



City Council Chamber
735 Eighth Street South
Naples, Florida 34102

City Council Regular Meeting – April 3, 2013 – 8:28 a.m.

1. ROLL CALL

Present:

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

Council Members:

Bill Barnett
Doug Finlay
Teresa Heitmann
Sam Saad III
Margaret “Dee” Sulick

Also Present:

William Moss, City Manager
Robert Pritt, City Attorney
Roger Reinke, Assistant City Manager
Vicki Smith, Deputy City Clerk
Ralph Anthony, Police Lieutenant
Seth Finman, Police Sergeant
Gregg Strakaluse, Streets & Stormwater Director
Robin Singer, Planning Director
Adam Benigni, Planner
George Archibald, Traffic Engineer
Mark Jackson, Technology Services Director
Thomas Weschler, Police Chief
Jared Grifoni
Frances Norton
Jim Kelly
Michael Hagan

Michael Smith
Ted Soliday
Kerry Keith
John Passidomo
Frank Nappo
Henry Kennedy
David Bolduc
Cheryl Couture
Steve Teaford
William Kelly
Joe Whitehead
Keith Flaugh

Media:

Kristine Gill, Naples Daily News

It is noted for the record that all documentation electronically appended hereto is also contained in the file for this meeting in the City Clerk’s Office.

2. INVOCATION AND PLEDGE OF ALLEGIANCE

Pastor Michael Smith, New Hope Ministries.

3. ANNOUNCEMENTS

- Do the Right Thing Awards presented by Naples Police Department;
- Conservancy of Southwest Florida Proclamation (not read);
- National Service Recognition Day, April 9th, read by Mayor Sorey;
- Water Conservation Month Proclamation, April, read by Mayor Sorey;
- Child Abuse Prevention Month Proclamation, April, read by Mayor Sorey; and
- National Public Safety Telecommunicators Week Proclamation, April 14-20, read by Mayor Sorey.

4. SET AGENDA (add or remove items)

MOTION by Sulick to SET THE AGENDA 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).

5. PUBLIC COMMENT

None.

CONSENT AGENDA

MOTION by Saad 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).

6. APPROVAL OF MINUTES - March 6, 2013 Regular meeting

Agenda Memorandum

3/6/13 Minutes

7. ACKNOWLEDGINIG THE ELECTION OF a. PETER DIMARIA (CLERK'S TRACKING 13-00018) AND b. MICHAEL NICHOLS (CLERK'S TRACKING 13-00019) TO THE BOARD OF TRUSTEES OF THE CITY OF NAPLES FIREFIGHTERS RETIREMENT TRUST FUND

Agenda Memorandum

END OF CONSENT AGENDA

8. RESOLUTION 13-13259 - A RESOLUTION DETERMINING SITE PLAN PETITION 13-SP2 FOR THE APPROVAL OF THE 2013 UTILIZATION PLAN FOR THE CITY OF NAPLES AIRPORT PURSUANT TO SECTION 58-682(b) OF THE CODE OF ORDINANCES, CITY OF NAPLES, LOCATED AT 160 AVIATION DRIVE NORTH, MORE FULLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Robert Pritt. 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, Sulick and Barnett/visited the site but no contact; Saad/visited the site and exchanged emails with the petitioner and members of the public; Sorey/visited the site and received an email from a member of the public; Price/visited the site numerous times and spoke with airport staff; and Finlay/familiar with the site, spoke with airport staff and received an email from a member of the public. Director of Airport Development and Facilities Kerry Keith and Executive Director Ted Soliday utilized an electronic presentation to review the Naples Airport Authority (NAA) 2013 Utilization Plan, noting that the review would focus on changes to the previously approved 2010 plan. Projects which the NAA have moved into the 5 year timeframe include the extension of taxiway Alpha and an extensive stormwater management project along the east and west boundaries of the airport property. In addition, an acoustical wall with landscaping along the southern boundary, which is currently a berm, and additional hangars near the main terminal in the south quadrant were detailed. The presentation included a summary listing of all changes to the utilization plan since the 2010 submittal with numbering that coincides with Exhibit A2 of the application package (both of which are contained in the file for this meeting in the City Clerk's Office). The added projects, reviewed by quadrant, are reflected below:

- East quadrant:
 - #4 – Taxiway Alpha Extension;
 - #5 – Water Management Improvements;
 - #11 – Blast Deflector Signage (specifics of signage to be emailed to Council); and
 - #14 – General Aviation Terminal Parking Improvements (improvements to Radio Road entrance, but no parking garage is being considered at the current time due to lower number of users of the facility).
- South quadrant:
 - #4 – Taxiway Alpha Extension (run-up area);
 - #9 – Maintenance Building Expansion;

#10 – Acoustical Security Wall (currently 3 berms exist which would be removed and replaced by a smaller berm with a soundproof wall constructed on the top to buffer ground noise; affected residents would be notified should this be deemed necessary);

#11 – Blast Deflector Signage; and

#13 Non-Specific hangar Development (originally 6 hangars planned, 3 were built in 2008 and area for other 3 was paved but with new Federal Emergency Management Agency (FEMA) floodplain elevations they will most likely not be constructed; that area will remain a ramp area for parking aircraft).

- West quadrant:

#5 – Water Management Improvements (retention pond with an observation deck);

#7 – Taxiway D (future 50' parallel taxiway, not currently funded and no plans to construct for at least the next 5 years);

#11 - Blast Deflector Signage.

- North quadrant;

#1 – Landfill Cleanup & Non-specific Development (existing hangar to eventually be demolished and as area (west of City's new recycle transfer site) is part of old landfill site, should fill become available it would be placed on the site in preparation for future development which is necessary due to its low elevation resulting in flooding of the area);

#11 – Blast Deflector Signage; and

#12 – Fire Station (placed on utilization plan due to City discussions regarding its possible expansion - condition of structure necessitates its replacement at some time in the future although current designation is merely a placeholder for use as a fire station for that area).

Vice Mayor Price expressed concern with the utilization plan process, saying that should approval be given that day, Council would then have no further input into planning of projects until the next plan review; administrative review by City staff is all that would remain as an approval requirement, he added. Council Member Saad agreed, especially with regard to the indication for non-specific development in the north quadrant and with Mr. Soliday's assurance that the NAA has no intent for commercial development in that area within the coming five years; future development would be acceptable but should be reviewed by Council, Mr. Saad maintained. Mr. Soliday further testified that any plans submitted by a developer would be brought to Council, reiterating that the intent of that day's presentation had been to update Council as to the amendments to the 2010 Utilization Plan as reflected in its Exhibit A2 and the accompanying narrative. Planning Director Robin Singer stated that any project proposed which does not meet Code requirements will not be approved. In addition, any project not currently reflected on the plan would necessitate a site plan review. Mr. Soliday then assured Council that the NAA intends to allow only that development directly related to aviation. Discussion followed during which various Council Members noted perceived changes to the plan; Mr. Soliday however maintained that the cited projects had in fact been reflected on the 2010 plan.

Director Singer then reviewed the staff report, noting that both the Planning Advisory Board (PAB) and staff had recommended approval of the plan. She also explained that the plan approves uses for the land and that for any specific project the NAA must obtain a building permit and meet all code requirements. She confirmed for Vice Mayor Price that Council could in fact request removal of all structures reflected on the plan which the NAA has indicated would not move forward for at least five years. Council Member Sulick however cautioned that such action would impact the NAA's 20-year plan that is submitted to the Federal Aviation Administration (FAA) and the Collier County MPO (Metropolitan Planning Organization) thereby affecting potential funding by these agencies. Mr. Price maintained his opposition to the plan as submitted, saying that the City must fund the infrastructure for all development, such as fire

protection for additional buildings. City Manager William Moss suggested that as a condition of approval, any future project that requires Design Review Board (DRB) approval also be brought before Council which would alleviate concerns with the long term plan under consideration; City Attorney Pritt agreed. When asked whether he would agree to such a condition, Mr. Soliday suggested conducting a joint meeting of the NAA and Council to discuss the aforementioned concerns. He further pointed out that the NAA had agreed to the utilization plan approval process as an additional effort to involve the City in the long term planning and use of the airport property. In response to Mayor Sorey who requested the approval process for, as an example, a hanger, Ms. Singer confirmed Mr. Soliday's statement, explaining that with the airport property zoning, administrative and DRB review would be necessary and that the project would not come to Council for any review.

Discussion of the plan approval process followed and Council Member Sulick proffered the motion below. Mr. Soliday then provided a brief overview of the NAA's water management program and Director Singer assured Council that significant development not included within the plan would in fact be reviewed by Council.

Public Comment: None.

MOTION by Sulick to APPROVE RESOLUTION 13-13259 as submitted; seconded by Sorey and carried 4-3, all members present and voting (Finlay-yes, Sulick-yes, Heitmann-no, Price-no, Barnett-yes, Saad-no, Sorey-yes).

[Agenda Memorandum](#)

[Resolution](#)

[Application](#)

[Staff Report](#)

[PAB Minutes](#)

[PowerPoint](#)

[Paul/Repko email \(Handout – Staff\)](#)

Recess: 10:52 a.m. to 11:03 a.m. It is noted for the record that the same Council Members were present when the meeting reconvened.

9. RESOLUTION 13-13260 - A RESOLUTION DETERMINING VARIANCE PETITION 13-V1 FROM SECTION 56-45(a)(6), POOLS – HEIGHT, OF THE CODE OF ORDINANCES, CITY OF NAPLES, WHICH LIMITS THE HEIGHT OF POOL DECKS TO 6'0" ABOVE THE ELEVATION OF THE CROWN OF THE ROAD IN ORDER TO ALLOW A POOL AND POOL DECK TO BE CONSTRUCTED AT A HEIGHT OF APPROXIMATELY 12'1" TO 12'7" ABOVE THE ELEVATION OF THE CROWN OF THE ROAD ON PROPERTY OWNED BY A. WILLIAM KAPLER, III AND JULIE ANN KAPLER LOCATED AT 40 4TH AVENUE SOUTH, MORE FULLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Robert Pritt. 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, Finlay, Sulick and Heitmann/visited the site but no contact; Price/familiar with the site and spoke with the petitioner's agent; Sorey/visited the site and spoke with petitioner's agent; and Saad/visited the site, and spoke with the petitioner's agent and staff. Attorney John Passidomo, agent for the petitioner, utilized an electronic presentation to review the petition, noting that it had previously been considered on February 20 and continued at that time to allow research of the historical dimensions of the subject parcel and surrounding lots as well as determination of the type of pool deck protective barrier to be used. He then reviewed this information, noting that a 36" glass railing would be used and confirmed that although no pool cage had been included in the plans, he would agree to include its prohibition as an additional condition of approval as reflected in the motion below. Mr. Passidomo also reviewed the landscape plan, noting receipt of a letter of support from the most affected property owner.

Planner Adam Benigni reviewed the staff report, noting a recommendation of approval conditional upon a 4' hedge with 10' to 12' trees (at the time of planting) to be installed along the alleyway as a visual buffer.

Public Comment: None.

MOTION by Sulick to APPROVE RESOLUTION 13-13260 amended as follows: adding Section 2-2: "The installation of a pool cage is prohibited."; and numbering first condition as Section 2-1. This motion was 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).

[Agenda Memorandum](#)

[Resolution](#)

[Application](#)

[Addendum](#)

[Letter of Support](#)

[Staff Report](#)

[PAB Minutes](#)

[PowerPoint \(Added Attachment\)](#)

It is noted for the record that Items 10-a, 10-b, 10-c and 11 were read and considered concurrently.

10. Planning - Quasi-Judicial - Public Hearing

- a) **RESOLUTION 13-13261 - A RESOLUTION APPROVING THE PRELIMINARY PLAT FOR THE LIGHTHOUSE POINT PLAT, CONTAINING APPROXIMATELY 12.721 ACRES, IN THE PD, PLANNED DEVELOPMENT DISTRICT, OWNED BY SIG PULL, LLC, AND LOCATED AT THE SOUTHEAST CORNER OF CENTRAL AVENUE AND GOODLETTE-FRANK ROAD SOUTH, MORE FULLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.**
- b) **ORDINANCE 13-13262 - AN ORDINANCE DETERMINING REZONE TO PLANNED DEVELOPMENT PETITION 12-R3 IN ORDER TO REZONE APPROXIMATELY 15.67 ACRES ZONED PD, PLANNED DEVELOPMENT TO PD, PLANNED DEVELOPMENT IN ORDER TO ALLOW FOR SINGLE-FAMILY TOWNHOMES, BOAT SLIPS AND A TOWN CENTER KNOWN AS THE LIGHTHOUSE POINT AT NAPLES PLANNED DEVELOPMENT, MORE FULLY DESCRIBED HEREIN; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.**
- c) **RESOLUTION 13-13263 - A RESOLUTION DETERMINING SITE PLAN PETITION 12-SP15 FOR LIGHTHOUSE POINT AT NAPLES TO CONSIST OF 56 SINGLE-FAMILY HOMES AND APPROXIMATELY 3,400 SQUARE FEET OF NON-RESIDENTIAL SPACE ON 12.721 ACRES, IN THE PD, PLANNED DEVELOPMENT DISTRICT AND LOCATED AT THE SOUTHEAST CORNER OF CENTRAL AVENUE AND GOODLETTE-FRANK ROAD SOUTH, MORE FULLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.**

[Agenda Memorandum \(a-c\)](#)

[Resolution \(a\)](#)

[Ordinance \(b\)](#)

[Resolution \(c\)](#)

[Plat Application \(a\)](#)

[PD Application \(b\)](#)

[Site Plan Application \(c\)](#)

[Planned Development Document \(redlined\)](#)

[Plans \(large document, slow to download\)](#)

[Engineering Report](#)

[Technical Memo](#)

[Staff Report](#)

[PAB Minutes](#)

[PowerPoint \(Added Attachment\)](#)

[Renderings, PD Doc & Omega Tech Memo \(Handout - Staff\)](#)

11. RESOLUTION 13-13264 - A RESOLUTION DETERMINING A DREDGE AND FILL PERMIT TO ALLOW APPROXIMATELY .33 ACRES OF A CONSTRUCTED CANAL TO BE FILLED AND TO DREDGE APPROXIMATELY .39 ACRES AT LIGHTHOUSE POINT, A PROPOSED RESIDENTIAL DEVELOPMENT AT THE SOUTHEAST CORNER OF GOODLETTE-FRANK ROAD AND CENTRAL AVENUE; PROVIDING FINDINGS; AND PROVIDING AN EFFECTIVE DATE.

Titles read by City Attorney Robert Pritt. 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: all indicated familiarity with the site and Heitmann, Finlay and Barnett/no contact; Sulick/spoke with staff; Saad/spoke with the petitioner's agent and staff; and Price and Sorey/spoke with the petitioner's agent. Attorney John Passidomo, agent for the petitioner, utilized an electronic presentation in

reviewing the items. He noted that the PD Planned Development document had been amended to reflect all of the changes from the first hearing including the deletion of all references to the 6.78-acre northern parcel owned by the Pulling family (commonly known as the Pulling Property) awaiting possible action by the City on its right of first refusal of purchasing said parcel. Additionally, the site plan was amended to reflect a 10-foot wide sidewalk along the subject parcel's northern boundary. He also explained that the petitioner's research on the possibility of conveying the site's stormwater runoff north to the City's aquifer storage and recovery (ASR) wells had revealed that this simply would not be feasible, as reflected in the renderings and technical memorandum by the petitioner's engineering firm, Omega Consulting Group. With regard to Council's interest in the petitioner increasing the width of the sidewalk along the western boundary of the site (along Goodlette-Frank Road) from 5 feet to 10 feet, Mr. Passidomo indicated that research had establish that in fact a 7-foot wide sidewalk would be possible within the existing easement; the Gordon River Greenway group had indicated no interest in the width of that particular sidewalk, he added. Mr. Pritt recommended that the language involving the Goodlette-Frank Road sidewalk be added as reflected in the second motion below addressing the ordinance and PD document.

Discussion followed during which the issues listed below were noted and addressed in the motions:

- Denoting upland acreage;
- Noting existence of rain gardens; and
- While prohibiting pool enclosures, provision must be made for mandatory safety fencing around pools.

Planner Adam Benigni noted that the agenda memorandum contained the necessary changes to the PD document, confirming that this had been done and that staff recommended approval.

Public Comment: None.

MOTION by Saad to APPROVE RESOLUTION 13-13261 amended as follows:
Title, second Whereas, and Section 1: "... 12.721 (upland) acres...". **This motion was 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).**

MOTION by Saad to ADOPT ORDINANCE 13-13262 amended as follows:
Title and first Whereas: "...15.67 (12.721 upland acres) acres...boat slips, rain gardens and ..."; and PD Document amended as follows: (Section II-7: "... rain gardens, stormwater..."; Section VII-6: "... pool enclosures, excluding fences, are prohibited ..."; and Section VII-8: "...Circle and a sidewalk at least 7' wide along the western perimeter of the property adjacent to Goodlette-Frank Road." **This motion was 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 13-13263 amended as follows:
Title, fourth Whereas, and Section 1: "... 12.721 (upland) acres..."; **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).**

MOTION by Saad to APPROVE RESOLUTION 13-13264 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).

[Agenda Memorandum](#) [Resolution](#) [Petition](#)
[Drawings](#) [PowerPoint \(Added Attachment\)](#)

Recess: 11:55 a.m. to 12:32 p.m. It is noted for the record that the same Council Members were present when the meeting reconvened.

12. ORDINANCE 13-13265 - AN ORDINANCE RELATING TO DENSITIES; AMENDING SECTION 58-533 (5), CONDITIONAL USES; AMENDING SECTION 58-563 (6), CONDITIONAL USES, SECTION 58-593 (18), CONDITIONAL USES; AMENDING SECTION 58-623 (4), CONDITIONAL USES; AMENDING SECTION 58-802 , USES PERMITTED, IN ORDER TO DELETE THE MAXIMUM DENSITY STANDARDS FOR TRANSIENT LODGING FACILITIES IN THE C1 RETAIL, C1-A COMMERCIAL CORE, C2 GENERAL COMMERCIAL, C2-A WATERFRONT COMMERCIAL, AND PD, PLANNED DEVELOPMENT ZONING DISTRICTS; AMENDING SECTION 58-904 (13), CONDITIONAL USES, IN ORDER TO CLARIFY THE PERMITTED DENSITY FOR NURSING HOMES IN THE D-DOWNTOWN DISTRICT; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.

Title read by City Attorney Robert Pritt. Planner Adam Benigni reviewed the staff report, noting a recommendation of approval. In response to Vice Mayor Price, Mayor Sorey explained that the amendments had been proposed in response to concerns expressed by various hoteliers that the 26 unit limitation currently permitted simply did not make sense in terms of development. Council Member Finlay expressed his support as 18 of the 28 existing transient lodging facilities exceed the 26 unit limitation and that other regulations exist to control development.

Council Members Sulick and Heitmann noted their concern, especially with regard to expecting parking regulations to control density noting that offsite parking is included in calculations. Mr. Benigni however pointed out that the public hearing process via the conditional use petition would remain in effect for such projects and that Council would retain its control of approvals.

Public Comment: Henry Kennedy, Naples

MOTION by Barnett to ADOPT ORDINANCE 13-13265 as submitted; seconded by Saad and carried 5-2, all members present and voting (Barnett-yes, Price-yes, Saad-yes, Sulick-no, Heitmann-no, Finlay-yes, Sorey-yes).

[Agenda Memorandum](#) [Ordinance](#) [Staff Report](#) [PAB Minutes](#)

13. STATUS UPDATE AND REVIEW OF OPTIONS FOR THE PORT ROYAL DREDGING AND HABITAT ISLAND CONSTRUCTION PROJECT

Streets & Stormwater Director Gregg Strakaluse provided an overview of the current status of the Port Royal dredging project as contained in the agenda memorandum, noting that originally, no habitat island had been included within the project's cost estimate. As a FDEP (Florida Department of Environmental Protection Agency) permit to construct an island with the spoil from the dredge was received in March, the costs currently stand at \$406,107 over the amount estimated for the special assessment planned for that area; staff is awaiting Army Corps of Engineers (ACOE) approval, he added. Mr. Strakaluse then reviewed the three options, also contained in the memorandum, noting that staff recommended a combination of options #1 and #3; namely, revise the plans and permits, then rebid the project, but with two alternatives as reflected below:

- Alternative 1: allow bidders to provide a price for a conventional dredge/dewater/disposal project using the Riverside Circle site for dewatering and storage, with disposal at the Collier County landfill; or
- Alternative 2: allow bidders to provide a price for dredging and construction of the habitat island.

Grant funding may be available by the end of the rebidding process and a bidder would be allowed to bid on either or both options, he added. Mayor Sorey explained that funding exists for another aquifer storage and recovery (ASR) well which is currently not needed by the City,

but permission from the Big Cypress Basin (BCB) to reallocate the money is pending. Various other grants were briefly discussed.

Public Comment: **Steve Teaford**, representing the **Port Royal Association**, thanked staff for its involvement in the project, stating that the affected property owners recommend that no habitat island be constructed due to the cost and that the cost for a conventional dredge be negotiated with the current low bidder. He noted that the project had been expanded by the engineer when sand in certain canals had been discovered which could be utilized for the habitat island; he however urged scaling back the project to its original scope, noting that the property owners would most likely not support additional assessment for the project. **Henry Kennedy, Naples**, expressed concern with what he termed an apparent lack of effort in cleaning up Naples Bay, noting his opposition to habitat islands which he pointed out are constructed with the spoil from dredging projects.

MOTION by Price to DIRECT STAFF TO REBID PROJECT AS CONVENTIONAL DREDGE – DEWATER – DISPOSE ONLY, NO HABITAT ISLAND CONSTRUCTION; 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).

[Agenda Memorandum](#)

[Prolime Proposal](#)

[Bid Tabulation](#)

[Prolime Background Check](#)

[Summary of Non-Responsive Bidders](#)

14. RESOLUTION 13-13266 - A RESOLUTION APPROVING AND ACCEPTING FOR RECORDING, A PRIVATE DRAINAGE EASEMENT WITHIN LOT NO. 3 OF THE PLAT OF THE MEWS OF NAPLES AS RECORDED IN PLAT BOOK 18, PAGE 56, SAID EASEMENT DATED MARCH 18, 2013; CONFIRMING THAT UPON RECORDING OF THE DRAINAGE EASEMENT, THE CONDITION CONTAINED IN SECTION 2 OF RESOLUTION NO. 96-7724 HAS BEEN SATISFIED; RECONFIRMING THE GRANT OF EASEMENT VACATION CONTAINED IN SECTION 1 OF SAID RESOLUTION; AUTHORIZING THE CITY CLERK TO RECORD, OR CAUSE TO BE RECORDED, THE DRAINAGE EASEMENT IN THE PUBLIC RECORDS OF THE COLLIER COUNTY CLERK OF COURTS; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Robert Pritt. Traffic Engineer George Archibald provided history of the 1996 site improvements, noting that at that time, a replacement drainage easement had not been accepted for recording in the public record; the subject resolution corrects that omission and staff recommends approval, he added.

Public Comment: None.

MOTION by Barnett to APPROVE RESOLUTION 13-13266 as submitted; seconded by Price and carried 6-0-1 (Barnett-yes, Finlay-yes, Heitmann-yes, Price-yes, Saad-abstain, Sulick-yes, Sorey-yes). (See Attachment 1, Form 8-B, Memorandum of Voting conflict for County, Municipal, and Other Local Public Officers.)

[Agenda Memorandum](#)

[Resolution](#)

[Resolution 96-7724](#)

[Plat of Mews of Naples](#)

[Form 8B - Saad \(Handout\)](#)

15. CLERK'S TRACKING 13-00020 - APPROVING THE PURCHASE OF 22 FUJITSU T732 CONVERTIBLE MDC TABLET PC'S WITH BUILT-IN BIOMETRIC SCANNERS, 17 LUND TACTICAL CONSOLE SOLUTIONS FOR NAPLES POLICE DEPARTMENT'S FORD INTERCEPTOR SEDAN VEHICLES AND 17 AIRLINK GX440 LTE/EVDO/GPS FOR 4G LTE MOBILE BROADBAND CONNECTIVITY FROM BRITE COMPUTERS IN THE AMOUNT OF \$86,730.72.

Technology Services Director Mark Jackson briefly reviewed the item as contained in the agenda memorandum, stressing that the purchase is critical as current equipment is simply not operating correctly. He assured Council that the equipment is built to withstand heavy use and if damaged, would be replaced by the vendor without issue.

Public Comment: None.

MOTION by Barnett to APPROVE THIS ITEM 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).

[Agenda Memorandum](#)

[Product Information](#)

[Quotes](#)

16. RESOLUTION 13-13267 - A RESOLUTION AMENDING SECTION 6(c)1 AND 6(c)2 AND ADDING 6(c)3 TO THE RULES OF PROCEDURE OF THE CITY COUNCIL OF THE CITY OF NAPLES AS ADOPTED BY RESOLUTION 13-13248, TO CLARIFY REQUIRED SUBMITTAL PROCEDURES BY PETITIONERS PRIOR TO A CITY COUNCIL MEETING AND TO CORRECT A SCRIVENER'S ERROR; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Robert Pritt. City Manager William Moss reviewed the amendments as contained in the agenda memorandum. Section 6(c)3 was further amended to prohibit submittal of a PowerPoint presentation or other electronic media that would substantially or materially change the petition as published with the meeting agenda. In response to Council Member Saad, an amendment to Section 10(g), as reflected in the motion below, was also agreed to thereby avoiding any motion being proffered prior to all evidence being considered.

Public Comment: William Kelly, Naples, questioned the practice of allowing late submittals, saying that the public should have the opportunity to view all materials available to Council prior to a meeting. Mr. Saad pointed out that Council does not approve a PowerPoint or other electronic media, only the resolution or ordinance itself which is in fact available to the public. He then proffered the motion reflected below, expressing disagreement with Council Member Heitmann's request that the electronic media be submitted by the Wednesday prior to a regular meeting.

MOTION by Saad to APPROVE RESOLUTION 13-13267 amended further as follows: Section 6(c)3: "...~~amend~~ substantially or materially change the Petition... "; Section 10(g): "... call for the question after all of the evidence has been entered into the record."; **seconded by Price and carried 6-1, all members present and voting (Barnett-yes, Finlay-yes, Price-yes, Saad-yes, Sulick-yes, Heitmann-no Sorey-yes).**

[Agenda Memorandum](#)

[Resolution](#)

17. RESOLUTION 13-13268 - A RESOLUTION OF THE CITY COUNCIL OF NAPLES, FLORIDA, TO PRESERVE AND DEFEND THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF FLORIDA; DIRECTING THE CITY CLERK TO PROVIDE A COPY OF THIS RESOLUTION TO GOVERNOR RICK SCOTT, THE FLORIDA LEGISLATURE AND THE COLLIER COUNTY BOARD OF COUNTY COMMISSIONERS; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Robert Pritt. Noting his concern with the language contained in Section 2 of the resolution, Mayor Sorey recommended that the language in House Memorial 545 be utilized as the basis for the City's resolution should Council wish to approve such a document; Council Member Saad agreed.

Public Comment: The following speakers expressed support of a resolution preserving and defending Second Amendment rights: Joe Whitehead, Naples; David Bolduc, Naples; Jared Grifoni, Marco Island; Keith Flaugh, Marco Island; Jim Kelly, 7846 Gardner Drive; Michael Hagan, Marco Island; and Cheryl Couture, 309 Goodlette-Frank Road, South, #303.

City Attorney Pritt then read into the record a draft amended resolution, appended hereto as Attachment 2 and the motion reflected below was then proffered.

MOTION by Sorey to APPROVE RESOLUTION 13-13268 AMENDED AS REFLECTED IN ATTACHMENT 2; seconded by Price and carried 6-1, all members present and voting (Barnett-yes, Finlay-no, Heitmann-yes, Price-yes, Saad-yes, Sulick-yes, Sorey-yes).

[Agenda Memorandum](#)

[Resolution](#)

[Draft Amended Resolution \(Handout - City Attorney\)](#)

[House Memorial 545 \(Handout - Clerk\)](#)

[Public Comment](#)

None.

[Correspondence and Communications](#)

Mayor Sorey provided an update on the status of the upcoming beach renourishment project as well as the dredging of Doctors Pass as discussed at the previous day's Collier County Board of Commissioners' meeting; clarification of the permitting and funding for the latter project was also offered by Mayor Sorey. Council Member Heitmann requested a copy of the consultant contract regarding the study of the beach outfalls which empty into the Gulf of Mexico and expressed concern with the lack of cleanup efforts of Naples Bay, especially stormwater runoff generated in Collier County outside the City's boundaries. In response to Council Member Sulick's comments regarding ingress/egress of the Old Naples area during large special events such as the St. Patrick's Day parade and Fourth of July fireworks display at the Fishing Pier, consensus was reached to schedule a workshop discussion on the issue that would include a determination of the overall capacity of the City for large special events. Vice Mayor Price noted that his update on the pension plans was scheduled for the April workshop and Council Member Finlay expressed his concern with deteriorating seawalls and sidewalks around Moorings Bay in the Park Shore area; consensus was reached to have Natural Resources Manager Michael Bauer provide an update.

[Adjourn](#)

3:46 p.m.

John F. Sorey III, Mayor

Patricia L. Rambosk, City Clerk

Minutes prepared by:

Vicki L. Smith, Deputy City Clerk

Minutes Approved: May 1, 2013

HAND OUT

#14 - Saad

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME Saad III, Samuel J.		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE Naples City Council	
MAILING ADDRESS 1363 11th Court N		THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:	
CITY Naples	COUNTY Collier	<input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY	
DATE ON WHICH VOTE OCCURRED April 3, 2013		NAME OF POLITICAL SUBDIVISION: City of Naples	
		MY POSITION IS: <input checked="" type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTIVE	

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you otherwise may participate in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on other side)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Sam J. Saad III, hereby disclose that on April 3, 20 13.

(a) A measure came or will come before my agency which (check one)

- ☐ inured to my special private gain or loss;
- ☐ inured to the special gain or loss of my business associate, _____;
- ☐ inured to the special gain or loss of my relative, _____;
- ☒ inured to the special gain or loss of David K. Easlick, by whom I am retained; or
- ☐ inured to the special gain or loss of _____, which is the parent organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

The issue before the council is accepting a dedication of an easement from my client to his association. This is required by a prior council resolution. I represent David Easlick in the sale of the property upon which the easement traverses.

ITEM #14
VLS

Date Filed

3/29/13

Signature



NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.

Amended Resolution re: Second Amendment (from City Attorney)
RESOLUTION NO. 13-

A RESOLUTION OF THE CITY COUNCIL OF NAPLES, FLORIDA, TO THE UNITED STATES CONGRESS AND PRESIDENT OF THE UNITED STATES, URGING CONGRESS AND THE PRESIDENT TO PROTECT THE CONSTITUTIONAL RIGHT OF THE PEOPLE TO KEEP AND BEAR ARMS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Second Amendment to the United States Constitution and Section 8, Article I of the State Constitution protect an individual's right to keep and bear arms, and

WHEREAS, the Supreme Court of the United States has found that the Second Amendment protects the right of individuals to possess any bearable arms commonly used for lawful purposes, and

WHEREAS, the President of the United States has made clear his intent to urge Congress to pass legislation that would restrict the lawful acquisition and possession of firearms and ban many firearms commonly used for self-defense, hunting, competition, and target shooting, and

WHEREAS, the Supreme Court of the United States has recognized that the principles of separate sovereignty, as embodied in the Tenth Amendment to the United States Constitution, prohibit the Federal Government from requiring the state or its officers to take part in any federal gun control scheme, and

WHEREAS, it is the duty of the city council to exercise all of its lawful authority and power to protect the right of the people of this city to keep and bear arms,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NAPLES, FLORIDA:

