



City Council Chamber
735 Eighth Street South
Naples, Florida 34102

City Council Regular Meeting – March 1, 2000 – 9:00 a.m.

Mayor MacKenzie called the meeting to order and presided.

ROLL CALLITEM 1

Present: Bonnie MacKenzie, Mayor
Joseph Herms, Vice Mayor
Council Members:
Gary Galleberg
William MacIlvaine
Fred Tarrant
Penny Taylor
Tamela Wiseman

Also Present:

Kevin J. Rambosk, City Manager
Kenneth B. Cuyler, City Attorney
William Harrison, Asst. City Manager
Ron Lee, Planning Director
Tara Norman, City Clerk
Dorothy King, Accounting Manager
Dan Mercer, Utilities Director
Donald Wirth, Community Svcs. Director
Jonathon Maines, Police Sergeant
Robert Middleton, Operations Supt/Util
David Lykins, Recreation Manager
George Archibald, Traffic Engineer
Cory Ewing, Planner
Jessica Rosenberg, Recording Specialist
Laura Roys, Admin. Specialist
Pastor Jeff Fletcher

Anthony Del Duca
Charles Kessler
Arlene Guckenberger
John Norman
Chip Jones
Craig Dunlap
Pat Distasio
Betty Pennington
Everett Thayer
Gloria Kovacs
Other interested citizens and visitors

Media:

AnneElena Foster, Naples Daily News

INVOCATION & PLEDGE OF ALLEGIANCE.....ITEM 2

Pastor Jeff Fletcher, East Naples Baptist Church

ANNOUNCEMENTSITEM 3

Employee Recognition Awards – The City recognized those employees completing 5, 10, 15, and 30 years of service.

Rita Naughton selected as Mayor’s secretary.

ITEMS TO BE ADDED:ITEM 4

Item 5-b (5) *Consider authorizing bandshell and caravan entertainment in conjunction with the Oprah Winfrey Oxygen Channel network from March 10th through 13th (schedule to be determined).*

Item 10 *Consider a resolution clarifying that the commercial building height charter amendment is not applicable to residential planned developments that do not contain commercial uses or other uses listed in the charter amendment.*

Item 11 *Discussion of proposed revisions of Section 110-39 of the Code of Ordinances concerning architectural embellishments.*

Item 12 *Discussion of proposed topics for Workshop presentation.
In addition, City Manager Kevin Rambosk noted Item 5-c would be postponed until the March 15th Regular Meeting. Item 5-e contains a scrivener’s error and noted the Naples Landing Park improvements would be an amount not to exceed \$18,000.00.*

MOTION by Herms to SET THE AGENDA CONTINUING ITEM 5-c AND ADDING ITEMS 5-b (5), 10, 11, AND 12; seconded by Tarrant and unanimously carried, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

CONSENT AGENDA

APPROVAL OF MINUTES.....ITEM 5-a

January 19, 2000 Regular Meeting.

.....ITEM 5-b

APPROVE THE FOLLOWING SPECIAL EVENTS:

- (1) Naples-Marco Antique Car Club Auto Show (Naples Depot) - 3/11
- (2) Collier County Auto Show (Naples Airport) - 3/16-19
- (3) Conservancy of Southwest Florida Bay Days Bike Fest - 4/8 & 4/22
- (4) 51st Annual Swamp Buggy Parade - 10/28
- (5) Oprah Winfrey Oxygen Channel caravan – 3/10-13

(See Page 4 for additional information on Item 5-b (4).

CONTINUEDITEM 5-c

AUTHORIZE A BUDGET AMENDMENT IN THE AMOUNT OF \$57,327.04 IN ORDER TO ADJUST THE NAPLES BAY ACCOUNT TO THE YEAR-END AUDITED BALANCE.

.....ITEM 5-d

WAIVE COMPETITIVE BIDS AND ISSUE A PURCHASE ORDER FOR NOTEBOOK COMPUTERS FOR USE BY POLICE & EMERGENCY SERVICES \ VENDOR: COMARK GOVERNMENT & EDUCATION SALES, TALLAHASSEE, FLORIDA \ COST: \$29,110.00 \ FUNDING: CIP #99H21.

RESOLUTION 00-8793.....ITEM 5-e

A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN INTERLOCAL AGREEMENT, IN SUBSTANTIALLY THE FORM ATTACHED HERETO, BETWEEN THE COLLIER COUNTY BOARD OF COMMISSIONERS AND

THE CITY OF NAPLES FOR THE NAPLES BEACH ACCESS IMPROVEMENTS PROJECT AND THE NAPLES LANDING PARK IMPROVEMENTS PROJECT; AND PROVIDING AN EFFECTIVE DATE. Title not read.

MOTION by Herms to APPROVE CONSENT AGENDA ITEMS 5-a, 5-b, 5-d, and 5-e AND CONTINUING ITEM 5-c; seconded by MacIlvaine and unanimously carried, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

END CONSENT AGENDA

.....**ITEM 6**
PRESENTATION OF ANNUAL FINANCIAL REPORT BY CITY AUDITORS KPMG PEAT MARWICK. (9:15 a.m.) Assistant City Manager William Harrison stated that Florida law mandates an annual audit, and that the results be reported to the elected officials. He stated that the City is in very sound financial condition, and that there is approximately \$1.9 million in undesignated reserves for emergency use. Additionally, he explained the general surplus of \$1.3 million is an operating contingency, and is used for cash flow as well as for any unanticipated revenue decline or expenditures. Council Member MacIlvaine questioned whether a reduction in the ad valorem tax is then feasible; Mr. Harrison stated that staff would investigate the possibility although the City has the lowest ad valorem tax levy for any city its size or larger in the State, and has held the same rate for nearly a decade. In addition, Mr. Harrison explained that net income in the Water and Sewer Fund has fluctuated significantly due to factors such as debt service on the sewer plant and increased operating expenses, and that the Community Redevelopment Fund, which derives its revenue from Tax Increment Financing (TIF), has also shown significant change. Council Member Tarrant expressed appreciation to Mr. Harrison for his efforts; Mr. Harrison expressed gratitude to his staff.

Mr. Harrison then noted he would later meet with Fitch, a bond rating company, to seek the City's first triple-A rating. Craig Dunlap, a representative of Dunlap & Associates, the City's financial advisor, referenced the aforementioned meeting and introduced his staff: Frank Rizzo, Dick Larkin, Dave Becker, and Chad Farrington.

Chip Jones, Managing Partner at KPMG, noted that his staff performed the audit independently of management, but with the affiliation of an audit committee comprised of a Council representative and other individuals. He explained that governmental reporting is very complex, and recommended that Council focus on the transmittal letter, which provides a succinct analysis, and the statistical section. (This information is contained in the Comprehensive Annual Financial Report for the Year Ended September 30, 1999, a copy of which is contained in the City Clerk's office in the file for this meeting.) Mr. Jones stressed the City's sound financial management noting a favorable total fund balance of 25% of expenditures. He then further detailed KPMG's presentation regarding the 1999 Audit. Noting the Tennis Fund deficit, Council Member MacIlvaine questioned options for revenue sources. Mr. Jones suggested either subsidizing it from the General Fund or increasing resident charges and confirmed in some cases the City may apply surplus funds from one enterprise fund to another.

Council Member Tarrant pointed out that despite the significant cost savings afforded by the state revolving loan fund, it is nevertheless ironic that the State loans taxes back to the cities at 3% interest. He also questioned the analysis of the restricted Sabal Bay litigation account. Mr. Jones first clarified that a portion of the state revolving loan funds emanate from federal government. He however stated he would research the appropriate accounting records and issue

a report to Council on the Sabal Bay issue. Vice Mayor Herms pointed out that the City had committed \$750,000.00 to an annexed area for improvements through a development and annexation agreement independent of the budget process. Mr. Jones stated he would research this matter as well.

MOTION by Herms to ACCEPT THE PRESENTATION; seconded by MacIlvaine and unanimously carried, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

.....**ITEM 5-b (4)**
51ST ANNUAL SWAMP BUGGY PARADE – 10/28 (10:05 a.m.) Recreation Manager David Lykins stated that Oktoberfest, which had been previously approved, and the Swamp Buggy Parade are scheduled for the same day, and that both require street closure. Because of a significant traffic routing conflict, he urged more cooperative scheduling in the future. He stressed the importance of continuing the traditional Swamp Buggy Parade, and noted that Police Sergeant Jonathon Maines would detail appropriate traffic contingency plans.

Fifth Avenue South Association CEO Pat Distasio stated that his association had reluctantly agreed with a proposal by Mr. Lykins to alternate Oktoberfest between the third and fourth weekends in October, 2000 to accommodate the Swamp Buggy event and that he only recently discovered the conflict. Oktoberfest however cannot be rescheduled. Mr. Distasio said he would prefer to set Oktoberfest for the third weekend of October each year.

Police Sergeant Jonathon Maines recommended authorizing the parade to proceed to Third Avenue South and to then turn west, and the Swamp Buggies in the parade to proceed along US 41 to the East Trail to alleviate traffic congestion. He also recommended keeping Eighth Street South open to accommodate emergency vehicles and that two police officers could be posted at Eighth and Fifth with removable barricades to ensure access and to enhance pedestrian safety. However, Mr. Distasio said that upon learning that the parade would begin at 9:00 a.m. and conclude at approximately 12:00 p.m., he did not feel that it would conflict with Oktoberfest.

Swamp Buggy representative John Norman stated that continuing to hold the event the last weekend in October is acceptable, and voiced approval for the intended parade route. Council Member Tarrant urged increased police presence if necessary, and City Manager Kevin Rambosk noted that staff would determine alternative routes.

It was the consensus of Council that the intersection of Eighth Street South and Fifth Avenue South will be accessible for emergency vehicles only between 9:00 a.m. and noon on October 28th. Beginning 2001; Oktoberfest will occur the 3rd weekend in October and the Swamp Buggy Parade the 4th weekend in October.

.....**ITEM 7**
CONSIDER THE PURCHASE OF 2 REPLACEMENT LIME SLAKERS FOR USE BY THE UTILITIES DEPARTMENT \ LOW BIDDER: PENN PROCESS TECHNOLOGIES, PLUMSTEADVILLE, PENNSYLVANIA \ COST: \$130,478.00 FUNDING: CIP #00K51. (10:32 a.m.) City Manager Kevin Rambosk explained that the current lime slakers, which are used to soften water, are approximately 15 years old and not sufficient for current demand.

Public Input: None. (10:35 a.m.)

MOTION by Herms to APPROVE ITEM 7 AS PRESENTED; seconded by Tarrant and unanimously carried, all members present and voting

(Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

OPEN PUBLIC INPUT (10:35 a.m.)

Everett Thayer, 1690 Avion Place, noted a voting location conflict in Avion Park explaining that correspondence he and others received indicated a different polling place than what was specified on voter registration cards. Mayor MacKenzie explained this was a computer error, and that the letters did indicate the wrong polling place. She added that the City Clerk made every effort to contact those affected to dispense the correct information. Mr. Thayer also said that two Council Members should resign; however, Mayor MacKenzie stated that they are legally elected officials who may serve out their terms. In addition, Mr. Thayer urged the City to provide safer roads.

City Clerk Tara Norman stated there was no intent to dispense misdirected notices. She added that a polling place was moved from the Comfort Inn to the Utilities Center because of construction, and that strict compliance with all federal regulations governing this procedure were followed such as issuing new voter identification cards, mailing notices, and posting signs at the former polling place. She stated that staff had contacted 10 of the approximately 25 voters in Avion Park who had received incorrect notices due to an incorrect computer sort, and that she had hired additional poll workers to ensure that no one was misdirected. Ms. Norman confirmed that these measures were effective and that no voters had gone to the wrong precinct.

Recess 10:49 a.m. to 11:02 a.m. It is noted for the record that Vice Mayor Herms was absent when the meeting reconvened.

RESOLUTION (Denied)ITEM 9-a

A RESOLUTION GRANTING VARIANCE PETITION 00-V1 FROM SECTION 102-206(3) OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES, WHICH REQUIRES A 20-FOOT REAR YARD SETBACK FOR PROPERTIES IN THE "R1-7.5," RESIDENCE DISTRICT, IN ORDER TO ALLOW PLACEMENT OF A SHED TWO FEET FROM THE EDGE OF A SEAWALL AT 620 SANDPIPER STREET, MORE PARTICULARLY DESCRIBED HEREIN, AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk (11:03 a.m.). City Attorney Kenneth Cuyler stated the petitioner's wife is an attorney with his law firm; therefore, he would not be able to offer Council advice on this matter. He added that Council could continue the item if necessary, and that he would obtain an attorney from another law firm. Should this type of circumstance arise in the future, he will notify Council at the preceding Workshop, he said.

RESOLUTION (Denied) ITEM 9-b

A RESOLUTION APPROVING A STREET VACATION PETITION VACATING A PORTION OF THE ABANDONED SANDPIPER STREET RIGHT-OF-WAY, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk (11:04 a.m.). Petitioner Anthony Del Duca explained that due to the reconstruction and realignment of Sandpiper Street, his property had been left in disrepair; therefore, he had made substantial improvements by installing landscaping, and positive drainage, and relocating the driveway. He confirmed that he had performed these improvements at his own cost, and that they had been properly permitted. He stated that a shed had been moved approximately 15 feet because of the re-grading of the property, but that it is now closer to canal than it had originally been.

It is noted for the record that Vice Mayor Herms re-entered the meeting at 11:07 a.m.

Mr. Del Duca stated that he had met with staff and the Florida Department of Transportation (FDOT) regarding egress from the property due to the relocated road. He added that the City and FDOT were concerned about access to Sandpiper Street, but did not want a drive-through, which

they said could pose a traffic hazard. He therefore agreed to exit onto Curlew Avenue. He added that since the City cannot perform any improvements until the contractor is finished, he had to either perform the improvements himself or tolerate a very unsightly appearance for a significant length of time. Mr. Del Duca then asked that the City vacate this driveway, and stated that he would then grant an easement. He stressed the property setbacks will remain.

Vice Mayor Herms noted instances wherein the City had vacated surplus property; however, Planning Director Ron Lee noted that the Planning Advisory Board (PAB) recommended denial on both the variance for the shed and the right-of-way vacation. He clarified that although the shed had been a legal non-conforming use, moving it requires a variance, and the PAB determined that it had not met applicable criteria. Mr. Del Duca stated that he would likely destroy the shed if necessary because replacing it would create a hardship. Planner Cory Ewing confirmed that Mr. Del Duca did not have a permit to move the shed.

Public Input: None. (11:22 a.m.)

MOTION by Herms to DENY ITEM 9-a (VARIANCE ON THE SHED);
seconded by MacIlvaine and unanimously carried, all members present and
voting (Galleberg-yes, Tarrant-yes, Wiseman-yes, Herms-yes, MacIlvaine-
yes, Taylor-yes, MacKenzie-yes).

Vice Mayor Herms made a motion to deny the street vacation, seconded by Council Member MacIlvaine; however, further discussion ensued. Mr. Lee stated that typically the petitioner must demonstrate that there is no current or foreseeable need for that right-of-way and that staff recommends approval because it could foresee no such need and Mr. Del Duca would grant a public utility easement. Council Member MacIlvaine noted that Mr. Del Duca now has significantly more property in front of his house with a circular driveway, and that this would greatly increase his property value. Mr. Del Duca then illustrated the project on the site plan, a copy of which is contained in the file for this meeting in the City Clerk's office. Mr. Lee explained that when FDOT completes the project, the City will have the first right of refusal on the site and will use it to create a passive park. Traffic Engineer George Archibald stated that Mr. Del Duca's driveway has resolved safety issues, because there would be no access to Sandpiper Street from this property. Mr. Del Duca stated he thought it unfair that he performed improvements at his own expense and must now maintain a large right-of-way, but receives no benefit. Council Member MacIlvaine however reiterated that he now has a circular driveway, and significantly more land for his use.

Public Input: None. (11:40 a.m.)

MOTION by Herms to DENY ITEM 9-b (STREET VACATION); **seconded**
by MacIlvaine and carried 4-3, all members present and voting (Tarrant-no,
Galleberg-no, Herms-yes, Wiseman-no, Taylor-yes, MacIlvaine-yes,
MacKenzie-yes).

During the vote, Council Member Tarrant noted instances wherein other City property was vacated, and stated he believed it capricious to vacillate.

RESOLUTION 00-8794.....ITEM 10
A RESOLUTION CLARIFYING THE APPLICABILITY OF THE FEBRUARY 1, 2000,
CHARTER AMENDMENT WITH REGARD TO RESIDENTIAL PLANNED
DEVELOPMENTS WHICH DO NOT INCLUDE COMMERCIAL USES OR OTHER
USES AS LISTED IN THE CHARTER AMENDMENT; AND PROVIDING AN
EFFECTIVE DATE. Title read by City Manager Kevin Rambosk (11:40 a.m.). City Attorney Kenneth Cuyler stated that the purpose is to clarify that the charter amendment is not applicable for purely residential Planned Developments. He added that he would work with the Planning Director

to identify unusual cases such as Planned Developments with both residential and commercial elements to address at a future meeting.

Public Input: None. (11:45 a.m.)

MOTION by Herms to APPROVE RESOLUTION 00-8794 AS SUBMITTED; seconded by Taylor and unanimously carried, all members present and voting (Tarrant-yes, Galleberg-yes, Herms-yes, Wiseman-yes, Taylor-yes, MacIlvaine-yes, MacKenzie-yes).

.....ITEM 11
DISCUSSION OF PROPOSED REVISIONS OF 110-39 OF THE CODE OF ORDINANCES CONCERNING ARCHITECTURAL EMBELLISHMENTS. (11:45 a.m.)

City Manager Kevin Rambosk stated that staff had drafted language reflecting prior direction from Council, a copy of which is contained in the file for this meeting in the City Clerk's office. Mayor MacKenzie clarified that this language specifies that embellishments not exceed five feet above the maximum permitted height in residential and ten feet in multi-family and public service; in commercial, however, embellishments must absolutely not exceed the maximum specified by the charter amendment.

Vice Mayor Herms voiced concern that these new regulations would allow taller multi-family in Old Naples; however, Planning Director Ron Lee stated that these standards already existed in the Code. Mr. Herms subsequently requested that staff research multi-family heights in that area. Council Member MacIlvaine questioned the applicability of this language to the First Presbyterian Church, which is zoned public service. Mr. Lee stated that all uses in public service are conditional, and that height is determined at the time of the conditional use. Mr. Herms however stated that Section 82-5 of the Comprehensive Development Code mandates the imposition of the strictest standards in the case of conflict. He then suggested establishing a maximum height in public service zoning. Council Member MacIlvaine recommended that no commercial building exceed 42 feet at its highest point, the intent of the voters. Council Member Galleberg disagreed, saying the ballot did specify height to the peak of the roof. Council Member Tarrant stated that Council is not prohibiting embellishments on roofs, as long as they are contained within the 42-foot limit. Mr. Lee suggested adding language specifying that those zoning districts that have a height limit of less than 42 feet may have embellishments above the permitted height provided they do not exceed 42 feet. He said that staff would draft appropriate revisions with further refinements as discussed and potentially eliminate the public service section. Council Member Wiseman however stated that Council has the obligation to reach a consensus in order to direct staff. City Attorney Kenneth Cuyler suggested eliminating Section 110-39 entirely and addressing embellishments individually in each zoning district. Vice Mayor Herms made a motion to repeal Section 110-39 (a) for all districts, which was seconded by Council Member Taylor; however further discussion ensued. Mr. Cuyler clarified then that no embellishments in any districts would be allowed until a replacement ordinance is passed. Mr. Lee proposed adding the repealing ordinance to the next PAB Workshop meeting; however, Mr. Cuyler stated that he would research whether a repeal requires PAB review.

Public Input: None. (12:38 p.m.)

MOTION by Herms to DIRECT STAFF TO PREPARE REPEAL (APPLICABLE TO ALL DISTRICTS) OF SECTION 110-39(a) OF THE CODE OF ORDINANCES FOR THE MARCH 15TH REGULAR MEETING AND SUBMIT TO THE PLANNING ADVISORY BOARD IMMEDIATELY IF NECESSARY; seconded by Taylor and carried 4-3, all members present and voting (Wiseman-no, Tarrant-yes, Taylor-yes, Galleberg-no, Herms-yes, MacIlvaine-yes, MacKenzie-no).

In addition, it was the consensus of Council to direct staff to prepare replacement language in six weeks or less.

ORDINANCE (First Reading).....ITEM 8
AN ORDINANCE ADOPTING TEXT AMENDMENT PETITION 00-T1, AMENDING ARTICLE V, RESIDENTIAL IMPACT STATEMENT, OF CHAPTER 110 OF THE CODE OF ORDINANCES; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title not read. (12:41 p.m.) City Manager Kevin Rambosk confirmed that Planning Advisory Board review is not required.

Public Input: None. (12:42 p.m.)

MOTION by Herms to PLACE ON THE MARCH 15th REGULAR MEETING AGENDA; seconded by Galleberg and unanimously carried, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

Mayor MacKenzie noted that a workshop regarding Hamilton Harbor would begin at 2:00 p.m. and that Council would consider Correspondence and Communications after that meeting.

It is noted for the record that Item 12 was not discussed.

ADJOURN (12:42 p.m.)

Bonnie R. MacKenzie, Mayor

Tara A. Norman, City Clerk

Prepared by:

Jessica R. Rosenberg, Recording Specialist

Minutes approved: 5/1/00