



City Council Chamber  
735 Eighth Street South  
Naples, Florida 34102

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**City Council Regular Meeting – August 20, 1997 – 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  
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 Woodruff, City Manager  
Kenneth Cuyler, City Attorney  
William Harrison, Assistant City Manager  
Miss McKim, Planning Director  
Dan Mercer, Utilities Director  
Flinn Fagg, Planner  
Molly Reed, Recording Specialist  
Robin Williams, Executive Secretary

Werner Haardt  
Charles Andrews  
Art Holt  
John Passidomo  
Jack McWilliams  
Craig Dunlap  
Other interested citizens and visitors  
**Media:**  
Tara Beer, Naples Daily News

**INVOCATION AND PLEDGE OF ALLEGIANCE.....ITEM 2**  
Reverend Art Holt, Unity Church of Naples

**ANNOUNCEMENTS .....ITEM 3**  
None.

**ITEMS TO BE ADDED .....ITEM 4**  
Council Members MacKenzie and Tarrant each requested an item to be added under Correspondence and Communications.

**MOTION by Sullivan to SET AGENDA ADDING TWO ITEMS UNDER CORRESPONDENCE; 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).**

**CONSENT AGENDA**

**APPROVAL OF MINUTES .....ITEM 5a**  
July 21, 1997 Budget Workshop; August 4, 1997 Workshop Meeting.

**RESOLUTION 97-8038.....ITEM 5b (1)**  
**A RESOLUTION APPOINTING WILLIAM MAC ILVAINE TO THE BOARD OF TRUSTEES OF THE FIREFIGHTERS' RETIREMENT TRUST FUND TO FILL AN UNEXPIRED TERM EXPIRING AUGUST 26, 1998; AND PROVIDING AN EFFECTIVE DATE.** Title not read.

**RESOLUTION 97-8039.....ITEM 5b (2)**  
**A RESOLUTION APPOINTING ROBYN COKER TO THE BOARD OF TRUSTEES OF THE FIREFIGHTERS' RETIREMENT TRUST FUND TO FILL AN UNEXPIRED TERM EXPIRING AUGUST 26, 1998; AND PROVIDING AN EFFECTIVE DATE..** Title not read.

**RESOLUTION 97-8040.....ITEM 5b (3)**  
**A RESOLUTION APPOINTING ROBYN COKER TO THE BOARD OF TRUSTEES OF THE POLICE OFFICERS' RETIREMENT TRUST FUND TO FILL AN UNEXPIRED TERM EXPIRING AUGUST 26, 1998; AND PROVIDING AN EFFECTIVE DATE.** Title not read.

**RESOLUTUION 97-8041..... ITEM 5c (1)**  
**A RESOLUTION APPROVING THE APPOINTMENT OF DAVID COOPER, EMPLOYEE POSITION, TO THE CITY OF NAPLES PUBLIC EMPLOYEE RELATIONS COMMISSION COMMENCING ON AUGUST 20, 1997 AND ENDING ON DECEMBER 20, 2000; AND PROVIDING AN EFFECTIVE DATE.** Title not read.

**RESOLUTION 97-8042..... ITEM 5c (2)**  
**A RESOLUTION APPROVING THE APPOINTMENT OF D. ANTHONY ROBERTS, NEUTRAL POSITION, TO THE CITY OF NAPLES PUBLIC EMPLOYEE RELATIONS COMMISSION COMMENCING ON AUGUST 20, 1997 AND ENDING ON MARCH 19, 2001; AND PROVIDING AN EFFECTIVE DATE.** Title not read.

**RESOLUTION 97-8043.....ITEM 5d**  
**A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN INTERLOCAL AGREEMENT WITH COLLIER COUNTY, IN SUBSTANTIALLY THE FORM ATTACHED HERETO, TO PROVIDE FISCAL YEAR 1998 FUNDING FOR THE NAPLES BEACH ACCESS IMPROVEMENTS PROJECT IN AN AMOUNT NOT-TO-EXCEED \$25,000; AND PROVIDING AN EFFECTIVE DATE.** Title not read.  
(9:05 a.m.)

City Manager Richard Woodruff reported that Collier County had allocated \$25,000, to be matched by the City for refurbishing the beach ends. Assistant City Manager William Harrison explained that it would require \$250,000 to update every beach end over a five year period, and, unless more funds were forthcoming, the task could not be completed with a \$50,000 budget. Council Member Van Arsdale suggested the use of tourist tax dollars, and Dr. Woodruff said staff would explore this avenue of funding.

**Public Input:** None

***MOTION by Sullivan to APPROVE CONSENT AGENDA (to include instructions to staff to investigate the use of tourist-tax funding relating to 5d); 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).***

#### **END CONSENT AGENDA**

**RESOLUTION 97-8044.....ITEM 6**  
**A RESOLUTION GRANTING WAIVERS FROM SECTION 102-266 OF THE CODE OF ORDINANCES IN ORDER TO REDUCE A 25-FOOT FRONT YARD SETBACK TO 10 FEET, TO PERMIT A TRELLIS STRUCTURE TO ENCROACH 18 FEET INTO A REQUIRED FRONT YARD SETBACK, AND TO REDUCE A 20-FOOT REAR YARD SETBACK TO 7 FEET, FOR PROPERTY LOCATED AT THE SOUTHEAST CORNER OF FOURTH AVENUE SOUTH AND FOURTH STREET SOUTH, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.** Title read by City Manager Woodruff. (9:07 a.m.)

**Public Input:** None (9:08 a.m.)

***MOTION by Van Arsdale to APPROVE RESOLUTION 97-8044 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).***

**ORDINANCE 97-8045.....ITEM 7**  
**AN ORDINANCE AMENDING THE FIFTH AVENUE SOUTH SPECIAL OVERLAY DISTRICT REGULATING PLAN AS REFERENCED IN SECTION 102-1094(g) OF THE CODE OF ORDINANCES IN ORDER TO REVISE THE LOCATION OF A SITE DESIGNATED FOR A PARKING STRUCTURE; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.** Title read by City Manager Woodruff. (9:09 a.m.)

Council Member MacKenzie asked whether the previously proposed traffic circle at 5<sup>th</sup> Avenue South and U.S. 41 would be reconsidered or possibly eliminated. Council Member Van Arsdale concurred that this traffic round-about would be difficult to build, but added that he would not

object to it. After further discussion, it was the general consensus of Council to favor the round-about.

**Public Input:** None (9:11 a.m.)

**MOTION** by Van Arsdale to **ADOPT** Ordinance 97-8045 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).

**ORDINANCE 97-8046.....ITEM 8**  
**AN ORDINANCE AMENDING SECTION 86-205(e) OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES IN ORDER TO REVISE THE PROCESS FOR ADMINISTRATIVE GRANTS OF VARIANCE; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.** Title read by City Manager Woodruff. (9:12 a.m.)

**Public Input:** None (9:12 a.m.)

**MOTION** by Van Arsdale to **ADOPT** Ordinance 97-8046 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).

**ORDINANCE 97-8047.....ITEM 9**  
**AN ORDINANCE AMENDING SECTION 54-71, OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES, "ESTABLISHMENT OF TYPE I AND II REFUSE FEES", TO PROVIDE FOR THE DISPOSAL OF HORTICULTURAL DEBRIS AND RATES FOR THE SALE OF PREMIUM HORTICULTURAL PRODUCTS; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.** Title read by City Manager Woodruff. (9:12 a.m.)

City Manager Richard Woodruff explained that the City now processed a type of mulch suitable for sale. In response to Council Member MacKenzie, it was determined that mulch will continue to be provided to City residents free of charge.

**Public Input:** None (9:13 a.m.)

**MOTION** by Sullivan to **ADOPT** Ordinance 97-8047 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 97-8048.....ITEM 10**  
**A RESOLUTION AMENDING APPENDIX "A", "FEE SCHEDULE", WITH REFERENCE TO SECTION 54-71(3)d OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES, TO REVISE THE RATES FOR THE DISPOSAL OF HORTICULTURAL DEBRIS, REFUSE TYPE II; AND PROVIDING AN EFFECTIVE DATE.** Title read by City Manager Woodruff. (9:14 a.m.)

**Public Input:** None (9:14 a.m.)

**MOTION** by Nocera to **APPROVE RESOLUTION 97-8048** 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).

**RESOLUTION 97-8049.....ITEM 11a**  
**A RESOLUTION APPOINTING ONE MEMBER TO THE CODE ENFORCEMENT BOARD TO FILL AN UNEXPIRED TERM EXPIRING MARCH 19, 1999; AND PROVIDING AN EFFECTIVE DATE.** Title read by City Manager Woodruff. (9:15 a.m.)

**Public Input:** None (9:15 a.m.)

**MOTION by MacKenzie to APPROVE RESOLUTION 97-8049 APPOINTING JOHN SALTSMAN; 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).**

**RESOLUTION 97-8050.....ITEM 11b**  
**A RESOLUTION APPOINTING ONE ALTERNATE MEMBER TO THE CODE ENFORCEMENT BOARD TO FILL AN UNEXPIRED TERM EXPIRING MARCH 19, 1999; AND PROVIDING AN EFFECTIVE DATE.** Title read by City Manager Woodruff. (9:15 a.m.)

**Public Input:** None (9:15 a.m.)

**MOTION by MacKenzie to APPROVE RESOLUTION 97-8050 APPOINTING TERRY GREEN; seconded by Nocera and unanimously carried, all members present and voting (MacKenzie-yes, Nocera-yes, Prolman-yes, Sullivan-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes).**

**RESOLUTION 97-8051.....ITEM 12**  
**A RESOLUTION APPOINTING ONE MEMBER TO THE BOARD OF APPEALS; AND PROVIDING AN EFFECTIVE DATE.** Title read by City Manager Woodruff. (9:16 a.m.)

**Public Input:** None (9:16 a.m.)

**MOTION by Sullivan to APPROVE RESOLUTION 97-8051 APPOINTING WALTER KELLER; 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 97-8052.....ITEM 13**  
**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NAPLES, FLORIDA, AWARDED THE CITY'S \$2,850,000 PUBLIC SERVICE TAX REVENUE BONDS, SERIES 1997, TO FIRST UNION NATIONAL BANK, THE SUCCESSFUL BIDDER; APPROVING AND ACCEPTING THE COMMITMENT OF FIRST UNION NATIONAL BANK TO PURCHASE SAID BONDS; AUTHORIZING ALL OTHER NECESSARY ACTION BY THE CITY; AND PROVIDING AN EFFECTIVE DATE.** Title read by City Manager Woodruff. (9:17 a.m.)

Assistant City Manager William Harrison explained that the bonds were to finance Phase I improvements at Cambier Park and included the City's contribution to upgrade the Naples Gateway Project. Financial Advisor Craig Dunlap reported that the First Union bid for a 4.99% coupon rate and an issuance cost of 5.15% was the lowest of three submitted bids. Council Member Van Arsdale determined from Mr. Harrison that the tennis portion of \$700,000 was funded by user fees and the utility tax bonds are funded by the City's existing 7% utility tax. Council Member MacKenzie, however, stated that she objected to the manner in which the proceeds of the bonds would be spent.

**Public Input:** None (9:18 a.m.)

**MOTION** by Sullivan to **APPROVE RESOLUTION 97-8052 as submitted; seconded by Nocera and carried 5-2, (MacKenzie-no, Nocera-yes, Prolman-yes, Sullivan-yes, Tarrant-no, Van Arsdale-yes, Barnett-yes).**

**RESOLUTION 97-8053.....ITEM 14**  
**A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT FOR PROVISION OF LEGAL SERVICES WITH THE LAW FIRM OF ROETZEL & ANDRESS, KENNETH B. CUYLER AS LEAD ATTORNEY; AND PROVIDING AN EFFECTIVE DATE.** Title read by City Manager Woodruff. (9:19 a.m.)

City Attorney Kenneth Cuyler informed Council that the agreement had been drafted by the City's labor council and was, essentially, the same agreement that had been in effect during the past six months. Vice Mayor Prolman noted that the agreement would automatically continue unless Council issued a 30-day notice, and added that she preferred a more in-depth review at a future date so Council could resolve their position regarding an in-house attorney versus a hired firm. Council Member Van Arsdale reasoned that the proper time for this discussion would be during the annual budget process and Council concurred.

Council Member Tarrant requested an explanation of the proposed cap on Attorney Cuyler's services, and learned that Council Member MacKenzie had proposed the concept of a monthly cap for routine tasks. She added, however, that non-routine items, including litigation, would conform to different hourly rates. Council Member Van Arsdale said he felt the cap was neither realistic nor equitable to the attorney and suggested areas wherein use of the attorney's time could be reduced or eliminated. He requested a detailed breakdown of the attorney's billing for each City department, adding that this information would be important for an evaluation during budget hearings. Mayor Barnett noted that he and City Attorney Cuyler were working closely to effectively schedule his time. However, Vice Mayor Prolman asked that he be available regularly at City Hall.

Attorney Cuyler pointed out that fluctuations in the monthly workload during a year would likely average out with monthly caps of \$13,500 (an annual cap of \$162,000) in fees for general services. Council Member Nocera said the fee was approximately \$50,000 more than the cost of an in-house attorney, and Council Member Van Arsdale stated that without inclusion of litigation fees, it was impossible to estimate the final cost to the City. Attorney Cuyler stated that litigation would have to remain outside the cap since that was an extraordinary item, and Council Member MacKenzie noted that there may be situations wherein the opposing party would have to pay the City's legal fees.

**Public Input:** None (9:39 a.m.)

**MOTION** by MacKenzie to **APPROVE RESOLUTION 97-8053 WITH THE FOLLOWING PROVISIONS:**

- **ANNUAL REVIEW OF AGREEMENT DURING CITY BUDGET HEARINGS;**
- **A CAP OF NO MORE THAN \$13,500 PER MONTH ALLOWABLE, TO BE AVERAGED OVER THE COURSE OF A YEAR; AND**
- **THE OPTION FOR REVIEW AT ANY TIME SHOULD ATTORNEY CUYLER DEEM IT NECESSARY;** 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).*

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

Council Member MacKenzie requested \$150.00 from the General Fund in order to purchase copies of taped books and a tape player for a River Park Community Center presentation.

**MOTION by Barnett to APPROVE ALLOTING \$150.00 FROM THE GENERAL FUND FOR THE PURPOSES STATED ABOVE; 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).**

Council Member Tarrant expressed his gratitude to Council and the staff for his birthday celebration. Council then sang “Happy Birthday” to Mr. Tarrant.

Council Member Nocera also commended Vice Mayor Prolman for her work with the Youth Activities Committee.

**OPEN PUBLIC INPUT.....**

None (9:40 a.m.)

**ADJOURN.....**

9:40 a.m.

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Bill Barnett, Mayor

Tara A. Norman, City Clerk

Prepared by:

Molly Reed, Recording Specialist

Minutes approved: 9/3/97