



City Council Chamber
735 Eighth Street South
Naples, Florida 34102

City Council Special Meeting – July 21, 1998, 8:30 a.m.

Mayor Barnett called the meeting to order and presided.

ROLL CALLITEM 1

Present: Bill Barnett, Mayor
Bonnie R. MacKenzie, Vice Mayor
Council Members:
Fred Coyle
Joseph Herms
John Nocera (*Arrived at 8:37 a.m.*)
Fred Tarrant
Peter H. Van Arsdale

Also Present:
Susan Weising,
Human Resources Director
Kenneth Cuyler, City Attorney
Tara Norman, City Clerk
Brenda Blair, Recording Specialist
Cheryl Coyle
Milton Galbraith
David LaCroix
John Turner
Jeffrey Kurtz
Howard Bertstein

Media:
Eric Staats, Naples Daily News

ITEMS TO BE ADDED TO THE AGENDA (8:34 a.m.).....ITEM 2
None.

.....**ITEM 3**
INTERVIEWS WITH CANDIDATES FOR CITY ATTORNEY (8:34 a.m.)

Prior to the interviews, Human Resources Director Susan Weising noted that any notes taken by Council were public record and should be returned to the clerk after the meeting. She also provided information regarding the City's advertisement for City Attorney and the application process. As established by Council, a Legal Review Committee ranked the candidates based upon resumes and other documents. Additionally, the candidates' references were verified by the Human Resources Department.

It is noted for the record that Council Member Nocera arrived at the meeting at 8:37 a.m.

Procedures for conducting background checks and negotiating a contract with the chosen attorney were discussed and Ms. Weising asked Council to use a consistent approach when questioning the candidates.

Interviews were then conducted with the following candidates:

Milton Galbraith - 8:44 a.m. to 10:03 a.m.

(See portfolio contained in the file for this meeting in the City Clerk's Office.)

David LaCroix - 10:05 a.m. to 11:28 a.m.

John Turner - 11:30 a.m. to 12:22 p.m.

(See portfolio contained in the file for this meeting in the City Clerk's Office.)

Recess 12:24 p.m. - 1:30 p.m. It is noted for the record that the same Council Members were present when the meeting reconvened.

Jeffrey Kurtz - 1:32 p.m. to 2:32 p.m.

Howard Bernstein - 2:35 p.m. to 3:13 p.m.

Kenneth B. Cuyler (Law Firm of Roetzel and Andress, P.A.) - 3:38 p.m. to 3:49 p.m.

(See memorandum contained in the file for this meeting in the City Clerk's Office.)

.....**ITEM 4**
ACTION WITH REFERENCE TO ENGAGING THE SERVICES OF A CITY ATTORNEY (3:50 p.m.)

Council Member Herms stated that he felt either Mr. Galbraith or Mr. LaCroix would be suitable should Council decide to retain an in-house attorney. Mayor Barnett, however, maintained that Mr. Cuyler was the best choice as City Attorney. Council Member Van Arsdale concurred and said the City has received excellent legal services since retaining Mr. Cuyler's firm. He also referred to Mr. Cuyler's timely responses, articulate legal opinions, and the firm's successful

litigation record on behalf of the City and maintained that continuing with Roetzel and Andress, P.A. is the more cost effective approach.

Council Member Herms observed that any in-house attorney chosen should nevertheless be an effective litigator. Council Member Coyle said that although he had initially preferred an in-house counsel, a highly-respected, well-placed law firm may have an advantage in court over an individual employee. Council Member Coyle also pointed out that his experiences with Mr. Cuyler have been favorable and said there was an attendant risk in exchanging a known quantity for the unknown. Vice Mayor MacKenzie said she felt Messrs. Cuyler and Galbraith were the top candidates but added that she has been very satisfied with City Attorney Cuyler's work. She also stated that this was a time when the City's best interests, and not personal preferences, should be considered. Council Member Nocera said he was not sufficiently impressed with the other candidates to replace the present City Attorney and therefore urged Council to retain Roetzel and Andress, P.A. by a unanimous vote.

Council Member Tarrant then noted Mr. Cuyler's conflict in the Naples Landing litigation and maintained that there would also be a conflict with his representation of the City of Naples and the City of Marco Island. Mr. Tarrant said he would have been comfortable engaging either Mr. Bernstein or Mr. Galbraith but added that, given the sentiment being expressed by Council, he would vote to retain Mr. Cuyler as City Attorney. Council Member Coyle then suggested that Council Members discuss their concerns regarding future conflicts of interest with Mr. Cuyler and also recommended establishing a rotation list of alternative attorneys should these conflicts of interest arise. Vice Mayor MacKenzie, however, responded that the firm of Roetzel and Andress, P.A., not Mr. Cuyler, represents the City of Marco Island and the City of Naples. Additionally, she reminded Council that Roetzel and Andress represented the Naples Airport Authority at the time Mr. Cuyler was chosen City Attorney and, although this dual representation is permitted under the Charter, Roetzel and Andress declined further representation of the N.A.A. in order to avoid conflicts of interest. Council Member Van Arsdale then noted that prior conflicts of interest concerning Roetzel and Andress had been infrequent and had not created legal problems for the City. He reiterated his position that the legal services provided by Mr. Cuyler and Roetzel and Andress have been of high quality.

MOTION by Van Arsdale to RETAIN ROETZEL AND ANDRESS, P.A. AS THE CITY'S ATTORNEY; seconded by Herms and unanimously carried all members present and voting. (Coyle-yes, Herms-yes, MacKenzie-yes, Nocera-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes)

CORRESPONDENCE and COMMUNICATIONS (4:14 p.m.).....
None.

ADJOURN
4:14 p.m.

Bill Barnett, Mayor

Minutes prepared by:

Virginia A. Neet,
Deputy City Clerk

Minutes approved: 8/5/98.