



City Council Chamber
735 Eighth Street South
Naples, Florida 34102

City Council Workshop Meeting – August 4, 1997, 8:30 a.m.

Mayor Barnett called the meeting to order and presided.

ROLL CALL **ITEM 1**

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:

Richard Woodruff, City Manager
Kenneth Cuyler, City Attorney
Missy McKim, Planning Director
Tara Norman, City Clerk
Ann Walker, Planner
Susan Golden, Planner
Molly Reed, Recording Specialist
J. Dudley Goodlette
David Trowbridge
Hank Buchanan
Fred Samuels
Robert Samouce

Richard Gentil
William Jackson
Ronald Pennington
Leonard Thornton
William Frazier
Other interested citizens and visitors

Media:

Tara Beer, Naples Daily News
Frank Kinsman, WNOG

Mayor Barnett opened the meeting with the reading of a press release announcing Bay Marina as the primary loading and unloading location for the development of Key Island. (Attachment 1)

ITEMS TO BE ADDEDITEM 2
None

.....**ITEM 3**
INTERVIEWS WITH CANDIDATES FOR THE NAPLES AIRPORT AUTHORITY.
(8:33 a.m.)

The following applicants were interviewed to complete the unexpired term of Joseph Freni due to expire in November:

- Robert Samouce (8:33 a.m.)
- Richard Gentil (8:47 a.m.)
- William Jackson (9:03 a.m.)
- Ronald Pennington (9:16 a.m.)
- Leonard Thornton (9:47 a.m.)
- William Frazier (10:01 a.m.)

During the interviewing process, Mayor Barnett noted that another vacancy will occur in November and urged all unappointed candidates to consider reapplying at that time. He added that he assumed anyone appointed now would continue into another full term with Council approval.

Break: 10:15 a.m. to 10:32 a.m. It is noted for the record that the same Council Members were present when the meeting reconvened.

.....**ITEM 7**
DISCUSSION REGARDING IMPROVMENTS TO THIRD STREET AND THE AVENUES. (10:32 a.m.)

City Manager Richard Woodruff reviewed the background regarding the creation of a uniform lighting theme in the Third Street area. He explained that the state regulations for creation of an assessment district (Florida Statutes, Chapter 170) would not apply if the improvements were limited to lighting only. Therefore, City Attorney Kenneth Cuyler had prepared a master ordinance using the City's home rule powers to permit single, local improvements in a two-step process. The first step is a resolution creating the assessment district which also defines the method of assessment. After 20 days, Council would hear appeals and then, by resolution, would finalize the district. Dr. Woodruff pointed out that this approach differs from other types of assessments familiar to Council which had been carried out under statutory provisions.

In response to Council Member Van Arsdale, City Attorney Cuyler clarified that the proposed local assessment ordinance provides for Council to impose an assessment district without a majority concurrence of the affected property owners. He also noted the ordinance would provide the broadest possible authority to be vested in the Council unless the Council decided to limit it in some way. Vice Mayor Prolman expressed concern about the broadness of powers because of property owners who objected to assessments, adding that it may be premature to proceed with any portion of the proposed improvements prior to second reading of the ordinance.

Dr. Woodruff explained that the urgency was the result of property owners wanting lights installed prior to the winter season.

Although no poll had been taken, Dr. Woodruff said all property owners had attended every meeting, and he said he believed all were in favor of the lighting improvements, although support becomes mixed as the number of improvements increases. Some prefer both lights and alleyway improvements while others prefer only lights, he said.

Council learned that residential properties were not to be included in the assessment and that the City would fund residential lighting at a cost of \$85,000. Commercial lighting assessments were based solely on front footage regardless of building height while alleyway improvements would be accomplished by front-foot assessments on all properties that adjoin or touch the alley. Dr. Woodruff requested Council endorsement of the methods used for determining the assessments or, failing that, to assist in establishing an alternative method. Council Member MacKenzie determined that a change in the methodology would require a response from property owners between first and second reading. City Attorney Cuyler however explained that the request for direction was needed in the event Council asked for alternative assessment methods to be presented at the Regular Meeting the following Wednesday.

Landscape architect Hank Buchanan delivered a conceptual presentation illustrating the use of plantings to establish distinctions between retail and residential areas as well as the enhancement of alleyways. Vice Mayor Prolman suggested that the north and south sides of Broad Avenue be aligned in order to add more parking and Mr. Buchanan agreed to explore that concept. Council Member MacKenzie indicated that the landscaping plan seemed to go beyond the proposed assessment for lighting. Council Member Van Arsdale responded that the area required a more comprehensive plan in order to properly install the lights.

Allen Reynolds, representing Neapolitan Enterprises, described five elements involved in achieving improvements that unify the area: lighting, traffic circulation, parking, landscaping, and area individuality. He noted three alleys which provide access to over 300 underused parking spaces that would be used as the alleyways became more accessible and inviting. In addition, he said, it was more cost effective to make all the improvements at the same time and suggested the installation of a pipeline called a “smart trench” during paving improvements and lighting installation. The pipeline permits present and future connections of cable, and could be used to underground powerlines without further disturbing paved surfaces.

Barbara Walker, representing Neapolitan Enterprises, addressed Council regarding the assessment method. She explained that a method based on front footage unfairly burdens the smaller property owners, noting that her client prefers having the cost born by all area property owners. She therefore proposed a method based on street frontage that would exclude alleyway properties. She acknowledged this would significantly increase the cost to Neapolitan which nevertheless endorsed it because it is more equitable. In conclusion, she said her client supported the improvement program, regardless of the assessment method chosen.

Dr. Woodruff reiterated that Council had the prerogative to alter the assessment method, but if they chose to have property owners share the cost of both lighting and alleyway improvements,

they should consider the “smart trench” proposal separately. He estimated the cost of the “smart trench” at \$20,000 to \$30,000 and suggested it be paid by the properties who directly benefit. Ms. Walker recommended, however, that the “smart trench” cost be borne by all. Nevertheless, he suggested that Council’s determination of the assessment specifically note the purpose; namely, to permit people to park and move freely throughout the Third Street district.

Council Member Van Arsdale stated because this is an owners’ issue, Council should concur with their wishes. Council Member MacKenzie asked which of the options would be included in the assessment. Dr. Woodruff explained that the resolution in question affords Council the latitude to have the maximum or minimum improvements executed, depending on their choice.

Council Member Tarrant said he did not want to rule out the possibility of creating a special taxing district to be approved by referendum rather than a specific assessment district. Dr. Woodruff agreed to report on the taxing district process at the next Regular Meeting and stated he would also poll property owners regarding their preferences.

Steven Farrington said he owned three properties in the Third Street area and managed an additional property for Northern Trust. He commended the method suggested by Neapolitan Enterprises and emphasized his support for the creation of an assessment district to fund all the enhancements necessary, stating that the majority of property owners support the total package of improvements.

Attorney Norma Shepherd, representing property owner Sally Von Behren, said her client supports the City’s proposal for lighting and alleyways but objects to the Neapolitan Enterprises proposal since the Von Behren property is on a corner and would not benefit from alley improvements. She then inquired whether Florida Statute 170 would allow for lighting and alleyways, and City Attorney Cuyler responded that it would, provided road improvements were included. However, he said, it would not allow for lighting improvements alone and he pointed out that this choice remained an option for Council adoption. On the question of whether or not Chapter 170 required a vote of the property owners prior to an assessment, Attorney Cuyler stated the City had used Chapter 170 in the past without requiring a vote of the property owners.

Council Member Tarrant suggested that Ms. Von Behren’s concern with the home rule ordinance related to its equipping the City with a taxing ability that could be used to apply to other situations without property owner approval. Ms. Shepherd concurred, adding that her client would support a home rule ordinance limited strictly to street lighting and alleyway improvements.

Cal Pratt, Third Street property owner, said he supported the lighting and alleyway improvements whether or not a business directly benefited from the enhancements. George Vukobratovich, representing Third Street Plaza and Camalier Properties, appealed to Council to move forward with the entire package of enhancements, adding that his properties supported the Neapolitan Enterprises’ method of assessment calculations, namely lighting, alleyway improvements and the “smart trench”.

In response to Vice Mayor Prolman, City Attorney Cuyler reiterated the steps Council will consider at the next Regular Meeting:

1. Passage of a home rule ordinance permitting the City to create assessment districts. Enactment of this ordinance is necessary in order to assess singular improvements (such as lighting) which would otherwise not be allowed under Florida Statute Chapter 170; and
2. Passage of a resolution to create the Third Street and The Avenues Lighting District which would itemize the extent of the improvements Council selects (i.e., lighting only or lighting, alleyway improvements, and the “smart trench”).

Vice Mayor Prolman and Council Member MacKenzie requested the City Attorney prepare a comparison between the proposed ordinance and the provisions of Chapter 170 since they said they felt the ordinance was too broad and that the Statute would adequately meet the needs of property owners. City Attorney Cuyler explained that the Statute lists specific items a city may assess and thereby gives cities authority to enact assessments, whereas the home rule ordinance grants citizens the right to request that the City initiate special assessments for specific projects.

Mark Fletcher, Third Street property owner, expressed concern that the master home rule ordinance would permit the City to add to the assessments at some future time. Mr. Cuyler agreed, adding, however, that such authority also exists under Chapter 170.

City Manager Woodruff pointed out that under Chapter 170, the City cannot assess for street lights only and, further, that property owners in other parts of the City would have to bear the costs thereby violating the requirement in Chapter 170 for a “relationship of benefit.” Council, he pointed out, will make the final decision regardless of the system preferred by the property owners.

.....**ITEM 4**
REVIEW OF ITEMS ON 8/6/97 REGULAR MEETING AGENDA. (12:00 p.m.)

Item 5c (Special event: 4th Annual Naples Sports Festival- 8/10)
Requested by Council Member MacKenzie for separate discussion. City Manager Woodruff will update Council on the City's policy regarding co-sponsorship of events.

Items 8, 9, 10 (Item 8 - vacation of alley at 109 9th Street South; Item 9- Utility easement and land sale on 1st Avenue South at US 41; and Item 10-conditional use for drive-through at 1010 5th Avenue South)
Planning Director Missy McKim will supply information pertinent to these issues and the relationship with the 41-10 study.

Item 10 (Conditional use for a drive-through at 1010 5th Avenue South)
Planning Director McKim will advise Council regarding the number of current parking spaces and the number following the proposed revisions. She will also advise on location of the new signage.

Item 24 (Ordinance amendment to dispose of horticultural debris and rates for sale of horticultural products.)
City Manager Woodruff will verify that the only change is for sale of horticultural products and the rates will remain the same.

Item 25 To be added. (An interlocal agreement with the County to engage environmental services for the Big Cypress Basin study.)

Item 26 To be added. (Authorize a purchase order not to exceed \$75,614 for water improvements on 6th Avenue South.)

City Manager Woodruff will provide a schematic drawing reflecting final appearance of 6th Avenue South following improvements.

Item 27 To be added. (An interlocal agreement regarding Livingston and Golden Gate Parkway relocation of a raw water line.)

City Manager Woodruff will add a cap to the cost to be paid by the City.

.....**ITEM 5**
REQUEST BY COUNCIL MEMBER VAN ARSDALE FOR REIMBURSEMENT OF EDUCATIONAL EXPENSES RELATED TO COUNCIL DUTIES. (12:10 p.m.)

Mayor Barnett explained that Council recently changed the reimbursement restriction to allot \$1000 for travel expenses and to consider additional items separately. Council Member Tarrant inquired whether receipts were on file and learned that all was in order. Council Member Sullivan said he did not object to a reimbursement for the educational section of the “Tour of the Projects” which Council Member Van Arsdale had taken in February 1997.

Council Member MacKenzie suggested, however, that a limit be established for educational programs, but Vice Mayor Prolman stated that Council should consider items on an ad hoc basis and not be limited by a monetary ceiling.

It was the consensus of Council to reimburse Council Member Van Arsdale in the amount of \$2000 for the educational portion of the Tour of the Projects.

.....**ITEM 6**
CONSIDERATION OF LEGAL SERVICES PERTAINING TO NAPLES LANDING LITIGATION. (12:15 p.m.)

Referring to Mayor Barnett’s press release earlier in the meeting, Council Member Tarrant asked whether the June 18 would now be rescinded. Mayor Barnett explained that Bay Marina will become the primary loading and unloading site for Key Island development, however, Naples Landing would still be used as necessary.

Attorney J. Dudley Goodlette, representing the Key Island Partnership, reviewed Council’s action of June 2nd which specified that the developers advise the City if an alternate, primary loading site were located. He said it is the intention of the developers to use the Naples Landing site consistent with the construction management plan approved by Council, however, primary staging would occur at Bay Marina.

Council Member Tarrant was also advised that only the plaintiff, and not the City, could delay the court proceedings which are set for August 29th. Council Member MacKenzie inquired about relevant Charter provisions, and City Attorney Cuyler said his understanding was that Council appoints the City’s legal counsel and in the event the City Attorney cannot handle a case, the City Attorney will appoint a replacement unless Council prefers to make the selection.

It was the consensus of Council to instruct the City Attorney to select counsel to represent the City in the case pertaining to the use of Naples Landing.

Council Member Tarrant called for invalidating the June 21st vote for Mr. Cuyler as City Attorney invalid since it occurred without knowledge of an unrelated conflict of interest pertaining to the Naples Landing case. Mr. Cuyler, however, said that no information was intentionally withheld. Mr. Tarrant acknowledged that to be the case. Council Member MacKenzie pointed out that time constraints made the situation more urgent since another attorney will have only 25 days to prepare the City's case.

.....**ITEM 8**

DISCUSSION OF ETHICS STANDARDS. (12:36 p.m.)

Council Member Tarrant requested appointment of a commission of citizens and one Council Member to study ethical standards. Mayor Barnett pointed out that the City Attorney had been retained to answer this type of question, adding that he did not see the necessity of a commission since State statutes were thorough on ethical questions. Mr. Tarrant gave the example that while a lobbyist could give an elected official \$100, only the lobbyist was required to report the gift. Mayor Barnett, however, observed that local ethical standards would not be legally enforceable, and the committee would, therefore, become ineffective.

It was the consensus of Council to not appoint an ethics commission/committee. (Council Members MacKenzie, Nocera and Tarrant dissenting)

CORRESPONDENCE / COMMUNICATIONS

None. (12:41 p.m.)

OPEN PUBLIC INPUT

None. (12:41 p.m.)

ADJOURN

12:41 p.m.

Bill Barnett, Mayor

Tara A. Norman,
City Clerk

Prepared by:

Molly Reed, Recording Specialist

Minutes approved: August 20, 1997.