



# City of Naples

City Council Chamber  
735 Eighth Street South  
Naples, Florida 34102

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## City Council Workshop Meeting – April 17, 2000 – 8:30 a.m.

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Mayor MacKenzie called the meeting to order and presided.

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### ROLL CALL ..... ITEM 1

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

**Also Present:**

Kevin Rambosk, City Manager  
Tara Norman, City Clerk  
William Harrison, Assistant City Manager  
Robert Egan, Waterfront Operational Sup.  
Richard Gatti, Development Svs. Director  
Jon Staiger, Natural Resources Manager  
Donald Wirth, Community Svs. Director  
Dan Mercer, Public Works Director  
Pamela Schwartz, Recruiter  
Terry Fedelem, Parks & Parkways Supt.  
Ann Walker, Planner  
Keeth Kipp, Utility/Solid Waste Coord.  
Jessica Rosenberg, Recording Specialist  
Brenda Blair, Recording Specialist  
Laura Roys, GIS Specialist

Kelly Espinoza, Admin. Specialist  
Robert Geroy  
Barbara Hattemer  
James Dean  
Elizabeth Bloch  
Bill Boggess  
Joseph Biasella  
Charles Kessler  
Tim Stewart  
Clark Russell  
Barbara Hill  
Other interested citizens and visitors

**Media:**

AnneElena Foster, Naples Daily News

**ITEMS TO BE ADDED (8:30 a.m.).....ITEM 2**  
Discussions regarding: new recycling program, the Community of Character program, a hearing policy on the height charter amendment, and advertising for a new City Attorney; interview of a Board of Appeals candidate.

.....**ITEM 8**  
**INTERVIEW OF A BOARD OF APPEALS CANDIDATE (8:30 a.m.)**  
Robert Geroy

.....**ITEM 3**  
**DISCUSSION WITH LOCAL CHARTER BOAT REPRESENTATIVES (8:35 a.m.)** City Manager Kevin Rambosk explained that Council had in 1995 established a committee to review procedures and to develop the present ordinance. He noted that at this time, the number of slips in the Bay is declining and the City had received requests to assist in allowing affected boat owners to remain in business. He also noted that the charter boat community has requested assistance in relocating the charter boats displaced by the redevelopment of Turner Marine (currently Naples Boat Club), and has registered complaints regarding the existing ordinance.

Charter boat captain Elizabeth Bloch explained that the closing of marinas and marine service facilities has jeopardized the livelihood of many restricted charter boat captains, and has seriously affected the waterfront in general, the present ordinance having caused significant difficulty due to restrictions on advertising, parking, and mooring location signage, as well as required \$15 drop-off fee. Ms. Bloch explained that she must obtain her charters from a broker, who sets the fees. She noted that the ordinance ostensibly disallows advertising in order to prohibit her customers from parking near the City Dock; however, the ordinance itself requires them to access her business through public transportation. She therefore questioned the ban on advertising, emphasizing that she needs to appropriately market and advertise in order to compete fairly and remain in business.

Ms. Bloch then added that restricted charter boats were originally allowed to meet the area hotels' need for these services, but that serious charter boat owners cannot operate their businesses under the present guidelines. Council Member Galleberg suggested possible purchase of slips, but Ms. Bloch said such slips are scarce. She then noted that Planner Ann Walker had performed a study during various times of the year at Crayton Cove, within two blocks of the City Dock and discovered that at various times, many of the spaces were actually available. Ms. Walker clarified that of the 551 spaces in the two-block area, 369 are private and 182 are public, and that on the average 215 spaces went unused. Ms. Bloch also stated that people are parking inappropriately for example, the patrons of The Dock Restaurant tend to use the public spaces in front of the City Dock instead of the allotted parking area. Ms. Walker also commented on the results of a parking study performed in the Tin City area, noting the availability of many of those spaces as well.

**Public Input:** 9:32 a.m. **Allen Walburn, 900 Eighth Avenue South**, a charter boat captain, stated that restricted charter boats were implemented in 1990 to the detriment of the unrestricted vessels, which were subsequently left at the City Dock underused. He added that allowing them to operate outside of the normal guidelines made their control difficult, and they often generated complaints. In 1995 the City appointed a committee representative of the entire charter community to study the matter, and ultimately enacted the present ordinances. He therefore urged that the City abide by and enforce these present rules. Waterfront Operational Supervisor Bob Egan clarified the five-year lease arrangement for City Dock slips: 80 are available, 10 designated commercial, five are designated governmental, and 65 are designated recreational. Restricted charter boats use the recreational slips he added. He further stated there are approximately seven restricted vessels at the City Dock and do possess the parking necessary for

their slips, but not for actually running commercial charters. After further discussion, Mr. Walburn urged that the City implement any proposed changes fairly, including the relaxation of parking requirements. He further recommended granting leniency to restricted charter boats for a limited time, but then gradually eliminating them to facilitate only one set of guidelines. **Pat Annunziata, 550 Port-O-Call Way**, Port-O-Call Marina Manager, stated that, in general, parking requirements are strict and should be relaxed for everyone. He however noted the significant expense he incurred complying with the current parking requirements, and stated that allowing various parking arrangements depending on the type of boat would be unfair. Mr. Annunziata further stated that he is currently negotiating with City staff in order to arrange a pick-up/drop-off place for charter boats. He also noted that there are commercial docks for sale in the City, and surmised that restricted charter boat owners are not willing to pay the necessary costs to be in business. **William Haley, 2654 Riverview Drive**, a charter boat captain, stated he is presently at Turner Marine, and that he could not afford the \$180,000.00 35 foot slip offered to him there. He urged a relaxation of parking requirements to enable him to use the available affordable slips. He noted his place on the waiting list at the City Dock, and asked for Council's assistance in keeping his business in the City. Mr. Haley further added that should he lose his unrestricted status, the prohibition on advertising and the pick-up fees would negatively affect him. Vice Mayor Herms then proposed using the southern portion of the Naples Landing facility. Mr. Haley agreed, stating that he had addressed this idea with the former Council. **Robin Doyle, 4501 North Tamiami Trail #300**, an attorney representing five Turner Marine boat captains, stressed the importance of maintaining the character of the waterfront, adding that the charter boat business provides an economic benefit and an important amenity for both residents and tourists. He conceded that the commercial docks available do not provide the requisite parking and therefore requested that the displaced captains at Turner Marine be allowed to relocate and essentially be grandfathered in to any commercial dock in the area without regard to the availability of parking. Referencing the parking studies, he predicted that this arrangement would use only about 15 parking spaces throughout the City. Council Member Galleberg however stated that the charter boat business is ultimately a business like any other, and that Council does not aid land-based businesses that require relocation assistance. Mr. Doyle nevertheless reiterated that losing commercial spaces to encroaching residential negatively impacts the character of the community. **Gene Luciano, 2301 Tarpon Road**, charter boat captain, detailed the boats and slips he currently owns and referring to aforementioned parking studies, stressed that both Tin City and the Old Marina Docks have inadequate parking. He therefore urged that the displaced captains not relocate to these locations and take his parking. Mr. Luciano also stated there are three slips for sale at the City Dock, and that he himself has several for sale. He further stated that the \$15 drop off fee is reasonable, as he himself pays \$117,000.00 in yearly rent for two slips at Tin City. He also addressed the advertising issue and stated that the Chamber of Commerce allows its membership to display any printed literature there. He further advocated imposing the same guidelines and restrictions on all charter boats. **Bert Pohlmann, 242 Third Avenue North**, Tin City owner, stressed the serious lack of parking there. He also said he envisioned creating a mini fisherman's wharf in the area, and advocated considering the waterfront as a whole instead of approaching each issue piecemeal.

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**Recess 11:00 a.m. to 11:13 a.m. It is noted for the record that all Council Members except Council Member Galleberg were present when the meeting reconvened.**

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**Jim Boula, 702 Broad Avenue South**, not present when called. **Alex Engelsted, 225 Cove Lane**, owner of Sailboats Unlimited, stated that it had taken her 10 years to obtain a slip at the City Dock, and then provided details relative to her boat management program. She stated that the \$15.00 pick-up fee is a bargain. Ms. Engelsted emphasized that although she handles the majority of sailboats in the City, her business is not a monopoly, and that she had worked very hard to achieve success. She added that Ms. Bloch has rejected charters she has offered her. Ms.

Engelsted requested clarification on the allowed signage, and urged that Council retain the present regulations with improved enforcement.

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**It is noted for the record that Council Member Galleberg re-entered the meeting at 11:18 a.m.**

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**Vincent Checa, 3610 Guilford Road**, a charter boat captain, stated that he runs a restricted sailboat at the City Dock. He explained that the aforementioned committee was formed because several captains with commercial slips had complained that several operators had brought boat trailers to Naples Landing and took passengers out from that location, adding that some did not even have appropriate licenses. Mr. Checa added that the trip brokers on the committee then set up guidelines to enable them to operate with the restricted boats, whose ability to advertise and conduct business they now limited. This, he said, led eventually to the creation of a monopoly, because those same individuals became the brokers booking trips for the restricted boats. **Duane Ford, 108 Bermuda Dunes Court**, stated that he leases a commercial slip from the City Dock, and that as a business owner, his principal concern is adequate parking. He added that should restricted charter boat clientele park their cars by the City Dock, they are taking from the people whom he said have real businesses on the docks. He emphasized that unrestricted operators have made significant investments in their businesses, and that restricted operators should demonstrate that their clients arrived by public transport. Although conceding that the prohibition on restricted charter boat advertising may be unreasonable, Mr. Ford nevertheless stated that the City is not obligated to help part-time businesses succeed. He further stated he is selling his business. **Len Wassmer, 4620 Gail Boulevard**, charter boat captain, stated that he waited 13 years to obtain a slip at the City Dock. He said that changing the rules at this point for restricted vessels would be unfair, and questioned whether these operators were ever truly in business. He added that he believes the current charter boat laws are fair and effective. **Phil Haley, 1441 17<sup>th</sup> Street SW**, a charter boat captain, stated that he has an unrestricted business at Turner Marine. He questioned his ability to relocate, and requested Council's assistance to continue what he described as his ongoing and viable business. Mr. Haley said he would favor moving to the City Dock if possible, and would be amenable to paying a fair commercial market price for a slip. **Ed Ruff, address not given**, representing Naples Boat Club/Turner Marine, stated that the charter boats there will be able to remain for approximately one year unless their owners purchase dry storage or a wet slip. Council recommended that he grant them a year lease or a letter guaranteeing their stay for that time period; Mr. Ruff said that he would research these and other issues. **Laura Puckett, 3290 Bermuda Isle Circle #419A**, stated that she possesses a 45-foot boat and a restricted license. She said that Mr. Egan had told her she could not obtain an unrestricted license because she did not have the requisite parking. She said she then told him she arranged a contract with a local trolley company to transport her passengers; however, Mr. Egan restated his original reply. She added that although she has the Coast Guard certification to carry 29 passengers, her restricted license mandates she carry no more than six, and further voiced dismay regarding the ban on advertising. Council Member Tarrant stated he thought it unfair that she was not allowed to use the City Dock. Ms. Puckett further clarified that she basically needs a commercial facility to pick up and drop off passengers, and that using Naples Landing would be ideal. **Jack Harris, 550 Port-O-Call Way**, Port-O-Call Marina owner, stated that he has invested a significant amount of money into his operation, and that having to compete with other types of operations would produce what he described as an inequitable playing field and a great disservice to him. Mr. Harris then stated he would have a limited number of spaces for charter boats, and would like to help if possible. Council Member MacIlvaine questioned whether he would allow the charter boats to be independent, and merely pay rent on the slip; Mr. Harris said that he would. **Jim Boula, 702 Broad Avenue South**, a charter boat captain, emphasized the lack of parking in Old Naples, and voiced doubt regarding the results of the parking survey. He also indicated that since last August, no one has been able to lease a slip at

the City Dock. City Manager Rambosk explained that former City Manger Richard Woodruff had put on hold the renting of slips pending the outcome of the Turner Marine situation, and that there are presently three slips available.

City Manager Rambosk stated that after hearing the public input now recommends reviewing and developing a new Code that governs the operations of all businesses in the City. He also advocated forming another committee representative of the charter boat industry to review options and their corresponding impacts, keeping in mind the waterfront is the City greatest asset. Vice Mayor Herms made a motion to instruct staff to begin researching potential changes in Code; however, further discussion ensued. Council Member Taylor suggested immediately addressing the advertising concern; however, Mayor MacKenzie recommended considering it as part of the whole issue, rather than as an individual element. Council Member MacIlvaine recommended assigning priority to the commercial operations of the dock, and added that Council should investigate increasing the rent it currently charges for City Dock spaces. Council Member Taylor however recommended maintaining moderate fees for recreational usage. Council Member Tarrant recommended that Mr. MacIlvaine serve on the committee due to his extensive knowledge acquired as a boat operator.

**MOTION by Herms to INSTRUCT THE CITY MANAGER TO: INVESTIGATE POTENTIAL CHANGES IN CHARTER BUSINESS CODES, EXPLORE THE USE OF NAPLES LANDING AS A POTENTIAL SITE FOR ADDITIONAL SLIPS FOR THE CHARTER BUSINESSES, IMMEDIATELY ADDRESS FOR COUNCIL REVIEW THE SECTION OF CODE CONCERNING RESTRICTED CHARTER BOAT ADVERTISING; AND ESTABLISH A COMMITTEE INCLUDING COUNCIL MEMBER MACILVAINE TO REVIEW ISSUES, RECEIVE PUBLIC INPUT, AND DEVELOP OPTIONS. This motion was seconded by MacIlvaine and carried 6-1, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-yes, MacKenzie-no).**

City Manager Rambosk stated that Planner Ann Walker would record the names and telephone numbers of those who wish to participate in the above decision process.

.....**ITEM 9**  
**COMMUNITY OF CHARACTER PROGRAM** (12:47 p.m.) Barbara Hattemer stated that media violence and other societal problems have produced increasing numbers of disturbed young people, and that she believes an investment in character development would yield valuable results. She therefore has worked with character programs in public schools for the last six years. Mrs. Hattemer then introduced a Character First program designed eight years ago in response to various personnel problems experienced in a family-owned petroleum company. Significant and lasting changes in his employees and their performance were realized and seminars were developed. She stated that the Collier County Commission had enacted a resolution declaring the County to be a Community of Character, and that the Sheriff's Office had been trained and is ready to begin implementation. Therefore, Mrs. Hattemer urged the City to enact a similar resolution and take an active part in the program. She added that Character First waives a portion of its fees for governmental and educational organizations, and that The National Family Foundation has offered to pay the initial training costs, up to \$8,000.00. Therefore, the only cost to the City would be \$12.00 per employee per year for the bulletins.

While voicing agreement with the concept, Council Member Tarrant declined to support this program because it is a for profit business enterprise. He added that the problems it addresses should be addressed in homes or religious institutions, using taxpayer money for this purpose

being outside the parameters of government. Mayor MacKenzie suggested participating on some level without using taxpayer money. Council Member MacIlvaine stated that using consultants such as these can sometimes be beneficial, and recommended trying the program. Vice Mayor Herms requested additional information on the benefits. Mr. Tarrant stated that he would give the program videotapes Mrs. Hattemer had loaned him to the City Manager for distribution to the other Council Members.

.....**ITEM 10**  
**OVERVIEW OF NEW RECYCLING PROGRAM** (1:06 p.m.) Public Works Director Dan Mercer stated that the current solid waste contract with Waste Management of Collier County expires March 31, 2001, but proposed a two-year extension to cover additional recyclables. He indicated that after conducting research, staff is now considering adding six new items; namely, magazines, telephone directories, paper envelopes, junk mail, brown paper bags, and office paper. The contract extension would enable staff to collect additional data on these new recyclables and then solicit bids. Utility/Solid Waste Coordinator Keeth Kipp said that cardboard because of its volume is difficult to collect residentially and is only recycled commercially. Vice Mayor Herms however requested a list of businesses that recycle cardboard. Mr. Herms then questioned the proposed rate increase to residents. Mr. Mercer stated the additional service would increase rates for single-family units from \$110.24 to \$119.84 per year. The contract price would increase from approximately \$170,000.00 to \$236,000.00; the actual volume increase would be 15%, from approximately 1,650 to 2,150 tons per year. Although Mr. Mercer predicted he would save one hour per day in picking up the refuse, the City would also save on landfill fees with the absence of additional recyclables. Mr. Herms nevertheless requested an analysis of the actual offset.

District Manager of Waste Management of Collier County Tim Stewart explained that the increase to the residents is based on the devaluation of material due to adding these types of materials, the nearest disposal being a facility in Georgia. Mayor MacKenzie suggested researching rail rather than truck transportation. As an alternative to increased City expenditure, Vice Mayor Herms suggested advertising the City's recycling center, which already accepts telephone books, magazines, office paper, cardboard, plastics, aluminum cans, and tires. Mr. Mercer however cautioned that increased usage of that facility may require increased pickups, compactors, and containers; he said it could also be relocated to the Naples Airport property where it would not be as convenient for City residents. Council Member Taylor stressed the benefits to the environment of recycling, but Council Member MacIlvaine noted that the City already imposes significant rates for water, sewage connection, and other services; therefore, he said he could not support this proposal. City Manager Kevin Rambosk noted that he would provide further options at the upcoming Regular Meeting.

At this point in the meeting, Recruiter Pamela Schwartz introduced to Council a group of Girl Scouts who were touring City Hall.

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**Recess 1:39 p.m. to 2:45 p.m. It is noted for the record that all Council Members except Council Member MacIlvaine were present when the meeting reconvened.**

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.....**ITEM 5**  
**UPDATE ON THE GATEWAY PROJECT (GORDON RIVER BRIDGE EMBELLISHMENTS) CONTINUED FROM 4/3/00 WORKSHOP** (2:45 p.m.) Parks and Parkways Superintendent Terry Fedelem reviewed the Gateway Project landscape plan, which staff had forwarded to the Florida Department of Transportation (FDOT). (A copy is contained in the file for this meeting in the City Clerk's office.) He added that staff has also applied for a beautification grant and Assistant City Manager William Harrison explained that although the City has sufficient funds to complete the project, the grant would replace funds allocated toward

the project within the City's Capital Improvement fund. Mr. Fedelem stated that the current plan has been significantly refined. He explained that the contractors have put in four-foot wide concrete dividers along the bridge curb leaving the center open, and have inserted sleeves to allow the insertion of electricity and water if necessary; Traffic Engineer George Archibald is working with the FDOT to develop a plan to insert planters.

**It is noted for the record that Council Member MacIlvaine re-entered the meeting at 2:50 p.m.**

Mr. Fedelem then indicated that Royal Palms would be installed on both sides of the road. Mayor MacKenzie questioned whether there would be connections to the sidewalk at River Point Drive. Development Services Director Richard Gatti stated that although the City requires sidewalks in new developments, staff could install temporary asphalt sidewalk in this 150-foot space prior to development of this open piece of property.

**MOTION by Herms to DIRECT STAFF TO CONTACT THE DEVELOPER OF VACANT PROPERTY ON THE CORNER OF RIVER POINT DRIVE AND US 41 TO INSTALL A CONCRETE SIDEWALK;**  
***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).***

Mr. Gatti then explained that Council's decision to develop a theme for the project in order to create an impressive entrance to the City had been estimated at \$1,847,000. He illustrated computer-generated graphics of the completed project. Any contractors who could perform the additional treatments, however, must wait until Archer Western has completed its portion of the bridge construction, which he predicted would be August. Council briefly discussed Archer Western delays and related penalties. Mr. Gatti also explained that staff took gatehouses out of the plan because there would be inadequate space for them, and because they believed their cost to be prohibitive. He confirmed that staff must obtain easements prior to installing electrical service underground on the north side of the bridge. Mayor MacKenzie questioned whether the landscaping would be coordinated with that on the other side of the Davis Boulevard intersection. Mr. Fedelem stated that Davis Boulevard has Royal Palms in the median, and predicted a smooth transition. Mr. Gatti also provided clarification on the pedestrian lights and bicycle lanes. Vice Mayor Herms voiced approval for the plan. Mr. Fedelem provided further information on the 18-inch tall planters to be placed on the brick pavers across the bridges, if approved. Mayor MacKenzie noted that Council had previously discussed extending the project design and the lighting to the four corners area if there were adequate funds available. Mr. Gatti stated the project presently encompasses from 10<sup>th</sup> Street to the western edge of the intersection with Davis Boulevard, and that staff has put that concept on hold pending further Council direction. He further stated that staff is investigating possible intersection improvements at Sixth Avenue South and 10<sup>th</sup> Street.

Barbara Hill, Executive Director of the Von Liebig Art Center, addressed the Gateway art project, offering to provide insight and recommendations to Council. Ms. Hill said the Gateway Project would establish the beginning of a public art collection for the City, but urged first considering whether funding covers installation, shipping, site preparation, lighting, and landscaping. Based on her experience with public art projects, Ms. Hill predicted that a one and one-half life size Calusa Indian sculpture would cost \$80,000.00. However because the sculpture would not be on City property, she questioned ownership, maintenance, and insurance. She also questioned selection of the artist, selection of the committee membership and function, and what City department would oversee the process. She then recommended appointing a task force to evaluate these issues and to research appropriate models for drafting a public arts ordinance that clearly establishes these procedures and guidelines.

Ms. Hill clarified for Mayor MacKenzie that the Art in Public Places program differs in that those works are loans or gifts to the City, and that the Fifth Avenue South Association had purchased the pedestals. Council Member Tarrant stated that the previous Council had decided to raise money from the private sector for the Calusa Indian statue, with the City providing the pedestal, base, landscaping, lighting, or other needed items. Mr. Harrison explained that the former Council had also decided that three chosen artists would submit one model of a Native American and one of a subject of their choosing, with Council making the final determination. Council Member Tarrant urged that the sculpture represent a realistic image of a Native American. Ms. Hill estimated there are 50 well-regarded artists in Florida alone who would be very capable of this particular project and urged Council to identify appropriate funding prior to submitting the requests for proposals, as professional artists would generally respond only if a project is underway. Council Member MacIlvaine suggested contacting a local bank that had recently commissioned a similar statue.

**MOTION by Herms to PROCEED WITH A REALISTIC BRONZE SCULPTURE (MINIMUM 1 AND ½ TIMES LIFE SIZE) OF A NATIVE AMERICAN; seconded by Taylor and failed 3-4, all members present and voting (Galleberg-no, Herms-yes, MacIlvaine-yes, Tarrant-yes, Taylor-no, Wiseman-no, MacKenzie-no).**

Although noting the importance of guidelines, Council Member Taylor stated that being overly specific would limit the possibilities of creative work.

Noting that the City does not have an ordinance concerning ownership, maintenance, or damage to its art, Mayor MacKenzie requested that Ms. Hill work with the Gateway Committee and staff to discuss these issues, and recommend any sources for financial support. Council Member MacIlvaine voiced concern regarding any liability resulting from the ongoing Art in Public Places program. Assistant City Manager Harrison stated that a contract is presently being drafted stipulating that the artwork donor is responsible for property and liability insurance.

**MOTION by Herms to INITIATE AN ORDINANCE THAT SPECIFICALLY PROTECTS THE CITY ON ANY PUBLIC ART AND REQUIRES THAT THE ARTIST AND/OR OWNER PROVIDE INSURANCE; 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).**

.....**ITEM 7-a**  
**DISCUSSIONS WITH COMMUNITY SERVICES DEPARTMENT REGARDING THE FOLLOWING TOPIC: USE OF STATE GRANT FUNDS TO REMOVE NOXIOUS PLANTS IN ANTHONY PARK (4:18 p.m.)** Community Services Director Don Wirth provided a brief history of both items, and confirmed that the noxious plants are generally located in the northwest corner of the park. Parks and Parkways Superintendent Terry Fedelem added that the Police & Emergency Services Department has requested the removal of the Australian pine trees to facilitate a clear view of the entire facility. Mr. Wirth said the property would then be re-landscaped with proper shade trees and turf areas for recreational use. Council Member Tarrant however voiced concern regarding the destruction of Australian pines. Vice Mayor Herms noted that last year the Beach Club had removed a significant number of Australian pines, which forced hundreds of pelicans to relocate to the Moorings and roost on trees near Springline Drive, forcing the property owners there to cut down those trees. He added that this tree also provides shade in the beach dune area. Mr. Fedelem confirmed there is also Brazilian pepper in the park. Mr. Herms made a motion to remove the Brazilian pepper but retain the Australian pines; however, further discussion ensued. Mr. Fedelem stated that the State grant mandated the clearing of all exotics in that area. Natural Resources Manager Jon

Staiger briefly discussed exotic and invasive plants. He added that the City ordinances require the removal of all the exotics when property owners develop or redevelop. Council Member Galleberg voiced concern that leaving Australian pines would result in the loss of State funding. City Manager Kevin Rambosk noted to do so would require amending the City ordinance.

**MOTION by Herms to REMOVE THE BRAZILIAN PEPPER BUT RETAIN THE AUSTRALIAN PINES; seconded by Tarrant. This motion failed 2-5, all members present and voting (Galleberg-no, Herms-yes, MacIlvaine-no, Tarrant-yes, Taylor-no, Wiseman-no, MacKenzie-no).**

**MOTION by MacKenzie to APPROVE THE USE OF STATE GRANT FUNDS TO REMOVE ALL NOXIOUS PLANTS IN ANTHONY PARK AND REPLACE THEM WITH NATIVE LANDSCAPING INCLUDING MATURE LIVE OAKS; seconded by Wiseman and carried 5-2, all members present and voting (Galleberg-yes, Herms-no, MacIlvaine-yes, Tarrant-no, Taylor-yes, Wiseman-yes, MacKenzie-yes).**

..... ITEM 7-b  
**DISCUSSIONS WITH COMMUNITY SERVICES DEPARTMENT REGARDING THE FOLLOWING TOPIC: APPLICATION OF SECTION 106-235 (c) OF THE CODE OF ORDINANCES REGARDING THE CONTROL OF NOXIOUS PLANTS (4:43 p.m.)**

Community Services Director Don Wirth stated that staff is requesting direction to complete a survey currently underway to obtain all the necessary information to remove the exotics. Mayor MacKenzie recommended rather than establishing a date by which all the exotics must be removed, the program proceed on a property development or redevelopment basis, unless trees are threatening neighboring property. Natural Resources Manager Jon Staiger stated that he receives many inquiries regarding that issue, and that he usually requests the property owner to at least prune the tree. He added that he was unsure why the five-year deadline was stipulated in the ordinance, and agreed with the policy suggested by Mayor MacKenzie. City Manager Rambosk suggested developing a procedure wherein individual cases can be reviewed and determined. Council Member Galleberg made a motion to direct staff to complete the inventory and suspend application of the ordinance pending further review; however, further discussion ensued. Vice Mayor Herms then recommended following specific Code, which requires the formation of a Tree Board; however, Dr. Staiger explained that this board was construed to be the Community Services Advisory Board (CSAB). After a brief discussion, Council Member Tarrant stated he believed the CSAB could readily perform this function.

**MOTION by Galleberg to DIRECT STAFF TO COMPLETE SURVEY ON PUBLIC AND PRIVATE LANDS, AND TO DRAFT ALTERNATIVE LANGUAGE FOR ORDINANCE 95-7488 ALLOWING FOR FLEXIBILITY; seconded by Wiseman and unanimously carried, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).**

**Recess 4:55 p.m. to 5:03 p.m. It is noted for the record that all Council Members were present when the meeting reconvened.**

..... ITEM 4  
**REVIEW OF ITEMS ON THE 4/19/00 REGULAR MEETING AGENDA (5:03 p.m.) Item 5-e (authorize an expenditure relating to completion of the tree inventory program) -**

MacKenzie questioned whether software could be adapted to include additional information on trees. **Item 5-f (award a bid for a wellpoint pump for use by Utilities Department)** – MacKenzie requested background information. **Item 12 (consider a franchise agreement to provide for installation of a natural gas pipeline)** – Rambosk stated that staff would either provide information at the Regular Meeting or request continuance. Tarrant noted the potential

hazard from underground tanks of bottled gas. **Added Item 13 (approve addendum to Cambier Park Bandshell renovation and expansion design)** and **Added Item 14 (approve a waiver for competitive bidding for purchase of a fire safety house trailer).**

.....**ITEM 6**  
**BRIEFING BY CITY MANAGER** (5:10 p.m.) Council to review annual water quality report information. Herms requested information on new Environmental Protection Agency regulations regarding groundwater supplies. / Council to review potential new State building codes for hurricane requirements. / T-groin project in south end of City to be completed within the next two weeks; TDC funds available for reinforcing horizontal beams for structural integrity. / May 1st workshop to discuss new concepts concerning production, taping, equipment and other issues relating to government channel programming. / Motion (Herms/Taylor/7-0) to instruct City Manager to secure noise training seminar for the development of a new noise ordinance.

At this point in the meeting, Mayor MacKenzie noted that the Community Redevelopment Agency (CRA) meeting would be held April 19<sup>th</sup>.

.....**ITEM 11**  
**DISCUSSION ON ADVERTISING FOR A NEW CITY ATTORNEY** (5:15 p.m.) Council Member Wiseman stated that Council had authorized her to pursue options for an interim and a permanent City Attorney. She also noted that she had asked City Attorney Kenneth Cuyler whether someone at Roetzel & Andress was capable of continuing City representation on an interim basis. He recommended either Gregory Urbancic or Beverly Grady. Mrs. Wiseman provided the details of Mrs. Grady's qualifications, and recommended retaining Roetzel & Andress. She also explained that she then received another memorandum from Mr. Cuyler stating that the firm is willing to continue as counsel to the City, simply replacing him in the capacity as lead attorney. Mrs. Wiseman explained that the firm's representatives however have indicated that they would not perform on an interim basis if they could not be considered for permanent representation. She noted the difficulty of retaining another attorney in a very short time period, and recommended continuing with Roetzel & Andress until contract expiration in September. Vice Mayor Herms recommended conducting interviews with these two individuals, in addition to interested attorneys at Porter, Wright, Morris & Arthur.

**MOTION by Herms to ALLOW ANY ATTORNEYS APPLYING ON A TEMPORARY BASIS TO ALSO APPLY ON A PERMANENT BASIS;**  
*seconded by MacIlvaine and carried 6-1, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-no, MacKenzie-yes).*

Vice Mayor Herms made a motion to interview the aforementioned firms; however further discussion ensued. Council Member Wiseman suggesting including other interested firms as well. She confirmed that Council could also cancel its contract with Roetzel & Andress with 30 days notice.

**MOTION by Herms to HOLD A SPECIAL MEETING BETWEEN APRIL 24<sup>TH</sup> AND APRIL 27<sup>TH</sup> TO INTERVIEW CANDIDATE FIRMS TO FILL THE CITY ATTORNEY POSITION ON A TEMPORARY BASIS;**  
*seconded by Tarrant and carried 4-3, all members present and voting (Taylor-yes, Herms-yes, MacIlvaine-yes, Tarrant-yes, Galleberg-no, Wiseman-no, MacKenzie-no)*

City Manager Kevin Rambosk noted that he would research public notice issues. He also requested Council to contact his office regarding any preferences for scheduling the interviews.

.....**ITEM 12**  
**DISCUSSION REGARDING A HEARING POLICY ON THE HEIGHT CHARTER AMENDMENT** (5:40 p.m.) Vice Mayor Herms asked whether there is Council support to hold

a hearing concerning the height issue in regards to the Norins' property at the 500 block, west of U.S. 41 North. Council Member Tarrant stated that he would welcome addressing the project but with the understanding that there be no request to violate the height charter amendment or discuss vested rights. City Clerk Tara Norman then read into the record a letter from Dr. and Mrs. Norins. (See Attachment 1.) Mr. Herms recommended tentatively scheduling the item for the May 17th Regular Meeting. Council Member Wiseman asked whether this meeting might result in the Norins' amending their plans, and complying with the established height limit. Mr. Herms confirmed this would be one option, but did not wish to predispose their decision. Council Member Galleberg stated that Dr. Norins could modify his plans through the Building Department, and questioned the rationale for Council review. Mr. Tarrant suggested this might help them by putting their project on an expeditious track. Mayor MacKenzie expressed the importance of negotiation, and stated that she supports the farines implicit in Mr. Herms' request. Council Member Tarrant suggested inviting the Norins to a meeting in which to discuss any modification to their project consistent with the charter amendment. Council Member Taylor however noted that the height issue cannot be separated from vested rights. Mr. Herms stated that he hoped the Norins would realize that making minor modifications is more advantageous than pursuing litigation. He also noted the importance of listening to the testimony of all involved parties, should someone decide to pursue vested rights. Although voicing respect for the charter amendment vote, Council Member Wiseman said she doubted voters would choose to disregard projects in process simply because they do not hold a building permit. She added that she felt the process may already be predisposed, and although interested in hearing the discussion, did not favor wasting time. Council Member Galleberg said that not addressing vested rights would not constitute a proper hearing; however, Council Members Taylor and MacIlvaine voiced approval for granting a public hearing to hear those affected points of view.

***Direction to City Manager to draft correspondence inviting the Norins to address Council relative to their Planned Development.***

**CORRESPONDENCE & COMMUNICATIONS (6:18 p.m.) .....**

Council Member Tarrant expressed appreciation to the City Manager for the videotape on gasoline additives. / Vice Mayor Herms expressed appreciation to staff for its work on the charter amendment language, and noted the upcoming Special Workshop on April 24<sup>th</sup>. A representative from the Conservancy of Southwest Florida will be available to discuss a wetlands protection ordinance. / Mayor MacKenzie noted that local architects designed several of the commercial buildings selected by Council Members, and requested that they and the building owners provide Council input relative to their redevelopment efforts.

**OPEN PUBLIC INPUT (6:23 p.m.) .....**

None.

**ADJOURN (6:23 p.m.) .....**

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Bonnie R. MacKenzie, Mayor

\_\_\_\_\_  
Tara A. Norman, City Clerk

Prepared by:

\_\_\_\_\_  
Jessica R. Rosenberg, Recording Specialist

Minutes Approved: 6/7/00

4/17/00  
10:15 AM

To: The Mayor and City Council, Naples  
From: Dr. Leslie Norins and Ravin Norins  
Subject: Comment on Memo by Joe Hermes Concerning our Project

We have just become aware of a memo submitted by Vice-Mayor Hermes requesting time today to discuss the "Norins project" and to appropriately propose it for a future agenda. We welcome this possibly constructive step.

We would hope any such future discussion would be held without pre-drawn conclusions and would represent a fair and open hearing. If present Council members have pre-existing bias or emotion concerning the project, it could be valuable to have the hearing conducted by a neutral party, such as an administrative law judge. This independent party could hear and opine on the merits of the various positions.

In any case we and our attorney stand ready to cooperate, and would appreciate due notice of any proposed consideration of our project.

We respectfully request, Madame Mayor, that you read our memo into the record at an appropriate time in today's session.





