



City Council Chamber  
735 Eighth Street South  
Naples, Florida 34102

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**City Council Workshop Meeting – April 5, 1999 – 8:30 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  
Bonnie R. MacKenzie, Vice Mayor  
Council Members:  
Fred Coyle  
Joseph Herms  
John Nocera  
Fred Tarrant  
Peter H. Van Arsdale

**Also Present:**

Richard Woodruff, City Manager  
Kenneth Cuyler, City Attorney  
Tara Norman, City Clerk  
Kevin Rambosk, Chief of Police & E.S.  
Donald Wirth, Community Svs. Director  
Jon Staiger, Natural Resources Manager  
Ron Lee, Planning Director  
William Harrison, Assistant City Manager  
Virginia Neet, Deputy City Clerk  
Jessica Rosenberg, Recording Specialist  
Duncan Bolhover, Admin. Specialist  
Arlene Guckenberger  
Werner Haardt  
James Dean  
Cheryl Coyle

Amy Rego  
Charles Kessler  
Bill McKinney  
Victoria Pollock  
Crystal Kinzel  
Robert Fernandez  
Michael Smykowski  
David Weigel  
Pamela MacKie  
Other interested citizens and visitors

**Media:**

AnneElena Foster, Naples Daily News

**ITEMS TO BE ADDED .....ITEM 2**  
None (8:31 a.m.)

**.....ITEM 3**  
**DISCUSSION REGARDING PUBLIC RECORDS POLICY/ACCESS (REQUESTED BY COUNCIL MEMBER HERMS) (CONTINUED FROM 3/15/99) (8:32 a.m.)** Police Chief Kevin Rambosk noted the importance of an efficient public record-keeping system and added that approximately 25,000 records per year are processed in the police department alone. He indicated that in 1989 the department became accredited by the Commission for Accreditation for Law Enforcement Agencies (CALEA). The department has also researched all its documents produced prior to accreditation, and created appropriate files and logs where necessary. Chief Rambosk indicated that he had also met with City Clerk Tara Norman to ensure that the records are maintained according to applicable law and to institute a checks-and-balances system. He then stated that he would present a program on quality assurance and professional standards to the City Manager in a few weeks, but added that he would conform to any new Citywide policy.

Chief Rambosk indicated his department uses a computer tape and a hard copy records system, and added that some of these files are eventually transferred to the Clerk's Office for long-term storage. Ms. Norman added while the City has not microfilmed records recently, such services would again be acquired in the future. She presented various definitions of records management and public records. Council Member Herms noted that the records held by City-hired consultants or other companies may in some cases also be a matter of public record. City Attorney Kenneth Cuyler stated, however, that in some cases records are exempt from public inspection such as those pertaining to an attorney-client relationship. Ms. Norman added that even if a government claims that a particular record is exempt, possession must still be disclosed so that the public may then contest that determination.

City Manager Richard Woodruff stated that retention periods vary depending on the type of public record. He also explained that the originating department is the designated body to retain a City record such as a memorandum. For further clarification, he explained that if a citizen sent a letter to the Mayor, with copies to various City staff, the Mayor's copy only is the one that must be retained as the record copy. He also cautioned that City-related documents created by Council Members off-site must be provided to the Mayor's secretary for filing. Ms. Norman cautioned however that even if the originating department has retained a record copy for the designated time period, should a copy exist elsewhere in City government unknown to that department, the information in fact is not obliterated. Council briefly discussed the concept of a record custodian, however Attorney Cuyler indicated that generally this individual would be the department director for records contained in that department. Dr. Woodruff added that since the City strives to respond quickly to document requests, most often requestors are referred directly to the appropriate department for records. He further clarified that the Public Records Law requires the production of documents, not their creation. In regard to a question from Mr. Herms, Ms. Norman stated that she is the City's appointed Records Management Liaison Officer who obtains approvals for disposition or clarification on records retention with the State of Florida.

Council Member Herms then noted that if Council enacted policy to put the Clerk in charge of all City records, a charter amendment may be necessary. Attorney Cuyler, noted, however, it would probably be unwise to put every document under the charge of the Clerk. Mr. Herms clarified that he felt the Clerk should be the official designated authority for all City records, and that if a citizen encounters difficulty obtaining a record from a City department, the Clerk should provide the necessary assistance. Ms. Norman suggested this proposal be enacted as a local

policy, and Dr. Woodruff added that this practice is actually in effect as managerial policy. Mr. Herms questioned the manner by which citizens are informed that a requested record is exempt; Attorney Cuyler indicated he would research the statute to determine whether a claim of exemption must be in writing to the individual requesting the record.

*It was the consensus of Council to authorize City Attorney Kenneth Cuyler to draft an ordinance affirming managerial policy which establishes the City Clerk as the authority over all non-exempt records.*

.....ITEM 10  
**REVIEW OF ITEMS ON THE 4/7/99 REGULAR MEETING AGENDA (10:13 a.m.) - Item 5-f (contract for the Waterfront Operations Center)** – Council Member Herms requested that this item be discussed separately. **Item 5-i (contracts for properties surrounding City water production wells)** – Vice Mayor MacKenzie requested clarification on contract prices. **Items 5-g and 5-h (granting of easements to Florida Power & Light at the Naples Airport)** – Council Member Herms questioned the outcome should Council not grant these easements. **Item 8 (conditional use for staged entertainment at the Island Club)** – Vice Mayor MacKenzie asked whether the music would be amplified. **Item 10 (variance for an 11-foot rear yard setback)** – At the request of the petitioner, this item will be continued to the April 21st Regular Meeting; Council Member Herms requested that information be provided at that time regarding a permit applied for on 10/14/97. **Item 18 (ordinance to prohibit sandwich board signs)** – Council will discuss this item at the April 19<sup>th</sup> Workshop Meeting. **Added Item 22 (purchase order for two transfer pumps).**

**Recess 10:18 a.m. to 10:29 a.m. It is noted for the record that all Council Members were present when the meeting reconvened.**

.....ITEM 6  
**PRESENTATION BY COLLIER COUNTY STAFF RELATING TO BUDGET POLICY AND SHERIFF'S BUDGET (10:29 a.m.)** County Administrator Robert Fernandez stated that there are significant changes proposed for the upcoming County budget involving the funding of Sheriff's services and for parks due to Marco Island incorporation. He also stated that the County deems it consistent to match the funding of services to the manner in which those services are provided. County Budget Director Michael Smykowski explained that the proposed changes would appropriately allocate 100% of the costs of the Sheriff's Office to the countywide general fund, because the Sheriff's service is of countywide benefit and would simplify allocation. The policy would also shift the majority of the parks and recreation functions as well as a majority of the Natural Resources Department functions from the general fund to the unincorporated area general fund (the Municipal Special Taxing District or MSTD). Mr. Smykowski then explained the proposed fiscal impact as reported on the synopsis provided, a copy of which is contained in the Clerk's Office in the file for this meeting. In reference to a question posed by Council Member Herms, Mr. Smykowski clarified that the residents of Naples would pay approximately \$3.80 for every \$100,000.00 of taxable value. Vice Mayor MacKenzie questioned how much additional Sheriff protection the City would receive under the new allocation; absent a reply from the County staff, Mayor Barnett said this was of major concern.

County Commission Chair Pamela MacKie explained that she had in fact voted against changing the funding formula because she felt it would exacerbate tax equity problems between the City and County, and also she sought to respect a prior settlement agreement. She also explained that the proposed increase would cover the cost of three substations; namely Everglades City, Immokalee, and Marco Island. Sheriff's Finance Director Crystal Kinzel pointed out that while the City did derive some benefit from surrounding districts such as North Naples and Golden Gate, it did not benefit from the distant substations such as Immokalee and Marco Island. The road patrol for the distant substations was therefore removed from the general fund and placed in

the unincorporated taxation fund. Although Mr. Smykowski said he had cautioned Marco Island that it must pay for services provided, the Sheriff indicated he would respond irrespective of funding issues. Mr. Smykowski therefore stated the real and substantial benefit of the Sheriff's Office is Countywide, and not proportionate to taxes paid. Council Member Herms suggested that since the City pays taxes into a Countywide program, it should receive a proportionate share of the support officers and Council Member Van Arsdale urged that the City be treated equitably. Ms. MacKie suggested creation of a third MSTD for incorporated areas that do not provide their own police protection. Mr. Fernandez stated this could not be done without that particular city's permission and explained that when Marco Island incorporated, it no longer received services from the Municipal Special Taxing Unit (MSTU) although continuing to be served by the Sheriff's substation without paying into that fund. Ms. MacKie noted that Marco Island has not however as yet paid the additional rate to the County for those services.

City Manager Richard Woodruff commended the County staff for its efforts in achieving balance but cautioned that since Naples constitutes 25% of the assessed value of the County, any program funded on a Countywide basis would mean that one of every four dollars would be funded by the City. Council Member Coyle noted that he believed the City would pay more each year for services due to the population growth in the County, and advocated exploring impact fees and other sources of funding. Council Member Tarrant noted that the Taxpayer Action Group has produced a pertinent report and proposed a workshop on the group's findings. (A copy of this report is contained in the file for this meeting in the City Clerk's Office.) Dr. Woodruff urged that Council consider the issue and provide recommendations to the County, and Mr. Herms noted it may be beneficial to first meet with the Marco Island City Council for their input.

.....**ITEM 11**  
**DISCUSSION ON POSSIBLE CITY INVOLVEMENT IN THE NAPLES AQUARIUM**

(11:36 a.m.) Council Member Nocera noted his efforts to save the Naples Aquarium and he encouraged the City to operate it from the City dock. Aquarium Executive Director Victoria Pollock stated that the facility has been open for one year and explained that its main objective is to educate area residents and visitors about the importance of the environment and their role in preserving it. Ms. Pollock then clarified that the operating budget is \$300,000.00 per year and that the aquarium has earned \$150,000.00 in ticket sales. She then detailed the budget projections should the facility move to the dock. (A copy of this material is contained in the file for this meeting in the City Clerk's Office.) Natural Resources Manager Jon Staiger explained that permitting may not be possible at this location, as the aquarium is not a water-dependent use. City Manager Richard Woodruff reminded Council that the dock is an enterprise fund and is not subsidized by ad valorem taxes, therefore the staff cannot support utilizing this location if there is any redirection of revenue.

Mayor Barnett noted his concern regarding traffic and parking issues while Council Member Tarrant favored the idea and urged further analysis. Council Member Coyle also favored the idea of saving the aquarium, but did not support placing it at the City dock. He instead proposed that the aquarium coordinate a joint arrangement with The Conservancy. Council Member Van Arsdale also suggested exploring alternatives such as a marina site off River Point Drive. Both Vice Mayor MacKenzie and Council Member Herms acknowledged the issues already raised, and also conceded that the dock was not an appropriate location. Mayor Barnett nevertheless indicated his desire to help preserve the aquarium and offered to contact The Conservancy on the aquarium's behalf. Vice Mayor MacKenzie suggested exploring the new Stoneburner development (Bayfront Marketplace) as an alternate location.

**Public Input:** 12:02 p.m. **Bill McKinney, 1898 Mission Drive**, stated that he felt the aquarium is an asset to the City, and that it has potential to become a great success.

*It was the consensus of Council to support the preservation of the Aquarium; however, Council recommended coordination with The Conservancy or other entities in order to explore alternate locations aside from the City Dock.*

.....**ITEM 4**  
**DISCUSSION REGARDING THE PAVILION RELOCATION/REHABILITATION AND TREE-PLANTING PROGRAM OF CAMBIER PARK PHASE II REDEVELOPMENT** (12:06 P.M.) Community Services Director Don Wirth presented an illustration of pavilion rehabilitation, although the Community Services Advisory Board had recommended that it be relocated and not rehabilitated. City Manager Richard Woodruff explained the options: to leave the pavilion as is, authorize funding for rehabilitation, or to construct another facility. Mayor Barnett favored rehabilitation while Council Member Van Arsdale and Council Member Nocera favored relocation. Vice Mayor MacKenzie, Council Member Herms, Council Member Coyle, and Council Member Tarrant favored leaving the facility as is. Mr. Wirth noted the consensus, and stated that the park tree-planting program can now proceed.

*Regarding the status of the pavilion, it was the consensus of Council to maintain the status quo at this time. The tree-planting program will proceed as planned.*

.....**ITEM 7**  
**REVIEW OF BUILDING HEIGHT REGULATIONS** (12:18 p.m.) This item has been deferred to the April 19<sup>th</sup> Workshop Meeting.

.....**ITEM 8**  
**DISCUSSION REGARDING A POSSIBLE BALLOT QUESTION PERTAINING TO A SUPERMAJORITY VOTE REQUIREMENT. (CONTINUED FROM 3/15/99)** (12:19 p.m.) City Manager Richard Woodruff read the language for the proposed ballot question into the record (Attachment 1). Council Member Coyle proposed adding the word “annexation” to the list of items requiring a supermajority. Council Member Van Arsdale said citizens should be asked whether they favor the City Council making decisions based upon a simple majority. Vice Mayor MacKenzie questioned the impact upon those items requiring a supermajority that already exist in the Charter; Dr. Woodruff however explained that if a Charter is to be amended, that must be made clear in the language. Mayor Barnett then proposed that each Council Member submit a version of the question for discussion at a future meeting.

*Each Council Member may draft proposed ballot language to be reviewed at a future Regular or Workshop Meeting.*

.....**ITEM 5**  
**REVIEW OF LEGAL FEES CHARGED BY ATTORNEY WILLIAM POVLTIZ AS IT RELATES TO NAPLES LANDING LITIGATION** (12:27 p.m.) Mayor Barnett explained that Attorney Povlitz had submitted a statement, but that it had not been sufficiently itemized. Although he submitted a revised bill, Council posed additional questions to discuss with him.

*This item has been deferred to the April 19<sup>th</sup> Workshop Meeting or until Attorney Povlitz is available.*

**BRIEFING BY CITY MANAGER** (12:32 p.m.) .....**ITEM 9**  
City Manager Richard Woodruff read his 3/24/99 letter into the record regarding the policy for media requests for information on City personnel matters, the personnel policies of the City, City employee benefits, discipline, and internal investigations (Attachment 2). He detailed the actual written procedure to be followed regarding these requests, and added that City employees no longer speak on the record about these sensitive matters to safeguard the rights of the individual employee. Dr. Woodruff clarified that a person releasing verbal information on specific cases

may not fully understand the financial and legal implications of the matter, and stressed that the City must be protected. This directive, he said, is in his authority to implement.

**CORRESPONDENCE AND COMMUNICATION (12:51 p.m.)**.....

Council Member Herms requested Council approval for a presentation at the April 19<sup>th</sup> Workshop Meeting relative to the beach rocks issue. Council Member Nocera noted that City staff is currently exploring the purchase of a portion of the Chlumsky property at the entrance to Royal Harbor for possible development into a linear park. Council Member Coyle noted a forthcoming merger between MediaOne and Comcast Corporation; City Manager Richard Woodruff indicated he would apprise Adrian Herbst, the City's cable franchise attorney, for pertinent legal requirements. Mr. Coyle then proposed staff research the feasibility of altering the start time of certain construction activities, such as pile driving, due to the noise involved. Mr. Coyle also suggested the creation of an ordinance to restrict hours of permitted parking on City rights-of-way; Dr. Woodruff however noted the necessity for signage in this regard and suggested language to impose restrictions only where posted. Council Member Tarrant proposed workshop discussions on the report produced by the Taxpayer Action Group regarding a proposed sales tax increase. Council Member Herms requested a short presentation at the April 7<sup>th</sup> Regular Meeting regarding the City's current noise ordinance and on noise-testing procedures.

**OPEN PUBLIC INPUT (1:05 p.m.)**.....

None

**ADJOURN (1:05 p.m.)**.....

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Bill Barnett, Mayor

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Tara A. Norman, City Clerk

Prepared by:

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Jessica R. Rosenberg, Recording Specialist

Minutes Approved: 4/21/99.













