



City Council Chamber
735 Eighth Street South
Naples, Florida 34102

City Council Regular Meeting – April 21, 1999 -9:00 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
Fred Tarrant
Peter H. Van Arsdale (Arrived at 9:03 a.m.)

Also Present:

Richard L. Woodruff, City Manager
Kenneth B. Cuyler, City Attorney
Richard Gatti, Development Services Director
Tara Norman, City Clerk
Ron Lee, Planning Director
Cory Ewing, Planner
Susan Golden, Planner
Virginia Neet, Deputy City Clerk
Duncan Bolhover, Administrative Specialist
Cheryl Coyle
Bill Boggess
Reverend Arthur Holt
Victor Neiditz
Gary Burris
John DeBaun

Jane Varner
Jane Olds
Jean Fort
Albert Abrahams
Werner "Duke" Haardt
Arlene Guckenberger
Leonard Reina
Amy Rego
Mrs. Fred Tarrant
Charles Kessler
George Varnadoe

Media:

AnnaElena Foster, Naples Daily News

INVOCATION and PLEDGE OF ALLEGIANCE.....ITEM 2

Reverend Arthur Holt, Naples Unity Church

ANNOUNCEMENTSITEM 3

Arbor Day Proclamation – Mayor Barnett proclaimed April 30th 1999 as Arbor Day in Naples which Parks and Parkways Supervisor Terry Fedelem noted would be commemorated with a tree dedication ceremony at the Utility Center.

Sprint's 100-Year Anniversary Proclamation – Mayor Barnett proclaimed 1999 as Sprint's 100th anniversary year.

Paint Your Heart Out – Mayor Barnett recognized the City's efforts in providing housing assistance to needy, low income, elderly, and disabled households and proclaimed May 1st 1999 as "Paint Your Heart Out" day in Naples; Planner Susan Golden announced that 15 homes would be painted on that day and encouraged the public to volunteer.

Additionally, City Manager Richard Woodruff noted that a ceremony would take place on April 30th (11:30 a.m.) at Cambier Park commemorating the 210th anniversary of the inauguration of George Washington.

Tennis Supervisor Louanne Melone-Fischer then announced that the Cambier Park Tennis Center had been named "Court of the Year" by *Tennis Industry Magazine* in recognition of the Center's amenities, landscaping, and programs; the facility will also be featured in the May/June issue of this magazine. Ms. Melone-Fischer then thanked Council and City staff for their diligence on this project.

ITEMS TO BE ADDEDITEM 4

City Manager Richard Woodruff requested that the following items be added to the agenda:

Item 5-b(5) Approve the Greater Naples Little League "Boogie for the Ballfield" special event - 5/21/99

Item 16 Consider authorizing the City's participation in the "Clean Cities Program".

Dr. Woodruff also noted that staff was requesting a continuation of Item 8 (Residential Impact Statement) Council Member Herms requested discussion regarding a possible ballot question pertaining to a supermajority vote requirement, however, it was the consensus of Council (Herms, Tarrant, and Coyle dissenting) that this discussion would take place during the May 3, 1999 Workshop Meeting.

MOTION to SET AGENDA and ADD ITEMS 5-b(5) AND 16; seconded by Nocera and unanimously carried, all members present and voting. (Coyle-yes, Herms-yes, MacKenzie-yes, Nocera-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes)

CONSENT AGENDA

APPROVAL OF MINUTESITEM 5-a

April 5, 1999 Workshop Meeting.

.....ITEM 5-b

APPROVE THE FOLLOWING SPECIAL EVENTS:

- (1) Earth Day Celebration - 4/24
- (2) Naples Beach Hotel SummerJazz Series - 5/22, 6/19, 7/17, 8/21, 9/18
- (3) Tropicool 5K Run/Walk - 5/2
- (4) Tropicool Street Dance - 4/23
- (5) Greater Naples Little League fundraiser and concert – 5/21

.....ITEM 5-c

AUTHORIZE A CHANGE ORDER TO ANGIE BREWER & ASSOCIATES FOR ADDITIONAL ADMINISTRATIVE SERVICES RELATED TO STORMWATER

STATE REVOLVING FUNDS \ Amounts: \$15,400.41 (Application and Agreement Phase) and \$46,497.20 (Bidding, Contract Award, and Construction Phase) \ Funding: Stormwater Other Contractual Services Budget.

END CONSENT AGENDA

MOTION by Van Arsdale to **APPROVE THE CONSENT AGENDA** (with the addition of Item 5-b(5)); seconded by Nocera and unanimously carried, all members present and voting. (Coyle-yes, Herms-yes, MacKenzie-yes, Nocera-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes)

RESOLUTION 99-8521.....ITEM 9

A RESOLUTION GRANTING VARIANCE PETITION 99-V2 FROM SECTION 102-176(3)(b) OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES, WHICH ALLOWS A MINIMUM 15-FOOT REAR YARD SETBACK FOR SCREEN-ENCLOSED POOLS, IN ORDER TO PERMIT AN 11-FOOT REAR YARD SETBACK FOR A SCREEN-ENCLOSED POOL, AT 481 17TH AVENUE SOUTH; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Richard Woodruff (9:15 a.m.) City Manager Woodruff used overhead transparencies, copies of which are contained in the file for this meeting in the City Clerk's Office, to review the building permit record for this property. He noted that when the swimming pool was built in 1996 (via permit #312), the edge of the pool, which was not screened, was set back approximately 16 feet from the rear property line. Council Member Herms, however, pointed out that the Code allows the surrounding pool deck to extend to the property line or, in this case, to the water. In reviewing subsequent permits, Dr. Woodruff explained that permit #394 (screen enclosure) was based upon a site plan indicating a 15-foot setback which would result in the enclosure being just one foot from pool edge. The Building Department subsequently issued another permit for a screen enclosure with a lanai (permit #641), which indicated a 10-foot rear yard setback; the latter permit resulted in an encroachment into the setback although a Certificate of Completion was issued. Code Enforcement then cited the property owner for violation of the rear yard setbacks and the petitioner obtained still another permit (#133) to relocate the enclosure back to the original setback of 15 feet from the rear property line.

Council Member Herms referred to the January 1, 1999 Affidavit of Non-Compliance and the resulting accrual of \$28,000.00 in fines against the property. Code Enforcement Officer Gil Sherburne confirmed that these fines commenced on January 1st but added that the Code Enforcement Board would make the final determination regarding fines based on Council's action. Mr. Sherburne also conceded that he had only recently learned that permit #641 showed a 10-foot setback thus technically allowing the improvements to encroach the required setback; it was noted later in the discussion that all other permits issued for this property accurately reflected a 15-foot setback. Council Member Herms then questioned how the Code Enforcement Board could impose fines without this information. Mayor Barnett, however, asked why the property owner did not bring the building permit to the City's attention when the citation was issued.

In further discussion, Council learned that when the screen enclosure was first installed (to the correct 15-foot setback) the property owner asked the Building Official to inspect the improvements to determine whether the enclosure, installed only one foot from the pool's edge, created a safety hazard. Dr. Woodruff then read into the record the Building Official's letter to the property owner wherein he recommended a variance to cure the setback violation that occurred when the enclosure was extended to provide a walkway around the pool. (Attachment 1) Dr. Woodruff then stressed that Council's actions that day should be based on the petition's merits and not the Code Enforcement Board's determination. It was also noted that the

complaint was filed by a neighbor; Council Member Coyle also noted that the Aqualane Shores Homeowner's Association is on record opposing all variances of this type. Council Member Van Arsdale, however, pointed out that the City has historically upheld permits that were incorrectly issued; Council Member Nocera also suggested that the City return the most recent permit fee to property owner.

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

MOTION by Van Arsdale to APPROVE RESOLUTION 99-8521 AMENDED TO APPLY ONLY TO THE EXISTING POOL. IF THE POOL IS RELOCATED, IT MUST CONFORM TO THE SETBACK REQUIREMENTS. THE \$35.00 PERMIT FEE TO BE RETURNED TO THE PETITIONER; *seconded by Nocera. After the discussion that appears below, this motion was unanimously carried, all members present and voting. (MacKenzie-yes, Herms-yes, Van Arsdale-yes, Nocera-yes, Tarrant-yes, Coyle-yes, Barnett-yes)*

Council Member Herms and Coyle indicated that they would not have supported this variance had it not been for the incorrectly issued permit and Council Member Herms questioned the method by which the permits are issued and signed. Council also directed that the homeowners' association be apprised of this petition and the reasons for approval. Council Member Herms then requested a further report on why this permit was issued. Council Member Coyle suggested that supervisory staff members review and sign all permits. City Manager Woodruff, however, responded that the permit in question was most likely a combined result of human and computer error and noted that the Building Department accurately processes several thousand permits each year.

MOTION by Herms to DIRECT THE CITY MANAGER TO DRAFT A LETTER (to include a copy of the permit in question) TO THE AQUALANE SHORES PROPERTY OWNERS' ASSOCIATION IN ORDER TO PROVIDE BACKGROUND REGARDING THIS SITUATION AND TO ALSO PROVIDE THIS INFORMATION TO THE CODE ENFORCEMENT BOARD AT ITS NEXT MEETING; *seconded by Tarrant and carried 4-3, all members present and voting. (Nocera-yes, MacKenzie-yes, Coyle-no, Herms-yes, Van Arsdale-no, Tarrant-yes, Barnett-no)* Prior to the vote, Mayor Barnett stated that he would not support the motion since such direction to the City Manager does not require formal Council action.

Code Enforcement Board Member Leonard Reina clarified for Council that he is representing the petitioner at no charge and, therefore, has no conflict of interest under the City's ethics ordinance. He also offered for the record, his letter to petitioner Susanne Schache, dated April 8, 1999, in this regard. (Attachment 2)

ORDINANCE 99-8522.....ITEM 6

AN ORDINANCE REZONING CERTAIN PROPERTIES, MORE PARTICULARLY DESCRIBED HEREIN, TO BE CONSISTENT WITH THE CITY'S ADOPTED COMPREHENSIVE PLAN; AND PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION, AND AN EFFECTIVE DATE. Title read by City Manager Richard Woodruff. (9:47 a.m.) City Manager Richard Woodruff noted that this ordinance was approved on First Reading on April 7, 1999 and relayed staff's recommendation for adoption.

Public Input: None. (9:47 a.m.)

MOTION by Nocera to ADOPT ORDINANCE 99-8523; *seconded by Van Arsdale and unanimously carried, all members present and voting. (Coyle-yes, Herms-yes, MacKenzie-yes, Nocera-yes, Tarrant-yes, Van Arsdale-yes,*

Barnett-yes) After the vote, it was confirmed that this approval applied to all three parcels (18, 23, and 24).

ORDINANCE 99-8523.....ITEM 7

AN ORDINANCE AMENDING SECTION 78-172(a) AND 106-104(2) OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES IN ORDER TO REQUIRE WATER TAXIS TO PROVIDE PARKING CONSISTENT WITH THE REQUIREMENTS FOR CHARTER BOATS; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title read by City Manager Richard Woodruff. (9:48 a.m.) City Manager Richard Woodruff noted that this ordinance was approved on First Reading on April 7, 1999 and relayed staff's recommendation for adoption.

Public Input: None. (9:49 a.m.)

MOTION by Nocera to ADOPT ORDINANCE 99-8523 seconded by MacKenzie and unanimously carried, all members present and voting. (Coyle-yes, Herms-yes, MacKenzie-yes, Nocera-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes) After the vote, Council Member Coyle referred to views expressed by some of the Planning Advisory Board Members who disagreed with imposing such regulations when there are currently no City-based water taxis. Dr. Woodruff also relayed staff's interpretation that a water taxi, by definition, is limited to 12 passengers.

ORDINANCE (Continued)ITEM 8

AN ORDINANCE ADDING ARTICLE V TO CHAPTER 110 OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES IN ORDER TO ESTABLISH A "RESIDENTIAL IMPACT STATEMENT"; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title not read. (9:53 a.m.) City Manager Richard Woodruff requested a continuance of this item to the May 19, 1999 Regular Meeting.

Public Input: (on the continuance) None. (9:53 a.m.)

MOTION by Van Arsdale to CONTINUE ITEM 8 TO THE MAY 19, 1999 REGULAR MEETING; seconded by Nocera and unanimously carried, all members present and voting. (Coyle-yes, Herms-yes, MacKenzie-yes, Nocera-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes)

ORDINANCE (First Reading).....ITEM 10

AN ORDINANCE AMENDING SUBSECTION (d)(2) OF SECTION 2-463, STANDARDS OF CONDUCT FOR PUBLIC OFFICIALS, AND AMENDING SUBSECTION (a) OF SECTION 2-465, CONTRACTS FOR PROFESSIONAL AND CONSTRUCTION SERVICES, OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES, TO CLARIFY THE EXTENT TO WHICH AN ELECTED OFFICER OR ADVISORY BOARD MEMBER OF THE CITY CAN INTERACT WITH CITY STAFF ON BEHALF OF A CLIENT, AND TO ESTABLISH A MINIMUM THRESHOLD TO WHICH REQUIRED CONTRACT LANGUAGE IS APPLICABLE; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title read by City Manager Richard Woodruff. (9:53 a.m.) City Attorney Kenneth Cuyler explained that the amendment to Section 2-465(a) would set a minimum threshold (\$15,000.00) for contracts with the City to require the specific contract language set forth in the ethics ordinance. The proposed amendment to Section 2-463, he added, addresses concerns expressed by Council Members and advisory board members that the ethics ordinance may preclude them from interacting with City staff in the normal course of business (i.e. when the officer or member serves as an engineer or architect), provided, however, that the officer or member does not appear before their board or other advisory board or City Council on the issue. The ethics ordinance

defines "governmental body" as including all City departments. As such, a professional person would be unable to serve as an elected officer or advisory board member if his or her occupation requires dealing with City staff on behalf of clients. In response to Council Member Tarrant, City Attorney Cuyler explained that the proposed threshold was intended to address concerns regarding the cost effectiveness of incorporating the required contract language in small scale contracts. City Manager Woodruff further pointed out that the City's purchase order system used to secure smaller scale professional services such as real estate appraisals and surveys would, under the current ethics ordinance, also require a formal contract to incorporate the required language. Although Council Member Tarrant opposed compromising the ordinance in any way, Council Member Coyle stated that it had never been his intent to preclude a professional from dealing with City staff, with the exception of representing a client before a City board or City Council. He also suggested further modifications so as not to preclude a public official from interacting with City staff on his own behalf, such as when obtaining a building permit. Council Member Herms, however, said that a public official could manipulate and cautioned that Planning Advisory Board Members be prohibited from requesting a variance or an interpretation from staff.

Discussion then returned to the proposed \$15,000.00 threshold to which Council Members Coyle, Tarrant, and Herms again expressed their opposition and Council Member Tarrant suggested a continuance.

Public Input: None. (10:16 a.m.)

MOTION by Tarrant to CONTINUE ITEM 10 TO THE NEXT REGULAR MEETING; seconded by Herms. After the discussion which appears below this motion failed 3-4. (Van Arsdale-no, Nocera-yes, Tarrant-yes, Coyle-no, Herms-yes, MacKenzie-no, Barnett-no):

Council Member Coyle spoke against a continuance and also cautioned against over scrutinizing the ethics ordinance. In response to Vice Mayor MacKenzie, City Attorney Cuyler indicated that purchase orders could be interpreted as a contract under Section 2-465, however, to date the City's purchase orders have not contained the ethics ordinance language.

MOTION by Herms to NOT MAKE ANY CHANGES TO THE CITY'S ETHIC LAW; seconded by Coyle. This motion failed 3-4. (Nocera-no, MacKenzie-no, Coyle-yes, Herms-yes, Van Arsdale-no, Tarrant-no, Barnett-yes)

Vice Mayor MacKenzie then suggested voting on the proposed amendment to Section 2-463 separately.

MOTION by MacKenzie to APPROVE THIS ORDINANCE ON FIRST READING ONLY AS IT APPLIES TO SECTION 2-463 OF THE CODE OF ORDINANCES AND WITH ADDITIONAL LANGUAGE TO PRECLUDE DISCUSSION OF A FORMAL VARIANCE FROM THE REGULATIONS. ADDITIONALLY, SECTION 2-463(d)(2) SHALL APPLY TO BUILDING PERMIT APPLICATIONS; seconded by Van Arsdale. After the discussion which appears below this motion carried 5-2. (MacKenzie-yes, Herms-no, Van Arsdale-yes, Nocera-yes, Tarrant-no, Coyle-yes, Barnett-yes)

Council Member Coyle agreed with prior comments regarding an elected official or advisory board member having influence over staff and suggested additional language to prohibit them from discussing a variance on their own property with City staff or personally presenting such a petition to Council. This provision was then added to the motion above with the understanding the ordinance would be revised accordingly prior to Second Reading.

Per Council's direction, staff withdrew the proposed amendment pertaining to Section 2-465. It was also the consensus of Council to schedule Workshop discussions on the proposed changes to Section 2-463 prior to Second Reading.

.....ITEM 11

CONSIDER PURCHASE ORDERS, BASED ON A CITY OF FORT LAUDERDALE CONTRACT, FOR SANITARY AND STORM SEWER RELINING AND REHABILITATION/ Contractor (single source): Philip Utilities/Madsen-Barr, Longwood, Florida \ Amounts (not to exceed): \$206,745.00 (sanitary) and \$44,860.00 (storm sewer) \ Funding: CIP #99N04 and Stormwater Budget. (10:40 a.m.)

City Manager Richard Woodruff noted a significant cost saving through relining existing sanitary and storm sewers and referred to the staff report listing the sites involved in the contract. He also noted that a portion of the contract involves alleyway improvements in connection with the paving program. Development Services Director Richard Gatti also confirmed that the system after relining would be filmed and the City would retain the video.

Public Input: None. (10:42 a.m.)

MOTION by Van Arsdale to APPROVE ITEM 11 AS SUBMITTED;
seconded by Coyle and unanimously carried, all members present and voting. (Coyle-yes, Herms-yes, MacKenzie-yes, Nocera-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes)

.....ITEM 12

**CONSIDER A PURCHASE ORDER FOR SITE IMPROVEMENTS FOR PHASE 4 OF THE FACILITIES OPERATIONS CENTER PROJECT ** Contractor: Haskins, Inc., Bonita Springs, Florida \ Amount: \$631,774.00 (not to exceed) \ Funding: CIP #98V10, #99U20, and Stormwater Professional Services Budget. (10:43 a.m.)

City Manager Richard Woodruff explained that this is a request for a purchase order relating to phase four of the Facilities Operations Center project. Development Services Director Richard Gatti used aerial renderings of the project to illustrate how the existing entrance would be relocated approximately 100 feet southward in order to align with any future extension of 3rd Avenue North. Mr. Gatti also reviewed other components of the project including the new roadway, new box culvert to accommodate the drainage flow from the City yards and the pump station, and the 48-inch storm sewer that will eventually extend to the new 3rd Avenue and 10th Street. (A copy of this material is contained in the file for this meeting in the City Clerk's Office.) Mr. Gatti then reviewed the bidding process and efforts to reduce the original bids through redesign. Additionally, Dr. Woodruff pointed out that a majority of this work would be done in the evening (after 6:00 p.m.) when traffic is light. Staff will also research the possibility of having the contractor work through the night to further reduce traffic disruptions. Mr. Gatti estimated that this portion of the project would occur in August and predicted that the night work would reduce the time spent on Goodlette-Frank Road by one half. Cost allocations for the various components of the project were then analyzed and Council Member Herms commented on costs associated with the road relocation. He also questioned whether this aspect of the project was in fact necessary. Dr. Woodruff, however, noted advantages of coordinating road and sewer work and also explained how the relocation would better align the entrance.

Public Input: None. (10:58 a.m.)

MOTION by Van Arsdale to APPROVE ITEM 12 AS SUBMITTED;
seconded by Nocera. After the discussion that appears below, this motion

carried 5-2, all members present and voting. (Nocera-yes, Tarrant-no, MacKenzie-yes, Coyle-yes, Van Arsdale-yes, Herms-no, Barnett-yes)

Council Member Herms again questioned the need to realign the road since it will only be used by City employees; however, Mr. Gatti noted that this is also a public entrance to the Police Department. During the vote, Mr. Herms stated that his only objection was the approximately \$250,000.00 expenditure for the roadwork.

Recess 11:01 a.m. - 11:13 a.m. It is noted for the record that the same Council Members were present when the meeting reconvened.

.....ITEM 13

AUTHORIZE AN AFTER-THE-FACT PURCHASE ORDER FOR UTILITY RELOCATION AND IMPROVEMENTS NECESSITATED BY THE RECONSTRUCTION OF THE GORDON RIVER BRIDGE \ Contractor: Archer Western Contractors, Inc., Naples, Florida \ Amount: \$100,000.00 \ Funding: CIP #98L03. (11:13 a.m.)

City Manager Richard Woodruff reviewed the staff report and relayed staff's recommendation for approval.

Public Input: None. (11:14 a.m.)

MOTION by Tarrant to APPROVE ITEM 13 AS SUBMITTED; seconded by Van Arsdale and unanimously carried, all members present and voting. (Coyle-yes, Herms-yes, MacKenzie-yes, Nocera-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes)

RESOLUTION 99-8524.....ITEM 14-a(1)

A RESOLUTION APPOINTING ONE CITY RESIDENT TO THE BEACH RENOURISHMENT/ MAINTENANCE COMMITTEE FOR A TWO-YEAR TERM; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Richard Woodruff. (11:14 a.m.)

RESOLUTION 99-8425.....ITEM 14-a(2)

A RESOLUTION APPOINTING ONE CITY RESIDENT TO THE BEACH RENOURISHMENT/ MAINTENANCE COMMITTEE FOR A TWO YEAR TERM; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Richard Woodruff. (11:14 a.m.)

RESOLUTION 99-8526.....ITEM 14-b(1)

A RESOLUTION APPOINTING ONE MEMBER TO THE BOARD OF TRUSTEES OF THE CITY OF NAPLES POLICE OFFICERS' RETIREMENT TRUST FUND FOR THE BALANCE OF AN UNEXPIRED TERM; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Richard Woodruff. (11:14 a.m.)

RESOLUTION 99-8527.....ITEM 14-b(2)

A RESOLUTION APPOINTING ONE MEMBER TO THE BOARD OF TRUSTEES OF THE CITY OF NAPLES FIREFIGHTERS' RETIREMENT TRUST FUND FOR THE BALANCE OF AN UNEXPIRED TERM; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Richard Woodruff. (11:15 a.m.)

RESOLUTION 99-8528.....ITEM 14-c(1)

A RESOLUTION APPOINTING ONE MEMBER TO THE COMMUNITY SERVICES ADVISORY BOARD; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Richard Woodruff. (11:15 a.m.)

RESOLUTION (No action taken - position will be readvertised).....ITEM 14-c(2)

A RESOLUTION APPOINTING ONE MEMBER TO THE COMMUNITY SERVICES ADVISORY BOARD; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Richard Woodruff. (11:15 a.m.)

RESOLUTION 99-8529..... ITEM 14-d
A RESOLUTION APPOINTING ONE MEMBER TO THE MOORINGS BAY
SPECIAL TAXING DISTRICT ADVISORY COMMITTEE; AND PROVIDING AN
EFFECTIVE DATE. Title read by City Manager Richard Woodruff. (11:15 a.m.)

It is noted for the record that the above resolutions pertaining to Item 14 were considered concurrently.

City Clerk Tara Norman provided information regarding the candidates and the interviews conducted for each of the positions.

Public Input: None. (11:15. a.m.)

MOTION by MacKenzie to APPROVE RESOLUTION 99-8524 [Item 14-a(1)] APPOINTING ALEXANDRA GUNDERSON TO THE BEACH RENOURISHMENT/MAINTENANCE COMMITTEE; seconded by Nocera and carried 4-3, all members present and voting. (Coyle-no, Tarrant-no, MacKenzie-yes, Herms-no, Van Arsdale-yes, Nocera-yes, Barnett-yes)

MOTION by Herms to APPROVE RESOLUTION 99-8525 [Item 14-a(2)] APPOINTING CAROL LYNN KENDALL TO THE BEACH RENOURISHMENT/MAINTENANCE COMMITTEE; seconded by Tarrant and carried 4-3, all members present and voting. (Nocera-no, Herms-yes, Van Arsdale-no, Tarrant-yes, Coyle-yes, MacKenzie-yes, Barnett-no)

MOTION by MacKenzie to APPROVE RESOLUTION 99-8526 [Item 14-b(1)] APPOINTING MARC GERTNER TO THE BOARD OF TRUSTEES OF THE POLICE OFFICERS' RETIREMENT TRUST FUND; seconded by Nocera and unanimously carried, all members present and voting. (MacKenzie-yes, Herms-yes, Van Arsdale-yes, Nocera-yes, Tarrant-yes, Coyle-yes, Barnett-yes)

MOTION by MacKenzie to APPROVE RESOLUTION 99-8527 [Item 14-b(2)] APPOINTING MURRAY HENDEL TO THE BOARD OF TRUSTEES OF THE FIREFIGHTERS' RETIREMENT TRUST FUND; seconded by Van Arsdale and unanimously carried, all members present and voting. (Nocera-yes, MacKenzie-yes, Coyle-yes, Herms-yes, Van Arsdale-yes, Tarrant-yes, Barnett-yes)

MOTION by Nocera to APPROVE RESOLUTION 99-8528 [Item 14-c(1)] APPOINTING KIM KELLY TO THE COMMUNITY SERVICES ADVISORY BOARD; seconded by MacKenzie and unanimously carried, all members present and voting. (Coyle-yes, Herms-yes, MacKenzie-yes, Nocera-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes)

It was the consensus of Council to direct the City Clerk to re-advertise for the remaining Community Services Advisory Board vacancies [Item 14-c(2)].

MOTION by MacKenzie to APPROVE RESOLUTION 99-8529 [Item 14-d] APPOINTING ROGER ZUCKER TO THE MOORINGS BAY SPECIAL TAXING DISTRICT ADVISORY COMMITTEE; seconded by Van Arsdale and unanimously carried, all members present and voting. (Coyle-yes,

Herms-yes, MacKenzie-yes, Nocera-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes)

RESOLUTION 99-8530.....ITEM 15

A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN INTERLOCAL GOVERNMENT AGREEMENT BETWEEN THE CITY AND COLLIER COUNTY, IN SUBSTANTIALLY THE FORM ATTACHED HERETO, FOR THE PROPOSED DEVELOPMENT OF “HAMILTON HARBOR”, A PLANNED DEVELOPMENT LOCATED IN SOUTH NAPLES BAY ADJACENT TO BAYVIEW PARK; DIRECTING THAT THE CITY CLERK RECORD SAID AGREEMENT IN THE PUBLIC RECORDS OF COLLIER COUNTY, FLORIDA; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Richard Woodruff. (11:22 a.m.)

City Attorney Cuyler explained that this interlocal agreement would establish the land use review and approval process for the proposed development of Hamilton Harbor, approximately 21 acres of which are located within the County's jurisdiction. Collier County has agreed to the City's review/approval of the land use petitions, under normal City procedures, provided development standards do not exceed that listed in Exhibit #3 of the agreement. (A copy of this material is contained in the file for this meeting in the City Clerk's Office.) The County will then process a land use approval which is identical to that granted by the City. City Manager Richard Woodruff pointed out that the City's notice procedure is more comprehensive than the County's; however, Council Member Herms questioned why only dry storage building heights are listed in Exhibit #3. He also requested additional criteria to address all other buildings within the development.

In response, Attorney George Varnadoe, on behalf of Collier Enterprises, Inc., explained that the dry storage facility is listed since it is the only building in the development that will be located in the County, all other buildings being within City's jurisdiction. At the request of Vice Mayor MacKenzie, however, Mr. Varnadoe indicated that the developer would stipulate to not obligate Council to the standards contained in Exhibit #3. He also provided rationale behind the developer's decision not to seek annexation of these 21 acres into the City. In further discussion, City Attorney Cuyler confirmed for Council Member Tarrant that no member of his family is involved with the current Collier County Planning Department that will eventually process the rezone petition. It was also verified that any amendments to the Planned Development Document would be under City jurisdiction. Council Member Herms, however, hypothesized that any lack of specificity now could permit future approval of much taller buildings within this development. Council Member Tarrant stated that he could not support this agreement unless it occurs as part of the approval process itself or after.

Public Input: None. (11:35 a.m.)

MOTION by Nocera to APPROVE RESOLUTION 99-8530 AS SUBMITTED; seconded by Van Arsdale. After the discussion that appears below, this motion carried 6-1. (Coyle-yes, Tarrant-no, MacKenzie-yes, Herms-yes, Van Arsdale-yes, Nocera-yes, Barnett-yes)

City Attorney Cuyler clarified that should future land use petitions for this property exceed the standards set forth in Exhibit 3, the County is not required include it in their development document. City Manager Woodruff also reiterated that Council has control over building heights and other development standards through the planned development document. Council Member Herms, however, pointed out that the only way for a developer to exceed established building heights is by way of a PD or a variance. Vice Mayor MacKenzie reiterated her assumption that Council's approval of this interlocal agreement does not bind the City to all of the uses listed in Exhibit #3.

RESOLUTION 99-8531.....ITEM 16

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF NAPLES AUTHORIZING THE CITY'S PARTICIPATION IN THE CLEAN CITIES PROGRAM; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Richard Woodruff. (11:42 a.m.) City Manager Woodruff acknowledged Council Member Nocera's efforts in bringing this program to the Council's attention. Official participation in this program may make the City eligible for federal grants to acquire alternative fuel-source vehicles and other activities. These activities include working with local restaurants to collect cooking oils that can later be used as an alternative fuel. Council Member Nocera explained that he learned of this program through Southwest Florida Regional Planning Council and asked for Council's endorsement. He also urged establishment of a voluntary program with City restaurants to collect their used cooking oil.

Gary Burris, with Seaguard and The Green Model Project, provided additional information regarding the Clean Cities Program and explained how it is possible to refine waste oils into usable products such as fuel, solvents, animal feed, soaps, and fertilizer. Mr. Burris stated that this process is a cost-effective solution to a number of environmental problems and further explained how the refined product is also compatible with diesel fuel. (A copy of the material referenced by Mr. Burris is contained in the file for this meeting in the City Clerk's Office.) In response to Council, Mr. Burris explained how a process is being developed to provide participating restaurants with special containers to collect waste oils that will then be transported to the Lakeland, Florida refinery, which is certified as a "no-net pollution facility". Dr. Woodruff stated that staff would contact the local restaurant association to inform them of this City-endorsed program.

Public Input: None. (11:55 a.m.)

MOTION by Tarrant to APPROVE RESOLUTION 99-8531 AS SUBMITTED; seconded by Van Arsdale and unanimously carried, all members present and voting. (Coyle-yes, Herms-yes, MacKenzie-yes, Nocera-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes)

OPEN PUBLIC INPUT (11:55 a.m.)

William Boggess, 1100 8th Avenue South, expressed his support for the Sprint proclamation and the Clean Cities program resolution but criticized the condition of area beaches. He said that large rocks remain despite recent, sizable expenditures for removal. He also displayed rocks he said he had gathered from City beaches. (Photographs of these samples are contained in the file for this meeting in the City Clerk's Office.) **John DeBaun, 1300 Curlew Avenue**, also said he favored the Clean Cities program but registered a complaint against the City Dockmaster and Code Enforcement Inspector, as well as dissatisfaction with the recent removal of a boat ramp near the City Dock. In response to Council Member Nocera, Mr. DeBaun indicated that an attempted formal complaint to the Police Department had been refused. **Albert Abrahams, 1914 Princess Court**, Collier County Republican Executive Committee member, noted interest expressed by Council Member Tarrant in a resolution urging the North Atlantic Treaty Organization (NATO) to cease bombing in Kosovo and to withdraw to a traditional policy of neutrality in the Balkans. **Jane Varner, 5154 Berkeley Drive**, stated she believed it was a grave mistake to intervene in Kosovo and noted the significant loss of life and property; she therefore urged that City Council express its views to the community to help end the bombings. (A handout provided by Ms. Varner is contained in the file for this meeting in the City Clerk's Office.) **Jane Olds, 879 Meadowland Drive**, maintained that President Clinton's actions of aggression are not authorized by any governing body and must cease; she therefore urged Council action. **Jean Fort, 838 Charlemagne Blvd.**, stated that if the military actions continue, the United States

would be involved for years to come. **Victor Neiditz, 4031 Gulf Shore Blvd. North**, said he supported the prior speakers' comments and maintained that billions of dollars are being wasted in Kosovo. He added this country's involvement would establish a policy that citizens would later regret.

CORRESPONDENCE and COMMUNICATIONS.....

Council Member Tarrant requested that Council adopt a resolution regarding the conflict in Kosovo in support of the Collier County Republican Executive Committee's resolution and to include a clause urging the United States Congress to determine the actual authority to declare military action.

MOTION by Tarrant to APPROVE A RESOLUTION (later designated as 99-8532), TO INCORPORATE A CONSTITUTIONAL QUESTION REGARDING THE PRESIDENT'S AUTHORITY TO DECLARE WAR. COPIES OF THE RESOLUTION TO BE SENT TO ELECTED REPRESENTATIVES INCLUDING THE SPEAKER OF THE HOUSE, HEAD OF THE SENATE, THE PRESIDENT, AND MEMBERS OF FLORIDA DELEGATION; seconded by Coyle. After the discussion that appears below, this motion carried 6-1, all members present and voting. (Coyle-yes, Herms-yes, MacKenzie-yes, Nocera-yes, Tarrant-yes, Van Arsdale-no, Barnett-yes)

City Manager Richard Woodruff suggested inclusion of a reference to the Constitutional question as to whether the President of the United States has exceeded his authority. After the vote, Council Member Van Arsdale stated the he did not feel that Council had sufficient information to make such a statement. Council Member Coyle said he objected to this country getting involved in a conflict that political leaders have no intention of winning. Vice Mayor MacKenzie expressed her reservations in Council taking this action as elected officials and further indicated that this may not be the proper forum.

Council Member Tarrant proposed that Council request an aquifer inventory from the South Florida Water Management District, due to the current water restrictions; however, a future workshop was planned on this issue with requested participation from SFWMD and Collier County. Vice Mayor MacKenzie requested action to alleviate congestion surrounding the downtown post office due to adjacent construction. Dr. Woodruff stated he would install appropriate markings and confer with the developer to arrange better traffic solutions. Vice Mayor MacKenzie stated that she favored the inclusion of magazine and catalogue recycling in the negotiations with Waste Management. She then announced the April 19th Workshop Meeting and the Old Naples Preservation Task Force Meeting would be re-broadcast that evening at 6:00 p.m. Council Member Herms requested a parking analysis of the downtown post office site and information regarding how the new and old buildings met the parking requirements. Mr. Herms then requested that the approximately 70 trees not used in the tree-planting program be used to replace missing trees elsewhere. Mayor Barnett noted the letter by County Commission Chair Pamela Mac'Kie regarding the status of the rock removal program wherein she explained the project is proceeding and therefore does not warrant a joint meeting as requested by Council. Mr. Herms requested that staff forward to the Department of Environmental Protection and the Corps of Engineers the cross sections prepared by Coastal Engineering illustrating the exact location of the rocks including a staff analysis of the cross section for every avenue in the entire rock removal zone, outlining where the rocks remain. Mayor Barnett noted that the subsequent Community Redevelopment Agency meeting would be postponed to May 3rd. City Attorney Cuyler noted that an individual utilized another member of his firm in a real estate transaction regarding Bayshore Villas, a property which has come before Council; the individual

subsequently provided a written waiver of conflict to the firm but then filed a vested rights claim against the City. It was the consensus of Council, however, to have Mr. Cuyler continue to represent the City in this matter. Council reiterated that the Old Naples Preservation Task Force and the Old Naples Association would work together without hiring a consultant at this time. Dr. Woodruff stated that he would distribute a memo to Council regarding a recent meeting by the County Commission relative to the County landfill. Council Member Coyle noted that reducing density and building height might impact private property rights, and requested that Mr. Cuyler provide legal clarification.

ADJOURN
1:01 p.m.

Bill Barnett, Mayor

Tara A. Norman, City Clerk

Prepared by:

Virginia A. Neet. Deputy City Clerk

Minutes approved: 5/19/99



