkomm, Price, Nocera, and Barnett/visited the site and spoke with petitioner and petitioner's agent; MacIlvaine and Sorey/visited the site and spoke with the petitioner; and Taylor/familiar with the site and spoke with petitioner. Mayor Barnett noted that, except for recently elected Council Member Willkomm, the Council was familiar with this matter because of its longevity. Planning Administrator Steven Olmsted then gave a brief synopsis of the three-part petition, one part being vacation of a 30-foot of right-of-way to the south of the petitioner's property. If that petition is approved, then expansion of a nonconforming use would be considered in order to allow construction of one additional building within the above vacated right-of-way; finally, a residential impact statement will be considered, Mr. Olmsted said. He further explained that in 1986, a General Development and Site Plan (GDSP) petition was approved for Goodlette Self Storage, at which time the City had required dedication of the 30-foot right-of-way for future construction of Third Avenue North. In 1990 Old Naples Self Storage was developed to the south, although a similar 30-foot dedication had not been required. In 2004, the staff recommended denial of this petitioner's request for vacation of the 30 feet previously dedicated, and in 2005 the City Council authorized the City Manager to execute an owner's consent on behalf of the City to allow the petitioners to file the petitions currently under consideration, Mr. Olmsted continued. In March 2006, the Planning Advisory Board (PAB) recommended approval, and if it is not the City's intent to build a roadway in this location, staff also recommends approval. Mr. Olmsted then referenced several exhibits for Council's consideration, copies of which are contained in the file for this meeting in the City Clerk's Office.

Attorney John Passidomo, representing the petitioner, confirmed the above statements and added that the requests would restore all parties to their pre-1986 positions when the City had hoped to build a road but has not done so. The petitioner intended to build an additional unit on this site and continues to desire this structure. Council Member Sorey added for the record that the original agreement included conditions which were not met, and that in approving these petitions, Council is not merely vacating a right-of-way. Attorney Passidomo then referred to a deed containing a covenant that the land would revert to the petitioner if the road were not built. (It is noted for the record that a copy of this deed is contained in the file for this meeting in the City Clerk's Office.)

Various clarifications of exhibits concerning the property in question were then given, and City Attorney Pritt directed Council's attention to the aforementioned deed paragraph. Traffic Engineer George Archibald stated that while a road could be built on the site, it would not comply with Code requirements in terms of the right-of-way. Council Member Taylor also pointed out that such a thoroughfare would necessarily bisect the River Park neighborhood which would not be advantageous to any concerned.

**Public Comment:** None (12:45 p.m.).

**MOTION** by Taylor to **APPROVE RESOLUTION 06-11182** (Item 14-a) as submitted; seconded by Sorey and unanimously carried, all members present and voting (MacIlvaine-yes, Nocera-yes, Price-yes, Sorey-yes, Taylor-yes, Willkomm-yes, and Barnett-yes).

**MOTION** by Sorey to **APPROVE RESOLUTION 06-11183** (Item 14-b) as submitted; seconded by Taylor and unanimously carried, all members present and voting (MacIlvaine-yes, Nocera-yes, Price-yes, Sorey-yes, Taylor-yes, Willkomm-yes, and Barnett-yes).

**MOTION** by Taylor to **APPROVE RESOLUTION 06-11184** (Item 14-c) as submitted; seconded by MacIlvaine and unanimously carried, all members present and voting (MacIlvaine-yes, Nocera-yes, Price-yes, Sorey-yes, Taylor-yes, Willkomm-yes, and Barnett-yes).

**RESOLUTION 06-11185.....ITEM 15**  
**A RESOLUTION RANKING THE TOP THREE ENGINEERING FIRMS TO PROVIDE FOR A DOWNTOWN ORIGINATION-DESTINATION STUDY IN THE NAPLES DOWNTOWN DISTRICT; AUTHORIZING THE CITY MANAGER TO NEGOTIATE WITH THE TOP-RANKED FIRM; AND PROVIDING AN EFFECTIVE DATE.** Title read by City Attorney Robert Pritt (12:47 p.m.).

**Public Comment:** None (12:48 p.m.).

**MOTION** by Taylor to **APPROVE RESOLUTION 06-11185** as submitted; seconded by Sorey and unanimously carried, all members present and voting (MacIlvaine-yes, Nocera-yes, Price-yes, Sorey-yes, Taylor-yes, Willkomm-yes, and Barnett-yes).

**ORDINANCE (First Reading).....ITEM 16**  
**AN ORDINANCE ADDING SECTION 54-39, PLACEMENT AND SCREENING OF MECHANICAL, COMPACTION, AND ROLL-OFF CONTAINERS, TO THE CODE OF ORDINANCES OF THE CITY OF NAPLES IN ORDER TO ESTABLISH ALL COMMERCIAL REFUSE AND RECYCLING CONTAINERS BE STORED IN ENCLOSURES OR OUT OF PUBLIC SIGHT; AND PROVIDING A REPEALER PROVISION AND AN EFFECTIVE DATE.** Title read by City Attorney Robert Pritt (12:47 p.m.). Public Works Director Dan Mercer emphasized that communities must be compliant by October 1, 2006, and in response to Council Member Taylor, he confirmed that all affected would be notified by certified mail.

**Public Comment:** None (12:52 p.m.).

**MOTION** by Sorey to **APPROVE THIS ORDINANCE** on First Reading as submitted; seconded by Price and unanimously carried, all members present

*and voting (MacIlvaine-yes, Sorey-yes, Nocera-yes, Price-yes, Taylor-yes, Willkomm-yes, and Barnett-yes).*

**RESOLUTION 06-11186.....ITEM 17**  
**A RESOLUTION RANKING THE TOP THREE (3) CONSULTING ENGINEERING FIRMS TO PREPARE A CITYWIDE COMPREHENSIVE PATHWAY PLAN; AUTHORIZING THE CITY MANAGER TO NEGOTIATE WITH THE TOP-RANKED FIRM; AND PROVIDING AN EFFECTIVE DATE.** Title read by City Attorney Robert Pritt (12:54 p.m.).

**Public Comment:** (12:54 p.m.). **Doug Finlay, 3430 Gulf Shore Boulevard North,** praised the City for moving toward a comprehensive pathway plan and said that he had attended the staff meeting wherein the proposals of the candidates were considered. He further voiced support for constituting a pathways committee which could include members of existing boards, and suggested the possibility of a County resident being included for coordination purposes. Mr. Finlay also noted that delaying the Neapolitan Way sidewalk project was appropriate in order to achieve grant funding, and encouraged the pursuit of this type of funding for other sidewalk and pathway installations.

**MOTION by Sorey to APPROVE RESOLUTION 06-11186 as submitted; seconded by MacIlvaine and unanimously carried, all members present and voting (MacIlvaine-yes, Nocera-yes, Price-yes, Sorey-yes, Taylor-yes, Willkomm-yes, and Barnett-yes).**

**RESOLUTION 06-11187.....ITEM 18**  
**A RESOLUTION OPPOSING ANY CHANGES TO THE STATE'S CRA LEGISLATION THAT COULD NEGATIVELY AFFECT THE CITY'S ABILITY TO INDEPENDENTLY MANAGE ITS OWN COMMUNITY REDEVELOPMENT AGENCY (CRA); AND PROVIDING AN EFFECTIVE DATE.** Title read by City Attorney Robert Pritt (12:58 p.m.).

**Public Comment:** None (12:59 p.m.).

**MOTION by Taylor to APPROVE RESOLUTION 06-11186 as submitted and that a copy of the resolution be immediately sent to the local legislative delegation; seconded by MacIlvaine and unanimously carried, all members present and voting (MacIlvaine-yes, Nocera-yes, Price-yes, Sorey-yes, Taylor-yes, Willkomm-yes, and Barnett-yes).**

**.....ITEM 19**  
**REQUEST BY CITY ATTORNEY ROBERT PRITT TO WAIVE ATTORNEY FEES**  
**MOTION RE: PRATUS V CITY OF NAPLES**

**MOTION by Taylor to APPROVE WAIVER OF ATTORNEY FEES MOTION re: Pratus v City of Naples; seconded by MacIlvaine and unanimously carried, all members present and voting (MacIlvaine-yes, Nocera-yes, Price-yes, Sorey-yes, Taylor-yes, Willkomm-yes, and Barnett-yes).**

**CORRESPONDENCE AND COMMUNICATIONS.....**

Vice Mayor Nocera requested an update on the possibility of a Bocce ball court and a foot cleansing fountain installation at the Central Avenue beachend like the one on Second Avenue North. Council Member Taylor mentioned a telephone call from a home owner regarding a potential code violation concerning private dock usage, suggesting that the Council should examine the activities that are allowable by dock owners on private property. Miss Taylor also indicated support for an earlier proposal by Council Member Price for a joint effort with the

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Collier County School Board concerning historic home preservation and affordable housing. She also expressed appreciation to staff for a memorandum regarding residential underground tanks for the purpose of drainage. Council Member Sorey stressed the importance that public notice be given for the Park Plaza charrette (3:00 p.m. April 22).

**PUBLIC COMMENT.....**

(1:14 p.m.). **Sue Smith, 11<sup>th</sup> Avenue South**, expressed what she characterized as feelings of unease with regard to the direction the Council is taking the City, noting a strong belief that too many rules and regulations were being enacted without the necessary research first being done.

**ADJOURN.....**

1:18 p.m.

\_\_\_\_\_  
Bill Barnett, Mayor

\_\_\_\_\_  
Tara A. Norman, City Clerk

Minutes prepared by:

\_\_\_\_\_  
Vicki L. Smith, Technical Writing Specialist

Minutes Approved: 5/3/06