



City Council Chamber
735 Eighth Street South
Naples, Florida 33940

City Council Regular Meeting - September 18, 1996

Mayor Barnett called the meeting to order and presided.

ROLL CALL

ITEM 2

Present: Bill Barnett, Mayor
Marjorie Prolman, Vice Mayor

Council Members:
Bonnie R. MacKenzie
John R. Nocera
Fred L. Sullivan
Fred Tarrant
Peter H. Van Arsdale

Also Present:

Dr. Richard L. Woodruff, City Manager
Maria J. Chiaro, City Attorney
William Harrison, Assistant City Manager
Missy McKim, Planning Director
Tara Norman, City Clerk
Dr. Jon Staiger, Natural Resources Mgr.
Don Wirth, Community Services Director
Louanne Melone-Fischer,
Tennis Supervisor
Virginia Neet, Deputy City Clerk
George Henderson, Sergeant-at-Arms
Burt Saunders,
State House of Representatives
Reverend Timothy Navin
Werner Haardt

Charles Andrews
Henry Watkins
David Rice
Jerry Archer
Dirk McGrady
Dougall McCorkle
Stan Hemphill
Ginger Hinchcliff
Other interested citizens and visitors

INVOCATION and PLEDGE OF ALLEGIANCE.....ITEM 1

Father Timothy Navin, St. Peter Church

ANNOUNCEMENTS.....ITEM 4

City Manager recognized contributions of State Senator Fred Dudley and State Representative Burt Saunders in assisting the City to obtain grant funds for the Naples Fishing Pier first phase restoration. Stan Hemphill, grant resources consultant, then announced that all requirements of the Florida Recreation Development Assistance Program were complete and the City had received its \$100,000.00 in grant funds. After State Representative Burt Saunders presented a replica of the \$100,000.00 check to the City, he received a framed photograph of the newly restored fishing pier from Mayor Barnett on behalf of the City.

Natural Resources Manager Jon Staiger announced that September 21, 1996 was "Coastal Clean-up Day" and provided information regarding this nationwide effort to keep shorelines clean. Mayor Barnett read a proclamation designating September 21 as the City's Coastal Clean-up Day and Rookery Bay representative Ginger Hinchcliff presented a framed art print to the City which, she said, depicted the beauty of local coastal waters. Ms. Hinchcliff also distributed fact sheets outlining the economic value of this community's coastal waters.

ITEM TO BE ADDED.....ITEM 3

City Manager Richard Woodruff requested that the following items be added to the agenda:

Item 20 - Authorization to Amend Contract with Facilitator Herbert Marlowe, Ph.D.

Item 21 - Special Event Permit Approval for River Park 500 - 9/21/96

Item 22 - Authorization to Issue a Purchase Order for Skateboard/Rollerblade Facility Equipment

Item 23 - Vehicle Purchase Authorization for Building Department

Item 24 - Authorization for Payment of \$32,000.00 to Kelly Brothers, Inc. in Final Settlement of Contract Pertaining to the Rebuilding of the Fishing Pier

Dr. Woodruff also noted that Item 8 (Park Naming Policy) would be withdrawn from the agenda and submitted at the next Regular Meeting.

MOTION by Van Arsdale to SET AGENDA and ADD ITEMS 20,21,22,23,24 and DELETE ITEM 8; seconded by Sullivan an unanimously carried, all members present and voting. (MacKenzie-yes, Nocera-yes, Prolman-yes, Sullivan-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes)

RESOLUTION 96-7815.....ITEM 5

A RESOLUTION ADOPTING THE FEE SCHEDULE FOR THE RENOVATED CAMBIER PARK TENNIS CENTER; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Chiaro. (9:16 a.m.)

In response to prior workshop discussions, City Manager Richard Woodruff provided Council with additional information regarding current Cambier Park tennis membership rates and explained the economic advantages of eliminating the family membership rate. He also referred to the staff report to describe how revenue requirements would result in a non-resident single memberships rate of \$340.00. (A copy of this material is contained in the file for this meeting in the City Clerk's Office.)

Council Member Van Arsdale suggested a lower non-resident rate (\$280.00); however, Dr. Woodruff reminded Council that any reductions in the proposed rate schedule would extend the term of the bond issue. Comparison were made regarding a two-year and three-year rate increase phase-in and after further discussion, Council Member Van Arsdale withdrew his recommendation for a lower non-resident rate.

Community Services Advisory Board Members Henry Watkins and David Rice reviewed C.S.A.B.'s discussions and the rationale behind the proposed rates. Mr. Watkins then noted that the percentage of increase for resident and non-resident memberships was consistent and still competitive with County facilities. He also stressed that Cambier Park's fee schedule should focus on City residents, its primary constituency.

Council Member Tarrant reiterated his objection to the rate increase, noting that tennis players did not want the new facilities and that this action would result in fewer and fewer citizens being able to afford to play tennis. Council Member MacKenzie suggested a court reservation fee as opposed to an individual guest fee; however, C.S.A.B. Member Watkins noted that both private and public tennis facilities charge on an individual basis.

Public Input: None. (9:32 a.m.)

MOTION by Sullivan to APPROVE Resolution 96-7815 as submitted; seconded by Van Arsdale and carried 6-1, all members present and voting. (MacKenzie-yes, Nocera-yes, Prolman-yes, Sullivan-yes, Tarrant-no, Van Arsdale-yes, Barnett-yes)

ORDINANCE 96-7816.....ITEM 6
AN ORDINANCE GRANTING REZONE PETITION 96-R5, IN ORDER TO REZONE THE PROPERTY AT 4075 9TH STREET NORTH FROM "HC" HIGHWAY COMMERCIAL TO "PD" PLANNED DEVELOPMENT; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Chiaro. (9:32 a.m.)

City Manager Richard Woodruff stated that this proposed ordinance had received first reading approval on September 4, 1996 and no additional questions had been brought forward by citizens or Council.

Public Input: None. (9:33 a.m.)

MOTION by Sullivan to ADOPT Ordinance 96-7816; seconded by Prolman and unanimously carried, all members present and voting. (MacKenzie-yes, Nocera-yes, Prolman-yes, Sullivan-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes)

RESOLUTION 96-7817.....ITEM 7

A RESOLUTION GRANTING VARIANCE PETITION 96-V16, IN ORDER TO PERMIT AN ADDITIONAL "CLASS A" SIGN FOR BRUEGGER'S BAGELS, LOCATED AT 4691 9TH STREET NORTH, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Chiaro. (9:33 a.m.)

City Manager Richard Woodruff explained that the petitioner was requesting a second sign for a business with frontage on both U.S. 41 and Neapolitan Way.

Dougall McCorkle, of the Lutgert Companies (owner of the Neapolitan Way Shopping Center), distributed a site plan to illustrate how the shopping center is divided by Neapolitan Way. (A copy of this material is contained in the file for this meeting in the City Clerk's Office.) He noted that although the two sections are aesthetically similar, they are in separate zoning districts and are governed by different signage standards. Mr. McCorkle reasoned that since a similarly positioned business (Kinko's), located in the south portion of the complex, is permitted a sign for each frontage, Bruegger's Bagels should likewise be permitted two signs. It was also noted that two of the four City businesses with similar zoning and site characteristics had been permitted the additional frontage sign. Mr. McCorkle then relayed the Lutgert Companies' support for this petition stating that the proposal met their high design standards and would be aesthetically compatible with other signage in the center.

Planner Flinn Fagg differentiated parking and signage allowances for the two portions of the shopping complex as well as signage standards in other shopping districts. He conceded that existing criteria for establishing signage standards may be inconsistent; however, it was staff's recommendation that this location adhere to current City Code requirements. Mr. Fagg also relayed the Planning Advisory Board's recommendation to deny the petition.

Public Input: (9:45 a.m.)

Jerry Archer, of Archer Signs, stated that his firm was responsible for Bruegger's Bagels signage within this district. He distributed photographs of the subject location and the corresponding corner business on the south portion of the complex and contended that the additional frontage sign was necessary for identification from the parking lot. He also outlined Bruegger's criteria for selecting store locations and pointed out that the combined square footage of the existing and new sign would conform to the City Code's 80 square foot limit. **Dirk McGrady, operating partner for Bruegger's Bagels**, stated that the proposed additional sign would be consistent with the center's present signage and was necessary to let customers know of the store's location.

Public Input Closed.

MOTION by Van Arsdale to APPROVE Resolution 96-7817 as submitted; seconded by Sullivan and carried 6-1, all members present and voting. (MacKenzie-no, Nocera-yes, Prolman-yes, Sullivan-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes)

After the vote, Council Member Van Arsdale stated that he would like to see higher signage

standards and suggested additional research into the criteria used by other communities. He also requested that the P.A.B. and staff reports include more information regarding the members' opinions and recommendations.

.....**ITEM 8**
CONSIDER ADOPTION OF POLICY FOR THE NAMING OF PARKS. This item was deleted from the agenda.

RESOLUTION 96-7818.....ITEM 24
A RESOLUTION AUTHORIZING PAYMENT IN THE AMOUNT OF THIRTY-TWO THOUSAND DOLLARS (\$32,000.00) TO KELLY BROTHERS, INC., IN FINAL SETTLEMENT OF THE CONTRACT PERTAINING TO THE REBUILDING OF THE INNER HALF OF THE FISHING PIER; AND PROVIDING AN EFFECTIVE DATE. Title not read.

Assistant City Manager William Harrison provided background information regarding recent settlement efforts in the contract dispute with Kelly Brothers, Inc. On September 4, 1996, Council authorized expenditures of up to \$20,000.00 in order for arbitration attorney Joseph Stewart. Mr. Harrison explained that although the contractor's work in rebuilding the inward half of the fishing pier was exceptional, a contract dispute arose over construction delays. Additional meetings between staff and the contractors resulted in the proposed \$32,000.00 settlement agreement which, Mr. Harrison pointed out, may prove more economical to the City than proceeding with the arbitration hearing.

In response to Council, Robert Crawford of Sub-Oceanic Consultants, stated that his records indicated that it took the contractor 15 days to remove the buried debris under the pier. He noted contract provisions for unanticipated buried debris and stated that he felt the contractor should not be penalized for these 15 days. According to Mr. Crawford's calculations, the City would ultimately owe the contractor \$17,600.00. In response to Vice Mayor Prolman, Mr. Crawford indicated that Kelly Brothers' prior work at the pier would not have revealed this buried debris. He also provided historical information regarding the pier to illustrate the origins of the buried debris.

Council Member Sullivan reasoned that this settlement may be the most reasonable and Mr. Harrison noted that the sum of this settlement and Kelly Brothers' original bid would still be less than the second lowest bid. Council discussion then focused on the worst and best case scenarios in the event of arbitration. Council Member Tarrant stated that it would be a mistake to use Kelly Brothers for future pier projects. In response to Council, City Attorney Chiaro explained that arbitration of this matter would be a very specific construction law proceeding handled under the rules of the American Arbitration Association. She stated that since she had never tried a construction litigation case, it would be in the best interest of the City to employ an attorney knowledgeable in this field. She also reminded Council that Attorney Stewart had previously

represented the City with excellent results.

Public Input: None. (10:12 a.m.)

MOTION by Sullivan to **APPROVE** Resolution 96-7818 as submitted; seconded by Van Arsdale and carried 6-1, all members present and voting. (MacKenzie-yes, Nocera-yes, Prolman-yes, Sullivan-yes, Tarrant-no, Van Arsdale-yes, Barnett-yes)

.....ITEM 9
RECONSIDER RETENTION OF PROFESSIONAL SERVICES FOR ARBITRATION BETWEEN KELLY BROTHERS, INC, AND THE CITY OF NAPLES REGARDING THE NAPLES PIER RECONSTRUCTION.

Pursuant to approval of Item 24 above, this item was deleted from the agenda.

RESOLUTION 96-7819.....ITEM 10
A RESOLUTION OF THE MAYOR AND CITY COUNCIL ESTABLISHING OCTOBER 2, 1996, AT 9:15 A.M. AS THE TIME, AND THE CITY COUNCIL CHAMBER, 735 EIGHTH STREET SOUTH, NAPLES, FLORIDA, AS THE PLACE, FOR RECEIVING COMMENTS REGARDING CENTRAL SEWER IMPROVEMENTS WITHIN THE TWIN LAKES COMMERCIAL DISTRICT; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Chiaro. (10:12 a.m.)

Public Input: None. (10:12 a.m.)

MOTION by Sullivan to **APPROVE** Resolution 96-7819 as submitted; seconded by Prolman and unanimously carried, all members present and voting. (MacKenzie-yes, Nocera-yes, Prolman-yes, Sullivan-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes)

.....ITEM 11
AWARD OF BID FOR ANNUAL PURCHASE OF VARIOUS PIPE FITTINGS AND ACCESSORIES. Various Vendors / Estimated Annual Expenditure: \$665,000.00.

City Manager Richard Woodruff noted that competitive bids were received for these various purchases and stated that updating and repairing the City's systems were high priorities.

Public Input: None. (10:13 a.m.)

MOTION by Sullivan to **APPROVE** Item 11 as submitted; seconded by Van Arsdale and unanimously carried, all members present and voting. (MacKenzie-yes, Nocera-yes, Prolman-yes, Sullivan-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes)

RESOLUTION (Denied)ITEM 12
A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF NAPLES AND NAPLES PEDICAB COMPANY, IN SUBSTANTIALLY THE FORM ATTACHED HERETO, TO OPERATE PEDICABS WITHIN THE CITY RIGHTS-OF-WAY; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Chiaro. (10:14 a.m.)

City Manager Richard Woodruff distinguished this service from the present trolley franchise noting that the trolley had a set route while the pedicab service would be operated in the same manner as a taxi-cab service.

Petitioner Harvey Epstein, President of Naples Pedicab Company, stated the pedicabs would be approximately the size of a 3-wheel bicycle and would be operated throughout Old Naples. He also reported that this type of transportation was gaining popularity in many Cities throughout Florida. Council Member MacKenzie expressed safety concerns since the pedicabs would operate on streets which do not have bicycle paths, such as Gulf Shore Boulevard. She also pointed out that traffic would have to pass the slower pedicabs in order to travel at the speed limit. Mayor Barnett also questioned where the pedicabs would be stationed while waiting for a call. Council Member Van Arsdale took the position that pedicabs were a tourist oriented service, which may be popular in other cities such as Key West, but not compatible with the residential character of Old Naples. He also stated that he would not like to see pedicab tours of Old Naples residential neighborhoods. Vice Mayor Prolman concurred, but stated that the real issue was safety. In response to Council Member Tarrant, Mr. Epstein indicated that he would be willing to operate the pedicabs without signage.

Public Input: None.

MOTION by Van Arsdale to DENY Item 12; seconded by MacKenzie and carried 5-2, all members present and voting. (MacKenzie-yes, Nocera-yes, Prolman-yes, Sullivan-no, Tarrant-no, Van Arsdale-yes, Barnett-yes)

Council Member Tarrant clarified that he would favor of this petition provided there were no signs, that it was limited to five pedicabs, and operated on a one-year trial basis.

CONSENT AGENDA

APPROVAL OF MINUTES.....ITEM 13

July 22, 1996 Budget Workshop Meeting; August 19, 1996 Workshop Meeting; August 21, 1996 Regular Meeting; September 4, 1996 Special Workshop Meeting; September 5, 1996 Special Meeting.

.....ITEM 14

WAIVER OF COMPETITIVE BIDDING IN ORDER TO PURCHASE A THREE-STAGE CHLORINE SCRUBBER SYSTEM FOR THE WATER TREATMENT PLANT. Vendor: RJ

Environmental, Inc., Charlotte, N.C. / Price \$85,835.00 / Funding: CIP Project #96K05.

.....ITEM 15

AWARD OF BID FOR 250 HP OUTBOARD MOTOR FOR POLICE AND EMERGENCY SERVICES MARINE PATROL. Vendor: Bay Marina, Naples, Florida / Price \$11,364.00 /

Funding: CIP Project #96H02.

.....ITEM 16

AWARD OF BID FOR A STORAGE ENCLOSURE AT NORRIS COMMUNITY CENTER.

Vendor: Highpoint General Contracting, Naples, Florida / Cost \$13,500.00 / Funding: CIP Project #97G25

.....ITEM 17
AWARD OF BID FOR PAVING IMPROVEMENTS AT ANTHONY PARK. Vendor:
Bonness, Inc., Naples, Florida / Cost \$14,636.50 / Funding: CIP Project #96F02.

.....ITEM 18
**AUTHORIZATION TO EXECUTE A CHANGE ORDER IN THE TOTAL AMOUNT OF
\$21,592.45 TO COVER UNFORESEEN COSTS IN CONNECTION WITH THE
WASTEWATER TREATMENT PLANT UPGRADE.**

RESOLUTION 96-7820.....ITEM 19
**A RESOLUTION APPOINTING ONE TRUSTEE TO THE CITY OF NAPLES
RETIREMENT SYSTEM BOARD OF TRUSTEES TO FILL AN UNEXPIRED TERM;
AND PROVIDING AN EFFECTIVE DATE.** Title not read.

END CONSENT AGENDA

MOTION by Sullivan to ***APPROVE*** the Consent Agenda; seconded by Van
Arsdale and unanimously carried, all members present and voting. (MacKenzie-
yes, Nocera-yes, Prolman-yes, Sullivan-yes, Tarrant-yes, Van Arsdale-yes,
Barnett-yes)

RESOLUTION 96-7821.....ITEM 20
**A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A SECOND
ADDENDUM TO THE AGREEMENT BETWEEN THE CITY OF NAPLES AND
HERBERT A. MARLOWE, JR., Ph.D., DATED JANUARY 17, 1996, A COPY OF WHICH
IS ATTACHED HERETO AND MADE A PART HEREOF, FOR THE PURPOSE OF
INCREASING THE FUNDS BUDGETED FOR SERVICES AS A FACILITATOR TO
ASSIST WITH THE CITY'S COMPREHENSIVE PLANNING PROCESS, FROM
\$20,000.00 TO \$23,000.00; AND PROVIDING AN EFFECTIVE DATE.** Title not read.
(10:29 a.m.)

Planning Director Missy McKim provided additional information regarding this proposed addendum
and City Manager Richard Woodruff explained that the increase was necessitated by several
unanticipated meetings relating to the comprehensive planning process.

Public Input: None. (10:31 a.m.)

MOTION by Prolman to ***APPROVE*** Resolution 96-7821 as submitted; seconded
by Van Arsdale and carried 6-1, all members present and voting. (MacKenzie-yes,
Nocera-yes, Prolman-yes, Sullivan-yes, Tarrant-no, Van Arsdale-yes, Barnett-yes)

.....ITEM 21
SPECIAL EVENT APPROVAL FOR RIVER PARK 500 - 9/21/96 (10:31 a.m.)

City Manager Richard Woodruff described the River Park 500 and explained that the event would
require the temporary closure of a portion of 11th Street North.

Public Input: None. (10:32 a.m.)

MOTION by Sullivan to ***APPROVE*** Item 21 as submitted; seconded Tarrant and unanimously carried, all members present and voting. (MacKenzie-yes, Nocera-yes, Prolman-yes, Sullivan-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes)

.....ITEM 22
AUTHORIZATION TO ISSUE A PURCHASE ORDER FOR COMPONENTS AND QUARTERLY MAINTENANCE SERVICE FOR SKATEBOARD/ROLLERBLADE FACILITY. Vendor: Aggressive Skate Products, Inc., Clearwater, Fla. / Total Cost: \$11,225.00 / Funding: Project #96G05 and individual/ business donations.

City Manager Richard Woodruff reported that all asphalt for the park had been donated and installed and a local company would be donating fencing. Dr. Woodruff also noted that although Council was authorizing this purchase order, staff would continue efforts to secure donated equipment from the private sector. Council Member MacKenzie questioned specific aspects of the course design; however, Community Services Director Don Wirth pointed out that it conformed to accepted course lay-out and Dr. Woodruff confirmed that potential users were involved in the design. Additionally, Council Member Van Arsdale suggested that the design, specifically the fence area, convey that it is a place to have fun.

Public Input: None. (10:36 a.m.)

MOTION by Van Arsdale to ***APPROVE*** Item 22 as submitted; seconded by Sullivan and unanimously carried, all members present and voting. (MacKenzie-yes, Nocera-yes, Prolman-yes, Sullivan-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes)

.....ITEM 23
AUTHORIZATION TO ISSUE A PURCHASE ORDER FOR 1995 MERCURY MYSTIQUE FOR THE BUILDING & ZONING DEPARTMENT. Vendor: Budget Car Sales / Cost: \$12,500.00 / Funding: Building & Zoning Reserves. (10:37 a.m.)

City Manager Richard Woodruff referred to the cost savings of purchasing used vehicles and also pointed out limitations placed on the use of vehicles purchased through a State contract. Ford Motor Company's recent \$6,000.00 price increase per vehicle was also noted. Council Member Nocera requested additional information regarding used versus new vehicle costs and indicated that \$12,500.00 was in fact the retail price for the car in question.

It was determined that this item would be withdrawn from the agenda for additional staff research.

CORRESPONDENCE and COMMUNICATIONS (10:40 a.m.)

Mayor Barnett relayed concerns of Council Member Van Arsdale regarding Council meeting packet delivery. Currently, packets are delivered on the Wednesday (one week) prior to the Regular Meeting with supplemental information delivered Friday. Since the supplemental delivery is often as large as the original, Mayor Barnett suggested that Council return to the policy of one Friday

afternoon delivery. Council Member Sullivan concurred but requested that staff refrain from presenting additional agenda items during the Monday Workshop Meeting. Council Member MacKenzie, however, predicted that one weekend may not be sufficient time to review all of the meeting information.

It was the consensus of Council to eliminate delivery of Council packets on the Wednesday prior to Regular Meetings and deliver all material on Friday.

City Manager Richard Woodruff read a letter into the record notifying Council that both petitions to amend the Naples Cay development agreement had been withdrawn. (Attachment 1)

OPEN PUBLIC INPUT
None. (10:43 a.m.)

ADJOURN.....
10:43 a.m.

Bill Barnett, Mayor

Tara A. Norman
City Clerk

Prepared by:

Virginia A. Neet
Deputy City Clerk

Minutes approved:_____.

