



City Council Chamber
735 Eighth Street South
Naples, Florida 34102

City Council Workshop Meeting – Monday, October 19, 1998 – 8:30 a.m.

Mayor Barnett called the meeting to order and presided.

ROLL CALL ITEM 1

Present: Bill Barnett, Mayor
Bonnie R. MacKenzie, Vice Mayor
Council Members:
Fred Coyle
John Nocera (arrived 8:32 a.m.)
Fred Tarrant
Peter H. Van Arsdale

Absent:
Joseph Herms, Council Member

Also Present:

Dr. Richard L. Woodruff, City Manager
Tara Norman, City Clerk
Duncan Bolhover, Adm. Specialist
Steve Moore, Police Commander
Ann Walker, Planner
Dr. Jon Staiger, Natural Resources Mgr.
Jim Dean
Gil Erlichman
Lorry Ulrich
Janice McBride Ward
William Meek
Joy Lelonek
Cheryl Coyle
Barbara Shaw
Arlene Guckenberger
Werner Haardt
Charles Thomas

Media:

Dave Taylor, MediaOne
Michael McCormack, Naples Daily News

Other interested citizens and visitors.

**Prior to commencement of the agenda,
the public was notified of procedures to
be followed by speakers and petitioners.**

ITEMS TO BE ADDEDITEM 2

None.

BRIEFING BY CITY MANAGER.....ITEM 3

City Manager Richard Woodruff provided a written **tree planting** report showing data for September as well as year to date. (A copy of this report is contained in the file for this meeting in the City Clerk's Office.) Dr. Woodruff noted that the staff was striving to reach the Council's goal of planting 1,000 trees in 1998 (559 planted to date) but had encountered difficulties due to water/sewer mains and other issues. He said that a detailed report would be made in November. City Manager Woodruff encouraged Council Members to participate in a **tour of the Big Cypress Basin Facility** which had been scheduled for noon. **(It is noted for the record that Council Member Nocera arrived at 8:32 a.m.)** It was determined that a **joint workshop with the Naples Airport Authority** would be scheduled for Monday, November 2. This discussion will include the North Road extension relative to a second Gordon River crossing. Dr. Woodruff reported that approximately 4,000 tons of **sea grass** which washed onto the beach as a result of the passage of Hurricane Georges had been removed in 2.5 weeks using City crews and private haulers. The effort involved approximately 1,000 truck loads. Final grooming will be accomplished by the County's beach raking equipment. The Federal Emergency Management Agency, he said, would reimburse 87% of eligible costs and Collier County would fund the remainder through tourist tax revenues. Council Member Tarrant expressed his appreciation for Dr. Woodruff's leadership on this project. Dr. Woodruff also reported that the **River Park Recreation Center consultant selection committee** had determined to proceed with the construction management at risk technique and would be advertising for architectural and engineering services. Council agreed to add an item to the October 21 regular meeting agenda to appoint a member to the **Intergovernmental Affairs Committee** which was being jointly formed with the City of Marco Island. City Manager Woodruff then requested Council's determination relative to opening of a **sauna and beauty salon on the third floor of the Inn On Fifth** which had been initially proposed as an accessory use for lodging guests only. It has been the staff's interpretation that the Fifth Avenue South Overlay District regulations prohibit location of a business on the third floor, he said, but noted that if the Council chose not to accept this determination, it could also allow it without a formal waiver or, otherwise, could schedule a formal consideration of a waiver. Council Member Van Arsdale said that public use of such facilities is common in other similar establishments. **It was the consensus of Council that Philip McCabe, hotel developer, petition Council for a formal waiver.**

.....ITEM 4
JOINT DISCUSSION WITH STAFF ACTION COMMITTEE / PRESENTATION OF
"IMAGES OF OUR ENVIRONMENT – ART IN PUBLIC PLACES PROGRAM"

The following individuals made a presentation to City Council entitled "Images of our Environment – Naples Main Street Art in Public Places Program": Janice McBride Ward, Lorry Ulrich, William Meek, Barbara Shaw and Joy Lelonek. (A copy of the materials presented are appended hereto as Attachment 1.) In their review, the representatives indicated that the original pieces of artwork proposed for inclusion initially on Fifth Avenue South would adhere to the aforementioned theme and would be both purchased for permanent display and on loan. Although pieces which are on loan may be purchased at the conclusion of the exhibit, no marking would appear on the piece; sales would be handled through the Art In Public Places program which would derive the commission. It was stressed, however, that artworks would be included only after City Council approval and that initial review would be accomplished by the Staff Action Committee (SAC) in conjunction with City staff.

It was the CONSENSUS of Council that this program be APPROVED AS PRESENTED.

.....ITEM 5
DISCUSSION PERTAINING TO THE USE OF MINORS IN TOBACCO SALE ENFORCEMENT. (Requested by Council Member Tarrant)

Council Member Tarrant said that while he fully supports and takes pride both in the Police & Emergency Services Department and Chief Kevin Rambosk, he opposes the Department's use of underage decoys to enforce the law against sale of tobacco products to minors. He expressed concern about the safety of the young participants when this enforcement, as noted in a *Naples Daily News* article, also entails other types of potentially violent criminal activity such as drug arrests. He said that he believed that the written permission provided by parents may not be legally sufficient to protect the City against potential liability. Mr. Tarrant also stated his belief that this type of enforcement constitutes entrapment, and if decoys are used at all they should be adults. He pointed out that because officers receive extra duty pay for tobacco enforcement, this additional remuneration may also be a driving factor in the program. In conclusion, Council Member Tarrant took exception to a quote by Chief Rambosk in the *Naples Daily News* denying that this enforcement constitutes entrapment but that the youngsters must be able "to act cool and mature." He said that it appeared to be the same type of misused legal terminology Americans were growing tired of from President Bill Clinton.

Police Commander Steve Moore then described the enforcement program which is being conducted under Chapter 569, Florida Statutes, including working with retailers to achieve voluntary compliance and also training of sales clerks. Through this program, Police & Emergency Services, has in six months been able to provide 1,400 extra hours of police presence in the community via state funding. He stressed, however, that juveniles are involved only in the retail compliance aspect of the program wherein they merely attempt to purchase tobacco products. This is closely supervised at all times by law enforcement personnel and is conducted under strict guidelines which include requiring the decoy to carry proper identification at all times showing his or her actual age and, if asked by the sales clerk, to always state his or her correct age. The decoy enters the store followed by an officer and/or maintains visual contact with an officer stationed outside the store. If a tobacco purchase occurs, the decoy immediately takes the product to the officer outside the store, and the officer then enters the establishment and issues a citation.

Another phase of the tobacco sales enforcement program, which uses no youngsters, Commander Moore said, involves officers investigating persons who they suspect to be under age and in possession of tobacco products. This was the case in the recent drug arrest reported in the *Naples Daily News*. Although \$7,000 locally in fines have been assessed in the program to date, 80% of revenue is conveyed to the Department of Education to support further tobacco education, and the remainder is retained by the Clerk of Courts for administration. A third phase of the tobacco enforcement effort, he said, involves the Governor's campaign to remove illegal tobacco products from the proximity of schools and stated that decoys are not used to inform on their contemporaries but are volunteers who often have already participated in various law enforcement outreach programs. He also pointed out that the sale of tobacco, like alcohol, is a regulated activity and outlets are subject to inspection and search without warrant. In further response to Council Member Tarrant, Commander Moore confirmed that the decoy is required to appear in court when cases against retailers are tried.

Public Input: (9:50 to 9:57 a.m.) **Gil Erlichman, East Naples**, provided City Council with a copy of a letter he had written to the editor of the *Naples Daily News* (Attachment 2) opposing the aforementioned tobacco enforcement program and said that he could not understand why a parent would give permission for a child to participate. He contended that using underage decoys fostered mistrust instead truthfulness, integrity and honesty. **James Dean, 1320 28th**

Avenue North, commended the program, noting that it was the obligation of law enforcement to enforce these regulations. He distributed materials to illustrate an increase in crime among juveniles (Attachment 3) and pointed out that law enforcement officers risk their lives daily in service to the public.

Council Members indicated support for the Police Department's continuation of the program (Tarrant dissenting and Herms absent). Council Member Coyle, however, recommended that as much information about the program be conveyed to parents prior to consenting for youngsters to participate as decoys.

REVIEW OF ITEMS ON 10/21/98 REGULAR MEETING AGENDA.....ITEM 6
Item 5-b (special events) will be removed from Consent Agenda for discussion and staff will provide a calendar showing special events approved. **Item 5-e (800 MHz equipment)** will be deleted from the agenda. **Item 6 (hours for tree trimming/removal)** staff will provide complete review at the regular meeting. **Item 10 (Naples PHO)** The Human Resources Director will be present to answer questions at the regular meeting. **Item 14 (Intergovernmental Affairs Committee)** will be added to the regular meeting agenda to establish this group with the City of Marco Island. **Item 15 (Art in Public Places Program)** will require formal action to incorporate this program into Staff Action Committee's duties.

CORRESPONDENCE / COMMUNICATIONS.....
Council received copies of the **Annual Work Program** which will be scheduled for formal acceptance at a later date. A reopening ceremony for the Fleischmann **Skate Park** will be held on Saturday, October 24, at a time to be announced. The Council discussed the **41-10 redevelopment plan** as being the first topic of the City's half-hour cable television program, Council Member Nocera, however, voicing his opposition because the plan had not yet been finalized. Vice Mayor MacKenzie pointed out that a majority of Council had supported an effort to inform the public on this topic, noting that it would afford interested parties an opportunity to be heard prior to finalization. City Manager Woodruff reported that the 41-10 Special Committee would meet that day to clarify language and that the adoption process would move forward in November.

ADJOURN.....
10:25 a.m.

OPEN PUBLIC INPUT.....
None.

Bill Barnett, Mayor

Minutes prepared by:

Tara A. Norman, City Clerk

Minutes approved: 11/4/98.