



City Council Chamber
735 Eighth Street South
Naples, Florida 34102

City Council Regular Meeting – Wednesday, June 20, 2001 - 9:00 a.m.

Mayor MacKenzie called the meeting to order and presided.

ROLL CALLITEM 1

Present:

Bonnie R. MacKenzie, Mayor
Joseph Herms, Vice Mayor
Council Members
Gary Galleberg
William MacIlvaine
Fred Tarrant
Penny Taylor (arrived 9:04 a.m.)
Tamela Wiseman

Jackie Gwynn
Jim Brennan
Laverne Franklin
Kemi Reed
Mark Simmons
Joseph Silva
Jennifer Starnes
Allen Walburn
Pamela Arsenault
Gary Brown
David Feldman
Don Mestus
Richard Yovanovich
Jason Korn
Reverend Mallory
Clark Russell

Also Present:

Kevin Rambosk, City Manager
Ron Lee, Planning Director
Beverly Grady, City Attorney
Robert Pritt, City Attorney
William Harrison, Assistant City Manager
Don Wirth, Community Services Director
Robert Middleton, Utilities Director
David Lykins, Recreation Manager
Ann Walker, Planner
Laura Spurgeon, Planner
Jessica Rosenberg, Recording Specialist
Karen Kateley, Admin. Specialist
Charles Towns
George Lange
Joy Lelonick
Natasha Alveshire

Media:

Camden Smith, WINK News
Denise Zoldan, Naples Daily News
Denes Husty, Fort Myers Press

Other interested citizens and visitors

INVOCATION AND PLEDGE OF ALLEGIANCE	ITEM 2
Rev. David Mallory, First Assembly of God	
ANNOUNCEMENTS	ITEM 3
None.	
SET AGENDA	ITEM 4
Add Item 25-a and 25-b – Release of liens.	
<i><u>MOTION by Herms to ADD ITEMS 25-a and 25-b TO THE AGENDA; 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).</u></i>	
Add Item 26 – Executive Session at 1:30 p.m. relative to the Wilkinson House litigation.	
<i><u>MOTION by Herms to ADD ITEM 26 TO THE AGENDA; 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).</u></i>	
Add Item 27 – Executive Session at 2:45 p.m. relative to the Wharton Smith litigation.	
<i><u>MOTION by Herms to ADD ITEM 27 TO THE AGENDA; 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).</u></i>	
Add Item 28 – Gulf Coast Youth Football/Naples Gators request to lease Fleischmann Park football facility.	
<i><u>MOTION by Herms to ADD ITEM 28 TO THE AGENDA; seconded by Taylor and unanimously carried, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).</u></i>	
Added Item 29 – City Dock landside facility petition.	
<i><u>MOTION by Herms to ADD ITEM 29 TO THE AGENDA; 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).</u></i>	
 <i><u>MOTION by Herms to ADD AN ITEM RELATIVE TO DETERMINING THE ALLOCATION OF COMMERCIAL SLIPS AT THE CITY DOCK; seconded by Taylor and failed 2-5 (Galleberg-no, Herms-yes, MacIlvaine-no, Tarrant-no, Taylor-yes, Wiseman-no, MacKenzie-no).</u></i>	
 <i><u>MOTION by Herms to SET AGENDA REMOVING ITEMS 6-b, 6-c, 6-d, AND 6-k FROM THE CONSENT AGENDA FOR SEPARATE DISCUSSION; DELETING ITEMS 6-f AND 8 FROM THE AGENDA; AMENDING ITEM 11 TO 11-a (ARCHITECTURAL EMBELLISHMENTS) AND 11-b (HEIGHT AND LOT COVERAGE BONUSES); AND ADDING THE ABOVE ITEMS AS NOTED; 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).</u></i>	
OPEN PUBLIC INPUT	ITEM 3
None.	

CONSENT AGENDA

APPROVAL OF MINUTESITEM 6-a
March 19, 2001 Workshop, April 18, 2001 Regular Meeting (as amended on Page 18 to reflect Council Member Wiseman as the motion maker on Item 15), May 25, 2001 Special Meeting, and June 4, 2001 Special Meeting.

RESOLUTION 01-9236ITEM 6-e
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NAPLES, FLORIDA, AUTHORIZING THE CITY TO ENTER INTO AN INTERLOCAL AGREEMENT AND TO BECOME A MEMBER OF FLORIDA INTERGOVERNMENTAL FINANCE COMMISSION PURSUANT TO SUCH INTERLOCAL AGREEMENT; AUTHORIZING THE EXECUTION AND DELIVERY OF AN INTERLOCAL AGREEMENT IN CONNECTION THEREWITH; AUTHORIZING CERTAIN OTHER MATTERS AND PROVIDING FOR AN EFFECTIVE DATE. Title not read.

RESOLUTION 01-9237ITEM 6-g
A RESOLUTION APPROVING A CONTRACT BETWEEN THE CITY OF NAPLES AND HANNULA LANDSCAPING, INC. TO FURNISH AND INSTALL LANDSCAPING AND IRRIGATION ON GULF SHORE BOULEVARD NORTH, BETWEEN HARBOUR DRIVE AND DOCTOR'S PASS; AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT THEREFOR; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 01-9238ITEM 6-i
A RESOLUTION WAIVING COMPETITIVE BIDS PURSUANT TO NAPLES CITY CODE OF ORDINANCES SECTION 2-356(2) AND AUTHORIZING THE CITY MANAGER TO ISSUE A PURCHASE ORDER TO MILLER BEARING FOR THE ANNUAL REFURBISHMENT OF A DELROYD GEARBOX; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 01-9239ITEM 6-j
A RESOLUTION WAIVING COMPETITIVE BIDS PURSUANT TO NAPLES CITY CODE OF ORDINANCES SECTION 2-356(3) APPROVING A CONTRACT, IN SUBSTANTIALLY THE FORM ATTACHED HERETO, BETWEEN METRO METER SERVICES, INC. AND THE CITY OF NAPLES, FOR THE PURPOSE OF CHANGING OUT METERS WITH A SERVICE LIFE OF 10 YEARS; AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 01-9240ITEM 6-l
A RESOLUTION GRANTING SUBDIVISION PLAT PETITION 01-SD11 FOR FINAL PLAT APPROVAL TO SUBDIVIDE PROPERTY KNOWN AS TRACT B AT THE ESTUARY AT GREY OAKS, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 01-9241ITEM 6-m
A RESOLUTION DETERMINING AN APPLICATION FOR A PERMIT TO STABILIZE A LAKE BANK WITH RIPRAP AT 500 YUCCA ROAD; AND PROVIDING AN EFFECTIVE DATE. Title not read.

MOTION by Wiseman to APPROVE ITEMS 6-a, 6-e, 6-g, 6-i, 6-j, 6-l, 6-m; 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

APPROVE THE FOLLOWING SPECIAL EVENTSITEM 6-b

- 1) Haynes private party (415 11th Avenue South) – 7/4/01
- 2) Corradi private party and fundraiser (76 13th Avenue South) – 7/4/01
- 3) Collections: Art, Artifacts, Antiquity customer appreciation event (Park Street) – 7/12/01.

City Manager Kevin Rambosk confirmed that there would be no cost impact to the City from any of these events. In regard to Item 6-b (1), Recreation Manager David Lykins explained that the event organizers had requested allowing residential traffic on Fourth Street South only, between 10th and 11th Avenues South, not a full street closure.

Public Input: None. (9:20 a.m.)

MOTION by Galleberg to APPROVE ITEM 6-b (1,2,3); 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).

RESOLUTION 01-9242ITEM 7-a

A RESOLUTION DETERMINING LIVE ENTERTAINMENT PETITION 01-LE5 FOR PROPERTY LOCATED AT 4236 GULF SHORE BOULEVARD NORTH, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.

RESOLUTION 01-9243ITEM 7-b

A RESOLUTION DETERMINING RESIDENTIAL IMPACT STATEMENT PETITION 01-RIS9 FOR PROPERTY LOCATED AT 4236 GULF SHORE BOULEVARD NORTH, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.

It is noted for the record that Items 7-a and 7-b were considered concurrently. (9:20 a.m.) Titles read during discussions below. Petitioner's attorney Richard Yovanovich noted that this item had been continued to enable staff to contact neighbors regarding the continuation of a live solo performer at Marie-Michelle's Restaurant on the Bay. Although noting that 10 of 17 responses had been in opposition, Attorney Yovanovich urged that Council base its decision strictly on the facts; namely, that Marie-Michelle's had been providing a solo amplified entertainer for over three years prior to inclusion of solo performers in its live entertainment regulations. Further, Attorney Yovanovich noted that the opposition offers only speculation as to noise which might be heard although the petitioner is constrained by the City's noise ordinance, and would therefore not subject neighbors to unacceptable noise levels. In addition, he noted that the music would be background only, that staff recommends approval, and that by law the Council must apply the standards of its Code, and render decisions based on factual evidence only. Mr. Yovanovich stressed that this permit under consideration does in fact meet the standards as set forth in the Code, and urged that Council render approval.

This being a quasi-judicial proceeding, Council Members made the following ex parte disclosures: MacKenzie/no contact since the previous meeting; MacIlvaine/conversations with members of the Park Shore Association; Galleberg/ telephone call from a Mr. Seabolt, one of the letter writers; other Council Members registered no contact. Notary Public Jessica Rosenberg then administered an oath to those intending to give testimony; all responded in the affirmative. Planning Director Ron Lee noted that staff had provided an overview of the citizen responses, a copy of which is contained in the file for this meeting in the City Clerk's Office. City Manager Rambosk confirmed that staff would measure sound from the edge of the restaurant property in accordance with Code.

Public Comment: (9:35 a.m.) Jim Brennan, 4951 Gulf Shore Boulevard North #1804, Park Shore Association President, recommended approval without amplifiers or, alternatively, allowing the amplified music until 9 p.m. rather than 10 p.m. He added, however, that if Council does allow

amplifiers, appropriate noise testing should occur in the fall when the majority of the residents return.

Council Member MacIlvaine noted that the restaurant is in the heart of a residential area and that he believed receiving 17 responses to 140 letters to be an adequate return considering the time of the year. He said he would support non-amplified music; Council Member Tarrant concurred. Council Member Galleberg observed that reactions might be more applicable to the concept of nighttime entertainment than the actual situation. He then pointed out that this activity has existed for several years with little complaint and the current request would merely add three more hours of entertainment per week. Vice Mayor Herms observed, however, that amplification has created noise issues throughout the City. In response to Mayor MacKenzie, Planning Director Lee confirmed that the residential impact statement does not specifically address noise that originates outside a building. He added that pursuant to the last meeting on this issue, staff has initiated a text amendment that would prohibit almost all outdoor amplified music; this matter will be reviewed in July by the Planning Advisory Board (PAB) and Council in August. Mayor MacKenzie therefore questioned whether Council could apply a standard not yet in effect. City Attorney Beverly Grady recommended ascertaining whether Attorney Yovanovich's client concurs with the proposal of non-amplified entertainment; if not, she added she would recommend continuance.

Attorney Yovanovich said he believed the matter was being greatly exaggerated, pointing out that Marie-Michelle's has been a good neighbor and would remain so. Although there had been no testimony from affected residents, Mr. Yovanovich nevertheless stated his client would agree to non-amplified music provided it could continue until 10 p.m. He however asked that this standard be uniformly applied to all other City establishments. Mayor MacKenzie called this a reasonable request for Council to consider. Council Member Wiseman proffered a motion to approve with non-amplified music; however, further discussion ensued. City Attorney Grady noted that Section 2 of the resolution would be amended to reflect non-amplified entertainment. Vice Mayor Herms recommended that staff test ambient noise levels in the Park Shore area, noting that even non-amplified music may exceed the noise ordinance.

MOTION by Wiseman to APPROVE RESOLUTION 01-9242 WITH THE UNDERSTANDING THAT THE MUSIC WILL BE NON-AMPLIFIED; seconded by MacIlvaine and unanimously carried, all members present and voting (Galleberg-yes, Taylor-yes, Tarrant-yes, Wiseman-yes, Herms-yes, MacIlvaine-yes, MacKenzie-yes).

During the vote, Council Member Tarrant expressed appreciation to Marie-Michelle's for its cooperative attitude in this issue; Council Member MacIlvaine concurred.

MOTION by Wiseman to APPROVE RESOLUTION 01-9243 WITH THE UNDERSTANDING THAT THE MUSIC WILL BE NON-AMPLIFIED; 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).

**RESOLUTION (Denied)..... ITEM 6-c (1)
A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXPEND FUNDS FROM THE FISCAL YEAR 2001 GENERAL FUND IN THE AMOUNT OF \$5,000.00 AS A CONTRIBUTION TO THE UNITED ARTS COUNCIL OF COLLIER COUNTY FOR THE PURPOSE OF PARTIAL FUNDING OF A COLLIER COUNTY ARTS NEEDS ASSESSMENT; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk (9:58 a.m.). Assistant City Manager William Harrison stated that his only concern is that**

Council has historically voted against donations to outside organizations. He however noted that the United Arts Council (UAC) is a fine organization and provides a significant community benefit.

Public Comment: (10:01 a.m.) George Lange, 4851 Tamiami Trail North #401, a UAC Board Member, pointed out that while UAC is a non-profit organization, its role as a local arts agency is authorized by State statute and enabled by County ordinance. He added that the donation would fund the creation of a cultural needs assessment, which would assist the underserved areas of the community. In addition, Mr. Lang pointed out that studies have identified the arts as one of the cornerstones of developing a community fiber and involvement across all social and economic lines. **Joy Lelonick, address not given, UAC Executive Director**, stated that the County Commission is also currently considering making a donation. She then explained that the UAC is a private non-profit organization in existence for 20 years, and that it has never approached the City Council for funding. Ms. Lelonick added that the UAC itself would generate funds for the needs assessment, which she said would document the community's strengths and weaknesses, and determine how best to achieve its goals. In addition, she stated that the UAC advocates for the City and promotes its events, and thereby asked for Council support.

Although acknowledging its worthiness, Council Member Tarrant said approval of the request would set a precedent and cause other organizations to request similar consideration; Council Member Wiseman concurred.

MOTION by Wiseman to DENY ITEM 6-c (1); seconded by MacIlvaine and carried 6-1, all members present and voting (Galleberg-yes, Herms-no, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

..... **ITEM 6-c (2)**
AUTHORIZE PLACEMENT OF FIBERGLASS ALLIGATORS ON PUBLIC PROPERTY/RIGHTS-OF-WAY AS PART OF THE "GATORS GALORE" JOINT FUNDRAISING EFFORT BENEFITING THE BOYS AND GIRLS CLUB OF COLLIER COUNTY AND THE VON LIEBIG ART CENTER (JANUARY THROUGH APRIL, 2002)

(10:08 a.m.) Assistant City Manager William Harrison noted that the Public Art Advisory Committee (PAAC) has recommended approval. In response to Council, he explained that any placement of the statuary on public property would require staff approval and that the program would indemnify the City. While expressing support for the program's goals, Council Member Tarrant said he could not approve installations on City property. Council Member Wiseman proffered a motion to approve seconded by Council Member Taylor; however, further discussion ensued. Council Member Galleberg suggested that the statues be distributed throughout the community, not merely on Fifth Avenue; Mayor MacKenzie concurred. Council Member Wiseman however said she trusted the judgment of staff in this matter, and Mr. Harrison said that the PAAC would also provide assistance. Vice Mayor Herms however requested further assurance that this would not be simply a City project.

Public Comment: (10:14 a.m.) Natasha Alveshire, 28781 Wild Coffee Court, Boys and Girls Club Marketing Director, stated that although placement would be determined by the patrons, a great number of interested businesses are in fact located in the City. City Manager Kevin Rambosk noted that the current proposal is for six statues on City property (Pier, City Dock, and four at Cambier Park), and said that staff would recommend no more. Council Member Wiseman amended the motion to stipulate that no more than six statues would be placed on City property. Council Member MacIlvaine suggested requiring that the City accept no more than half the total placements; however, Ms. Alveshire said this would be difficult to accomplish noting that County businesses have not shown significant interest. Council Member MacIlvaine cautioned against the proliferation

of statues on Fifth Avenue; however, City Manager Rambosk pointed out that they would be subject to Staff Action Committee (SAC) review.

MOTION by Wiseman to APPROVE WITH A MAXIMUM OF SIX STATUES PLACED ON PUBLIC PROPERTY; seconded by Taylor. This motion failed 3-4, all members present and voting (Taylor-yes, Wiseman-yes, Galleberg-yes, Herms-no, MacIlvaine-no, Tarrant-no, MacKenzie-no).

Vice Mayor Herms proffered a motion to approve with the stipulation that no more than half the statues be placed within City limits and with no more than six statues on public property. Council Member Wiseman questioned how the petitioner could assure the prescribed mix. Ms. Alveshire stated that none of the patrons had signed contracts as yet, but that they would be given consideration on a first-come-first-serve basis. She however said that she would take Council's recommendations to her committee and act accordingly. Council Member Taylor nevertheless voiced concern about the committee's ability to follow these guidelines. Council Member Galleberg recommended reexamining the issue if problems arise; however, City Attorney Beverly Grady explained that all conditions must be met prior to placement of the statuary on any City property.

MOTION by Herms to APPROVE ITEM 6-c (2) SPECIFYING NO MORE THAN SIX STATUES ON PUBLIC PROPERTY AND NO MORE THAN 50% WITHIN CITY LIMITS; seconded by MacIlvaine and carried 5-2, all members present and voting (Tarrant-no, Galleberg-yes, Herms-yes, Wiseman-no, Taylor-yes, MacIlvaine-yes, MacKenzie-yes).

RESOLUTION 01-9244ITEM 6-d
A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXPEND FUNDS FROM THE CAPITAL IMPROVEMENT FUND IN THE AMOUNT OF \$50,000.00 AS A CONTRIBUTION TO THE NAPLES AIRPORT AUTHORITY AIRPORT ROAD BEAUTIFICATION PROJECT; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk (10:31 a.m.). Council Member Wiseman explained that she had requested removing this item from the Consent Agenda because her husband is the president of the firm that is the construction manager for the project, and that she would therefore abstain from voting. City Manager Rambosk explained that the total project would be approximately \$7.9 million, \$750,000 of which would be devoted to landscaping improvements, and that it would extend along Airport Road from Enterprise Avenue to North Road. He then reiterated that the Naples Airport Authority had requested that the City contribute \$50,000 to purchase large, mature trees for the project. Vice Mayor Herms predicted that the project would result in a significant improvement to the area.

Public Input: None. (10:34 a.m.)

MOTION by MacIlvaine to APPROVE RESOLUTION 01-9244 AS SUBMITTED; seconded by Galleberg and carried 5-1 (Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-no, Taylor-yes, Wiseman-abstaining, (See Attachment 1), MacKenzie-yes).

RESOLUTION 01-9245ITEM 6-h
A RESOLUTION APPROVING A CONTRACT WITH JOHNSON ENGINEERING, INC., TO PROVIDE SURVEY SERVICES FOR DRAINAGE BASIN III (CIP NUMBER 99V14); AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk (10:34 a.m.). Council Member Tarrant received confirmation that none of these funds would be used for survey services relating to the Royal Poinciana Golf Club.

Public Input: None. (10:37 a.m.)

MOTION by Herms to APPROVE RESOLUTION 01-9245 AS SUBMITTED; 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).

RESOLUTION 01-9253ITEM 6-k

A RESOLUTION AWARDED A BID TO PRIDE ENTERPRISES IN AN AMOUNT NOT-TO-EXCEED \$13,187.55 FOR PRESSURE TREATED LUMBER TO BE USED FOR PILING AND STRINGERS FOR THE NAPLES PRESERVE BOARDWALK AND OBSERVATION DECKS; AND PROVIDING AN EFFECTIVE DATE. (10:37 a.m.) Title not

read. Community Services Director Don Wirth stated that staff had recommended awarding a contract for pressure treated lumber for the boardwalk framing, and another for Ipe wood for the decking. He however explained that subsequent to the bidding process, staff had been informed of a certifying organization that determines whether the wood suppliers use environmentally sensitive and/or sustained forest concepts. Mr. Wirth added that staff is yet uncertain whether the low bidder for the Ipe wood is compliant, and therefore suggested postponing that bid award. Council Member Galleberg proffered a motion to continue the item; however, further discussion ensued. Council Member MacIlvaine stated that the Council should provide the best benefit for the citizenry, and should therefore purchase the wood from a high quality, reputable source regardless of the aforementioned certification; Council Member Tarrant concurred. Council Member Taylor however recommended allowing staff additional time to explore this issue further. City Manager Kevin Rambosk recommended approving the pressure treated wood portion so as to allow installation of the framing; Council Member Galleberg amended his motion accordingly.

Public Input: None. (10:50 a.m.)

MOTION by Galleberg to CONTINUE THE IPE WOOD DECKING DECISION UNTIL THE AUGUST 15, 2001 REGULAR MEETING; seconded by Wiseman and carried 6-1, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-no, Taylor-yes, Wiseman-yes, MacKenzie-yes).

Council Member Tarrant voiced dismay that Council may be losing the ability to make decisions at the local level.

MOTION by Herms to APPROVE THE PURCHASE OF THE PRESSURE TREATED LUMBER; 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).

Recess 10:50 a.m. to 11:11 a.m. It is noted for the record that the same Council Members were present when the meeting reconvened.

ORDINANCE (First Reading)ITEM 11

AN ORDINANCE AMENDING SECTIONS 82-10 AND 110-39 OF THE CODE OF ORDINANCES IN ORDER TO REGULATE ROOFTOP ARCHITECTURAL EMBELLISHMENTS, AND AMENDING SECTIONS 102-328, 102-358, 102-388 AND 110-40 (b) AND 110-40 (c) (1) AND (2) OF THE CODE OF ORDINANCES IN ORDER TO ELIMINATE HEIGHT AND LOT COVERAGE ALLOWANCES FOR GROUND FLOOR PARKING IN MULTIFAMILY BUILDINGS WHICH ARE SUBJECT TO THE COASTAL CONSTRUCTION CONTROL LINE; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk (11:11 a.m.).

It is noted for the record that this item was amended into 11-a (architectural embellishments) and 11-b (height and lot coverage bonuses). See Page 2.

ORDINANCE (First Reading)ITEM 11-a

AN ORDINANCE AMENDING SECTIONS 82-10 AND 110-39 OF THE CODE OF ORDINANCES IN ORDER TO REGULATE ROOFTOP ARCHITECTURAL

EMBELLISHMENTS; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk (11:11 a.m.). Planning Director Ron Lee stated that staff had inadvertently retained Section 3 of the ordinance dealing with lot coverage, which it would delete prior to Second Reading.

ORDINANCE (First Reading)ITEM 11-b AN ORDINANCE AMENDING SECTIONS 102-328, 102-358, 102-388 AND 110-40 (b) AND 110-40 (c) (1) AND (2) OF THE CODE OF ORDINANCES IN ORDER TO ELIMINATE HEIGHT AND LOT COVERAGE ALLOWANCES FOR GROUND FLOOR PARKING IN MULTIFAMILY BUILDINGS WHICH ARE SUBJECT TO THE COASTAL CONSTRUCTION CONTROL LINE; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk (11:11 a.m.). Council Member Wiseman stated that an attorney in her law firm has represented the Naples Beach Hotel (which has objected to the ordinance and would be subject thereto) for approximately 20 years, and that it may be necessary for her to abstain from voting depending upon counsel's direction. Council briefly discussed the potential effect both on this hotel and the Edgewater Beach Hotel, which had also objected. Mayor MacKenzie commented that while apartment owners may not want to adversely affect either hotel, they do want to eliminate the 12-foot height bonus and do not want transient zoning. She suggested postponing the decision until Council could address these concerns directly. Council Member MacIlvaine concurred that the ordinance should apply to both hotels unless they can offer persuasive reasoning otherwise. He however voiced concern that a petitioner could submit a permit application before Council renders final approval of the amendment, and then later file a Bert J. Harris claim. City Attorney Beverly Grady recommended holding First Readings on both ordinances at that meeting, and then allowing staff to make any necessary changes. Council Member MacIlvaine proffered a motion to approve Item 11-a at First Reading deleting Section 3, seconded by Vice Mayor Herms; however, further discussion ensued. Council Member Galleberg however called the proposed definition of architectural embellishments unclear. Mr. Lee said the intent was to allow for certain types of building enhancements related to architectural features and suggested giving staff direction for refinement prior to Second Reading. In further response to Council, Mr. Lee further stated that items such as towers, widow's walks, monitors, and belvederes would not be considered cupolas, but architectural enhancements. Council Member Galleberg therefore questioned the advisability of a separate definition for minor cupola but not for other enhancements. Mr. Lee explained that while this had been Council's original direction, the minor cupola definition could be eliminated or definitions added for all other types of architectural embellishments, including graphics. Council Member Galleberg however recommended defining an architectural embellishment as a non-habitable design element surmounting a building's roof, intended as a decorative feature and not a functional element. City Attorney Grady suggested listing various other architectural terms as an example only, and not as a limitation on the type of architectural embellishments which could be used. Vice Mayor Herms voiced concern that the proposal would allow mansard roofs around buildings along with architectural embellishments covering as much as 10% of the roof area. In addition, Council Member MacIlvaine termed the proposed definition of ornamental buffering as unclear. Due to the concerns expressed, Mr. MacIlvaine subsequently withdrew his motion to approve.

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

MOTION by Tarrant to CONTINUE ITEM 11-a TO THE AUGUST 15, 2001 REGULAR MEETING, INSTRUCTING STAFF TO CLARIFY LANGUAGE; seconded by Herms and unanimously carried, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

Noting the length of the agenda, Mayor MacKenzie recommended also continuing Item 11-b. In response to Council Member Galleberg, however, Mayor MacKenzie clarified that the proposed ordinance would cause the Naples Beach Hotel to be nonconforming as to lot coverage. Council Member MacIlvaine reiterated his concern about potential legal vulnerability; however, City Attorney Grady explained this is now considered a pending regulation and that staff would therefore hold any application until after adoption. Vice Mayor Herms recommended that Council proceed to reduce heights in this zoning district and allow the Naples Beach Hotel to seek special consideration at Second Reading. Emphasizing that a future property rezone is a completely separate issue, Mr. Herms proffered a motion to approve seconded by Council Member Taylor. While opposing the 12-foot height bonus, Mayor MacKenzie said she nevertheless did not wish to unadvisedly harm an existing hotel, noting that residents had also supported continuance. While Mr. Herms maintained that approval on First Reading would merely advance the process and allow for public participation, Council Member Galleberg asserted that continuance would in fact move the process forward with less confusion. Council Member MacIlvaine said he could support continuance based on the assurance the City Attorney had provided relative to protection from Bert J. Harris claims. City Attorney Grady explained that Council could proceed and later conduct another First Reading if the ordinance is substantially changed, although Council should operate in good faith to put the regulation into effect and conduct Second Reading in August. Council Member Galleberg nevertheless recommended continuing to the August 15th meeting to obtain further information, predicting that approval at that time may unduly concern residents.

Public Comment: None. (12:01 p.m.)

MOTION by Herms to APPROVE ITEM 11-b; seconded by Taylor and failed 2-4 (Herms-yes, Galleberg-no, Taylor-yes, MacIlvaine-no, Wiseman-abstain (See Attachment 2), Tarrant-no, MacKenzie-no).

MOTION by Galleberg to CONTINUE ITEM 11-b TO THE AUGUST 15, 2001 REGULAR MEETING; seconded by Herms and carried 6-0 (Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-abstain, MacKenzie-yes). (See Attachment 3.)

Recess 12:03 to 1:30 p.m. It is noted for the record that the same Council Members were present when the meeting reconvened.

..... **ITEM 26**
EXECUTIVE SESSION RELATIVE TO THE WILKINSON HOUSE LITIGATION (1:33 p.m.) Mayor MacKenzie stated that pursuant to Section 286-011 (8), Florida Statutes, the City Council of the City of Naples, Florida, would conduct an executive or closed attorney/client session to discuss settlement negotiations and strategy related to litigation expenditures in reference to pending litigation (Kevin A. Denti as Trustee vs. the City of Naples vs. Pamela Sibcy, Collier County Historical Society Inc. and Kevin A. Denti Trustee Case No. 00-4591-CA-TB, filed in the Circuit Court of the 20th Judicial Circuit Collier County). The following persons will be present for the executive session: Mayor Bonnie MacKenzie, Vice Mayor Joseph Herms, Council Members Gary Galleberg, William MacIlvaine, Fred Tarrant, Penny Taylor, and Tamela Wiseman; City Manager Kevin Rambosk; Attorney Jason Korn; and certified court reporter Pam Arsenault. The estimated duration of the attorney/client session is one hour. At the conclusion of the attorney/client session, the meeting shall be reopened.

Executive Session 1:35 p.m. to 2:31 p.m. It is noted for the record that the same Council Members were present when the meeting reconvened.

MOTION by Wiseman to CATEGORICALLY AND ADAMANTLY REJECT THE COUNTER SETTLEMENT PROPOSAL BY THE COLLIER COUNTY

HISTORICAL SOCIETY BY THE LETTER DATED 6/12/01 FROM ATTORNEY MICHAEL VOLPE TO ATTORNEYS JASON KORN AND LAWRENCE FARESE, SPECIFICALLY AS ITEMIZED IN THE LAST PARAGRAPH ON PAGE 3 OF SAID LETTER; *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).*

RESOLUTION 01-9246 ITEM 13
A RESOLUTION WAIVING COMPETITIVE BIDS UNDER SECTION 2-355 (d) (2) OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES, APPROVING A THREE-YEAR ENTERPRISE AGREEMENT WITH MICROSOFT AND ITS RESELLER SOFTWARE HOUSE INTERNATIONAL TO INSTALL MICROSOFT SOFTWARE PRODUCTS ON CITY COMPUTERS; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk (2:33 p.m.). City Manager Rambosk affirmed this is a three-year agreement, at \$88,000 per year.

Public Comment: None. (2:34 p.m.)

MOTION by Wiseman to APPROVE RESOLUTION 01-9246 AS SUBMITTED; *seconded by Herms and unanimously carried, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).*

RESOLUTION (Denied)..... ITEM 14
A RESOLUTION AUTHORIZING A FIRST AMENDMENT TO AN EXISTING PROFESSIONAL SERVICES AGREEMENT WITH AMERICAN CONSULTING ENGINEERS FOR CONSTRUCTION INSPECTION SERVICES FOR THE PARK SHORE DRIVE BRIDGE AND THE HARBOUR DRIVE BRIDGE IMPROVEMENT PROJECT; AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT AMENDMENT; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk (2:34 p.m.) who recommended denial since the contract amount is well in excess of that which had been anticipated; staff would later re-bid.

Public Comment: None. (2:35 p.m.)

MOTION by MacIlvaine to DENY ITEM 14; *seconded by Herms and unanimously carried, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).*

RESOLUTION 01-9247 ITEM 18
A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXPEND FUNDS FROM UNRESTRICTED RESERVES OF THE GENERAL FUND FOR THE PURPOSE OF REPAYMENT OF AN OVERPAYMENT FROM THE COLLIER COUNTY CLERK OF THE COURTS IN THE AMOUNT OF \$155,758.00; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk (2:35 p.m.) who explained that the Clerk of Courts had inadvertently overpaid fine revenues to the City in the amount of \$155,758.00 and that staff requests authorization to repay these funds.

Public Comment: None. (2:37 p.m.)

MOTION by Wiseman to APPROVE RESOLUTION 01-9247 AS SUBMITTED; *seconded by Taylor and unanimously carried, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).*

RESOLUTION 01-9248 ITEM 21
A RESOLUTION APPOINTING ONE REPLACEMENT MEMBER TO THE HEART OF NAPLES COMMITTEE TO FILL A VACANCY CREATED BY THE RESIGNATION OF CHARLES KESSLER, PLANNING ADVISORY BOARD MEMBER FOR THE TERM

EXPIRING DECEMBER 31, 2002, AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk (2:37 p.m.).

Public Comment: None. (2:37 p.m.)

MOTION by MacIlvaine to APPROVE RESOLUTION 01-9248 AS SUBMITTED; 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).

RESOLUTION 01-9249 ITEM 12
A RESOLUTION DETERMINING A WAIVER FROM THE REQUIREMENTS OF THE FIFTH AVENUE SOUTH SPECIAL OVERLAY DISTRICT IN ORDER TO ALLOW A SIDE FLAP ON ONE END OF AN AWNING AT 761 FIFTH AVENUE SOUTH, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk (2:38 p.m.). This being a quasi-judicial proceeding, Council Members made the following ex parte disclosures: MacKenzie/no contact, MacIlvaine/ no contact but affirmed the Staff Action Committee (SAC) had reviewed this item, Galleberg/visited the site, Taylor, Wiseman, Herms and Tarrant/no contact. Notary Public Jessica Rosenberg then administered an oath to those intending to give testimony; all responded in the affirmative. Planner Ann Walker explained that runoff from an adjacent building is causing damage to the soffit of the petitioner's building. The petitioner is therefore requesting authorization to install a new awning with a side panel in order to prevent this.

Public Comment: None. (2:41 p.m.)

MOTION by Herms to APPROVE RESOLUTION 01-9249 AS SUBMITTED; 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).

RESOLUTION 01-9250 ITEM 16
A RESOLUTION AWARDING A BID TO KYLE CONSTRUCTION, INC. IN ACCORDANCE WITH THE CODE OF ORDINANCES OF THE CITY OF NAPLES FOR THE PURPOSE OF INSTALLING A 12" WATER LINE ALONG RUM ROW IN PORT ROYAL; AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT THEREFOR; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk (2:41 p.m.) who noted that Council had in November approved design of a parallel water line beside the existing one on Kingstown Drive from Treasure Lane to 3790 Rum Row. He stated that although staff had originally considered an eight-inch main, a 12-inch main is now favored to ensure sufficient pressure, and that the existing line could be used for re-use in the future. City Manager Rambosk affirmed this request is for \$183,974 out of a total approved budget of \$447,389, and that staff would later present further expenditures.

Public Comment: None. (2:44 p.m.)

MOTION by Herms to APPROVE RESOLUTION 01-9250 AS SUBMITTED; seconded by Galleberg and carried 6-0 (Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-absent, MacKenzie-yes).

RESOLUTION (No appointment)..... ITEM 22-a
A RESOLUTION APPOINTING ONE MEMBER TO THE PLANNING ADVISORY BOARD FOR THE BALANCE OF A THREE-YEAR TERM EXPIRING APRIL 30TH, 2004; AND PROVIDING AN EFFECTIVE DATE. Title not read. (2:44 p.m.) Vice Mayor Herms proffered a motion to not make an appointment to the Planning Advisory Board (PAB) at that time. In response to Council Member Wiseman, City Attorney Beverly Grady explained that the Code of Ordinances requires that a PAB member be a City resident. Mrs. Wiseman however disagreed with this interpretation.

Public Comment: None. (2:49 p.m.)

MOTION by Herms for NO APPOINTMENT TO THE PLANNING ADVISORY BOARD; seconded by MacIlvaine and carried 4-3, all members present and voting (Wiseman-no, Herms-yes, MacIlvaine-yes, Taylor-no, Tarrant-yes, Galleberg-yes, MacKenzie-no).

..... **ITEM 27**
EXECUTIVE SESSION RELATIVE TO WHARTON SMITH LITIGATION (2:49 p.m.)

Mayor MacKenzie stated that pursuant to Section 286.011 (8), Florida Statutes, the City Council of the City of Naples, Florida, will conduct an executive or closed attorney/client session to discuss settlement negotiations and strategy relating to litigation expenditures in reference to pending litigation (Wharton Smith, Inc. a Florida corporation vs. the City of Naples, a municipality of the state of Florida and the City of Naples, a municipality of the State of Florida vs. Wharton Smith, Inc., a Florida corporation, and National Fire Insurance Company of Hartford Case No. 00-2730-CA Circuit Court 20th Judicial Court Collier County Florida). The following persons will be present for the executive session: Mayor Bonnie MacKenzie, Vice Mayor Joseph Herms, Council Members Gary Galleberg, William MacIlvaine, Fred Tarrant, Penny Taylor, and Tamela Wiseman; City Manager Kevin Rambosk; City Attorney Roetzel & Andress LPA by Beverly Grady and Frederick Haardt, Smith and Curry and Hancock LLP by Frank E. Riggs, Jr.; and certified court reporter Pam Arsenault. The estimated duration of the attorney/client session is one hour. At the conclusion of the attorney/client session, the meeting shall be reopened.

MOTION by Herms to AUTHORIZE AN OFFER OF JUDGMENT TO THE CONTRACTOR; AUTHORIZE A THIRD PARTY COMPLAINT FOR INDEMNITY AND CONTRIBUTION AGAINST PROJECT ENGINEER HOLE MONTES & ASSOCIATES; AUTHORIZE PARTICIPATION IN NON-BINDING MEDIATION WITH CONTRACTOR AND HOLE MONTES; AND STIPULATE THAT ANY SETTLEMENT RECOMMENDATION BE SUBJECT TO CITY COUNCIL APPROVAL; seconded by Galleberg and carried 6-1, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-no, Taylor-yes, Wiseman-yes, MacKenzie-yes).

Recess 3:57 p.m. to 4:15 p.m. It is noted for the record that the same Council Members were present when the meeting reconvened.

RESOLUTION 01-9251 ITEM 17

A RESOLUTION EXPRESSING THE CONCURRENCE OF THE CITY COUNCIL OF THE CITY OF NAPLES, FLORIDA WITH THE DECISION OF NAPLES HIGH SCHOOL TO ALLOW SPRINT PCS TO CONSTRUCT A ONE HUNDRED FOOT ANTENNA TOWER ON NAPLES HIGH SCHOOL PROPERTY; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk (4:15 p.m.). Assistant City Manager William Harrison stated that Naples High School is requesting Council's concurrence with its decision to allow Sprint PCS to erect a 100 foot tower on its property. He added that Sprint would make monthly payments to the school and will place on the tower, free of charge, lighting for a currently unlit multi-purpose practice field.

Sprint PCS representative Jackie Gwynn reiterated the benefits to the school and explained that the antennas would rise to approximately 103 feet, and that the fixture would blend with those nearby. Naples High School Principal Gary Brown explained that the tower would be centered on the practice field and due to limited space on the campus, the school administration was very enthusiastic about gaining another lighted field. Rental revenue would be used for equipment and furniture. Mr. Brown estimated that field lights would otherwise have cost the school \$30,000. Ms. Gwynn confirmed that the lights would be at 80 feet, and essentially 23 feet lower than the top of the

transmission tower. Council Member Taylor however noted that the existing lights in the nearby baseball field are at 95 feet. Ms. Gwynn added that the lighting company had assured her that the lights would not impact the neighborhood and would focus on the field only. Principal Brown further noted that he had informed neighbors on 22nd Avenue and that he had received no complaints. Mayor MacKenzie said that she had learned from the County Attorney's office that the County is not allowing 100-foot communication towers, but would allow smaller antennas on tall buildings. Sprint PCS representative David Felton however explained that the County does allow communication towers in several zoning districts and that Sprint is presently considering several locations. Vice Mayor Herms proffered a motion to approve; however, further discussion ensued. Council Members Galleberg, Taylor, and MacIlvaine questioned whether there would be any voting conflict since Sprint PCS is their mobile telephone provider. City Attorney Beverly Grady stated that since there were more than 100 people with this service, gain or loss would be insignificant. Mr. Felton stated that this communication tower would significantly help with area coverage. Mayor MacKenzie declined to support the motion because she said she did not believe that the City should be a site for communication towers and that it is inappropriate to allow a 100-foot tower in light of a charter amendment limiting commercial building heights to 42 feet. Council Member Tarrant questioned whether the City should ask the school for a disclaimer in the event of an accident; however, City Attorney Grady stated that the school is merely asking for concurrence at this time.

Public Comment: None. (4:36 p.m.)

MOTION by Herms to APPROVE RESOLUTION 01-9251 AS SUBMITTED;
seconded by Taylor and carried 5-2, all members present and voting (Galleberg-no,
Tarrant-yes, MacIlvaine-yes, Wiseman-yes, Taylor-yes, Herms-yes, MacKenzie-no).

Council Member Tarrant noted the importance of supporting the school's activities; Vice Mayor Herms concurred. Council Member MacIlvaine added that he not believe the lights would disturb neighbors.

Mayor MacKenzie suggested a second motion to ban any future communication towers, except for those that can be attached to buildings, and instructing staff to draft such an ordinance. Council Member MacIlvaine however said he did not believe Council had set a precedent but had simply affirmed that it did not object to the school's agreement with Sprint. Both he and Council Member Tarrant indicated that they would not favor an ordinance. Council Member Galleberg stated that while he is not in favor of such towers and agreed in principle to a ban, he was reluctant to create law. Council Members Taylor and Wiseman said they could not support a blanket prohibition, and Mrs. Wiseman questioned whether such a ban would be lawful. Vice Mayor Herms pointed out that appropriate control is already in place because any tower must receive Council approval.

ORDINANCE (First Reading) ITEM 20
AN ORDINANCE GRANTING TO PEOPLES GAS SYSTEM, A DIVISION OF TAMPA
ELECTRIC COMPANY, ITS SUCCESSORS AND ASSIGNS, A NON-EXCLUSIVE
NATURAL GAS FRANCHISE AGREEMENT TO USE THE PUBLIC PLACES OF THE
CITY OF NAPLES, FLORIDA, AND PRESCRIBING THE TERMS AND CONDITIONS
UNDER WHICH SAID FRANCHISE MAY BE EXERCISED; AND PROVIDING AN
EFFECTIVE DATE. Title read by City Manager Kevin Rambosk (4:41 p.m.). Assistant City Manager William Harrison stated that several months before, Peoples Gas had proposed a natural gas pipeline system within the City and that Council had directed that the City Attorney and staff work with Peoples to create a franchise agreement. He said that staff currently recommends approval. In response to Council Member Galleberg, City Attorney Robert Pritt stated that this franchise agreement comports with other authorities, and that both the franchise fee of 6% and the franchise term of 20 years are standard. He added that the City would be able to charge permit fees and proceed with its

proposed right-of-way regulations although if the City allows another franchise to operate, it must afford parity to Peoples Gas.

Despite Peoples' contention that the City would receive additional revenues by virtue of conversions from propane to natural gas, Assistant City Manager Harrison took the position that no material effect would occur. Council Member Galleberg nevertheless commented on a higher public good which would occur by providing a choice of energy sources. Mayor MacKenzie questioned whether any water, sewer, cable, or electricity service disruptions had occurred to date from Peoples' use of US 41 right-of-way; City Manager Rambosk said staff is not aware of any complaints. Mayor MacKenzie noted that this site contains dead grass, and that she hoped this situation would soon be remedied. Peoples Gas representative Don Mestus affirmed that Peoples Gas would restore the disturbed right-of-way and commended City staff in its representation of the City's interests in negotiations and that Peoples Gas concurs with the document presented. Mr. Mestus added that Peoples Gas would submit plans and coordinate efforts with the staff relative to permitting and safety requirements, and then requested Council's favorable consideration at First Reading.

Mayor MacKenzie asked whether Peoples Gas would be willing to relocate its gas pipes if necessary should the City underground utility wires. Mr. Mestus noted that the franchise agreement specifies that Peoples Gas would relocate its facilities at its own expense if the City requires such relocation for road widening or other purposes although not for a third party without cost. Council Member Wiseman proffered a motion to approve; however, further discussion ensued. Council Member Tarrant expressed concern regarding the disruption to the City resulting from gas line installation, and proffered a motion to place this item on a referendum; however, no second was heard.

Public Comment: None. (4:58 p.m.)

MOTION by Wiseman to APPROVE ITEM 20; seconded by Taylor and carried 5-1 (Taylor-yes, MacIlvaine-yes, Wiseman-yes, Galleberg-yes, Tarrant-no, Herms-absent, MacKenzie-yes).

Mr. Mestus explained that the construction would involve very few if any open street cuts. He then stated that Peoples Gas had recently submitted a permit application requesting City oversight of some of the work it contemplates in the immediate future and asked that the Council authorize this review to ascertain whether work is consistent with City ordinances and permitting requirements so that a permit could be issued. He said this would facilitate service to potential customers. However, in a discussion of whether this would be permissible until Second Reading of the ordinance granting the franchise, City Attorney Robert Pritt said that Council has the authority under state law to grant a permit for use of a right-of-way in accordance with City regulations. Council Member Tarrant nevertheless expressed caution about moving forward prior to Second Reading. Peoples Gas General Manager Steven Jarbo indicated that a condominium developer on North Gulf Shore Boulevard has requested service by a date certain. Council Member MacIlvaine stated that unless the City Attorney cautions against it, he would support moving forward. City Attorney Pritt stated that he perceived no significant danger to the City in allowing the permit to proceed. Mayor MacKenzie however questioned the result of this work should Council not approve the franchise on Second Reading. City Attorney Pritt stated that this installation is however at the company's own risk; Mr. Mestus affirmed that Peoples Gas would agree to these terms. Council Member Galleberg stated while the company should be able to commence, the City should not commit to the gas transmission prior to final approval of the franchise. City Attorney Pritt called to the attention of company representatives that any commitments would be subject to the Council's right to make a determination other than approval at Second Reading. Vice Mayor Herms cautioned that the aforementioned customer may make significant expenditures, and then later be denied the natural gas pipeline, and Mayor MacKenzie questioned whether Peoples Gas would be willing to also

assume its customer's costs should Council decline to approve the franchise. Council Member Galleberg therefore recommended allowing the staff review to proceed, but that the actual permit be withheld until after Second Reading. Peoples Gas representative Mary Jo Paneno assured Council that the company regularly operates without a franchise agreement. Council Member Tarrant therefore asked whether Peoples would serve this customer without approval at First Reading. Ms. Paneno said the company would seek to do so within legal bounds. However, Council Member Galleberg called this a moot point since Peoples had previously indicated it would not begin construction prior to Second Reading.

Public Comment: None. (5:15 p.m.)

MOTION by Galleberg to DIRECT STAFF TO WORK WITH PEOPLES GAS AND, IF NECESSARY, OWNERS OF CONDOMINIUMS UNDER CONSTRUCTION, IN ORDER TO PROCESS A PERMIT THAT WOULD BE ISSUABLE UPON SECOND READING; seconded by Herms and carried 5-2, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-no, Taylor-yes, Wiseman-yes, MacKenzie-no).

RESOLUTION 01-9252 ITEM 19

A RESOLUTION RANKING THE TOP THREE FIRMS IN ORDER OF PREFERENCE TO PROVIDE CONSTRUCTION MANAGEMENT AT RISK SERVICES FOR THE CONSTRUCTION OF THE RIVER PARK COMMUNITY CENTER; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk (5:15 p.m.). Vice Mayor Herms, a Design Committee member, explained that he had made a commitment to sponsor an amendment to require 35% minority subcontractors throughout the project. Council Member Tarrant however said that the project should be awarded to the best-qualified applicant at the lowest price. Mr. Harrison clarified that this item involves construction management at risk, which means that the City selects the general contractor who then obtains bids from all the various subcontractors. The Committee and then later the Council can approve of all these specific contractors who will be involved in the job, he said. General conditions such as the supervisory oversight and other related issues are then added to the price to compensate the construction manager, he added. Mr. Harrison then explained that if the City does not request any change orders, the construction manager at risk is legally bound to deliver the project within the established price. He clarified that the present step is to choose between the three proposed construction managers to begin the negotiation process, and that the minority set aside would occur during selection of subcontractors.

Mayor MacKenzie expressed support for engaging minority contractors, but said that her primary consideration is to give preference to City and Collier County residents. Vice Mayor Herms stated that the community would like to see minority contractors from this county, especially in the River Park community. Mayor MacKenzie recommended establishing a goal rather than a requirement. Mr. Herms concurred, predicting that the community would follow the issue closely, and that Owens-Ames-Kimball has had achieved approximately 22% minority participation on other projects. In response to Council Member Wiseman, Assistant City Manager Harrison stated that no definition of minority subcontractor then existed but that the Committee would provide one prior to the execution of a contract. Council Member Galleberg proffered a motion, seconded by Council Member MacIlvaine, to rank the top construction firms; however, he recommended making a separate motion to address the minority subcontractors.

Public Comment: (5:26 p.m.) **Troy Reed, P.O. Box 100821, Cape Coral**, representing the River Park Coalition For Justice, reminded Council that minority citizens are also tax-paying residents and pointed out that many jurisdictions extend minorities an opportunity to be included in all municipal projects. He therefore recommended that the City also establish this practice. **Kemi Reed, 1380 Fifth Avenue North**, representing the River Park Coalition for Justice, stated that the Coalition

became involved when it discovered that no minority general contractors had bid on the project. The Coalition, she said, took into consideration that imposing such a requirement at this time would delay the project and was therefore asking that Council consider earmarking 35% of the work for minorities. Council Member Galleberg emphasized that the City has excluded no one and that the three applicants under consideration were those who had replied to the City's public bid invitation. Vice Mayor Herms noted that there is not a large number of minority general contractors or subcontractors that can handle this type of project, and therefore praised Owens-Ames-Kimball for its commitment to minority participation. **LaVerne Franklin, 7005 Kiwi Place**, Local NAACP President, requested clarification on the minority participation issue. Vice Mayor Herms stated that the motion is purely to approve Owens-Ames-Kimball as the general contractor but that he would proffer another motion to ask that the contractor make every effort to achieve a goal of 35% minority participation. Ms. Franklin stated that NAACP endorses the 35% goal, and that it had given Owens-Ames-Kimball a list of minority contractors.

MOTION by Galleberg to RANK THE FIRMS 1) OWENS-AMES-KIMBALL COMPANY, 2) W.G. MILLS, INC., AND 3) D. GARRETT CONSTRUCTION;
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).

Vice Mayor Herms then made a motion to request that Owens-Ames-Kimball make every attempt to maintain a goal of 35% minority subcontractors throughout the project. He added that the contractor's records would be public and that Council would be able to track the progress of this goal. Council briefly discussed whether this should be a request or requirement and whether to include women as a minority.

MOTION by Herms to REQUEST THAT OWENS-AMES-KIMBALL MAKE EVERY ATTEMPT TO MAINTAIN A GOAL OF 35% MINORITY SUBCONTRACTORS THROUGHOUT THE PROJECT;
seconded by Taylor and carried 5-2, all members present and voting (Galleberg-no, Herms-yes, MacIlvaine-
yes, Tarrant-no, Taylor-yes, Wiseman-yes, MacKenzie-yes).

Council Member Tarrant said that although he would support as much minority participation as possible, he could not support the motion, stating his belief that set asides are undemocratic, and that Council should not operate that way. Council Member Galleberg stated he believed the 35% goal to be as yet inexact. Council Member Wiseman concurred but said she supported the motion because of the contractor's history and because the request is a goal and not a requirement. Council Member MacIlvaine said he believed the goal to be excellent, and that it should not increase costs.

ORDINANCE (First Reading)ITEM 24-a
AN ORDINANCE ADDING ARTICLE X TO CHAPTER 2 OF THE CODE OF
ORDINANCES OF THE CITY OF NAPLES IN ORDER TO ESTABLISH A CITIZENS'
POLICE REVIEW BOARD, PROVIDING FOR THE PURPOSE OF THE BOARD
INCLUDING PROVISION OF INPUT AND INVOLVEMENT FROM THE COMMUNITY
CONCERNING LAW ENFORCEMENT ACTIONS; PROVIDING A SEVERABILITY
CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title read by City
Manager Kevin Rambosk (5:48 p.m.) who stated that in May the Council had directed staff to
investigate a Citizen Police Review Board. Steven Moore, Acting Chief of Police and Emergency
Services (PESD), stated that the proposed ordinance was modeled after one in effect in the City of
Orlando and would establish a five-member board that would meet at least quarterly to review citizen
complaints involving the use of deadly force, alleged use of excessive force, instances wherein police
action results in death or serious bodily injury, complaints referred by City Council, the City Manager,
or the Chief of Police & Emergency Services, any complaint selected by majority vote of the Board, or
any vehicle pursuit resulting in a traffic crash with death or bodily injury.

Council Member Taylor suggested that a citizen should be able to present a complaint to the Board, whether or not a majority votes to hear it. Chief Moore clarified that the Board would proceed only after an internal affairs investigation had been completed or a complaint had been closed. He then detailed various provisions of the Orlando ordinance. Chief Moore then recommended that the Council give direction on choosing a Board Administrator, stressing that the PESD should not be involved. To that end, he suggested the City Clerk's Office, the City Attorney's Office, the City Manager's Office, or the Mayor's Office perform this function. He further stated that the Board Administrator would not report to PESD but confirmed that Council would choose the Board members. Both Vice Mayor Herms and Council Member Taylor expressed the belief that the Board should hear all submitted issues. Chief Moore then clarified for Council Member Tarrant that the Board's recommendations would be advisory to the Chief of Police. City Manager Rambosk said he would utilize existing staff through the first several meetings to determine the impacts, but would include staffing in the normal budget process if necessary. Chief Moore further affirmed that all meetings would be public and televised pursuant to Council directive. Mayor MacKenzie suggested that the Board submit a written report to the Council or City Manager following its review process; Council Member MacIlvaine concurred. Council Member Wiseman said she believed this action to be a good starting point but recommended specifying that this is an after-the-fact review, setting a specified time limitation for case reviews, clarifying the selection of attorney support and Board Administrator, and clarifying the requirement that members be City residents domiciled within the City. Council Member Galleberg expressed support for this Board as a means to get citizens involved in the operation of the Police Department, but suggested seven instead of five members as well as shorter terms to allow more to participate. Council Member Tarrant suggested that seven members would be more feasible and Council Member MacIlvaine suggested two-year terms. Council Member Wiseman further suggested language indicating that certain Board Member expenses would be reimbursable. Both Mayor MacKenzie and Council Member Tarrant indicated the proposed ordinance is a good first step.

Public Comment: (6:14 p.m.) **LaVerne Franklin, 7005 Kiwi Place, Local NAACP President,** indicated support for the ordinance concept but suggested either nine or eleven members. Ms. Franklin also urged that the membership be racially balanced and that residency requirements be relaxed to allow input by the NAACP. Council Member Tarrant however suggested that the County establish a similar board and that this Board should be limited to City residents. Ms. Franklin then stated she supported opening the meetings to the public, and suggested that Council obtain input from various groups on the actual membership selection. Council Member Wiseman explained that vacancies on City boards are advertised, and urged the NAACP to encourage applicants. Lastly, Ms. Franklin urged that the Board be sensitive to the needs of the complainants. **Charles Towns, 1380 Fifth Avenue North, representing the River Park Coalition for Justice,** expressed his support and said that the board would be greatly appreciated by all the residents. He added that he is looking forward to addressing the language with Chief Moore as the process proceeds. **Kemi Reed, 1380 Fifth Avenue North, representing the River Park Coalition for Justice,** also expressed appreciation for the proposed legislation and agreed with enlarging the Board and urged ensuring a racially diverse membership. Ms. Reed then said however that limiting the membership to City residents would eliminate citizens raised in the River Park community but no longer living there. She therefore recommended allowing some members to have voting authority and others from the greater Naples area to be advisory. She then recommended that the Board meet at least monthly predicting that there would be many complaints. Additionally, she asked for outside staff. In conclusion, she asked that the Coalition be part of the ongoing dialog and said that it would meet individually with Council Members after the summer hiatus to craft this proposal into a final document. Council Member Tarrant said that the Coalition is both welcome and needed in this process.

Council Member Galleberg stated that Council usually requires residency or business ownership in the City but that there may be special factors in this case requiring an exception. He then explained that residency as technically defined might not be as important as having a nexus with the community; Council Member Taylor concurred. Council Member MacIlvaine said he agreed in principle and suggested requiring that members be current or former residents within a certain period of time. City Attorney Beverly Grady recommended that this be researched, stating that there has always been a direct City correlation for board members. Council Member Tarrant proffered a motion to accept this program as presented with an 11-member board with two non-voting County residents with an effort to encourage the inclusion of minority groups. While saying she did not disagree, Mayor MacKenzie recommended that staff research an 11-member board with two non-voting members as one option. Council Member Tarrant concurred urging a Board large enough to accommodate the process. City Attorney Grady cautioned that the extent of changes may make it necessary to conduct another First Reading. Chief Moore requested direction on identifying a Board Administrator, but City Manager Rambosk noted that staff may not have sufficient information to present options, and suggested that Chief Moore work with the City Attorney and City Clerk to develop this further. Council Member Wiseman pointed out that the City is in fact not culturally and ethnically diverse and therefore suggested amending language to simply encourage minority participation.

MOTION by Tarrant to ACCEPT THE PROGRAM AS PRESENTED WITH THE RECOMMENDATION THAT STAFF RESEARCH AN 11 MEMBER BOARD WITH 2 NON-VOTING COUNTY RESIDENTS, MAKING EVERY EFFORT TO ENCOURAGE INCLUSION OF MINORITY GROUPS; seconded by Herms and unanimously carried, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

Chief Moore noted that the citizen complaint process is currently ongoing, and that PESD intends to schedule an eight-hour period to receive citizen complaints on July 11th at the River Park Recreation Center.

.....**ITEM 24-b**
CONSIDER ESTABLISHING A HUMAN RELATIONS ADVISORY BOARD (6:46 p.m.) City Manager Kevin Rambosk stated that Council had also asked staff to investigate a Human Relations Advisory Board along with a Human Relations Liaison. While many boards of this type exist throughout the country, staff had concentrated on Florida to ensure compliance with State regulations, he said. City Manager Rambosk explained that the primary responsibility of such a board in Sarasota is to promote and encourage fair treatment and equal opportunity for all persons and promote mutual understanding and respect among all members of all economic, social, racial, religious and ethnic groups. He then detailed the powers of the board in the City of Orlando along with that board's specific duties. (A copy of Mr. Rambosk's presentation is contained in the file for this meeting in the City Clerk's Office.) Memberships range from five to 26 members for periods, which average three years with criteria similar to Naples' ordinances. All are strictly voluntary, he said, and suggested that if Council wished to proceed, staff would provide additional information.

Mr. Rambosk then introduced Nora Benevitez, who he said possesses significant experience in grass roots community mobilization in the areas of economic justice and housing development including local and state initiatives addressing youth and gun violence, community empowerment, and racial and gay tolerance. Mr. Benevitez, he said, served as the Chair of the Human Relations Commission in Fresno, California.

Ms. Benevitez stated that this Fresno Commission worked to embrace racial diversity and human relations, and established various programs to address community violence and hate crimes. She

added that the Commission undertook cultural sensitivity training with the Police Department, and often mediated between the police and community residents when contentious issues arose. Noting that County residents often come to the City for work and recreation, she recommended that the County also address establishing such a commission.

In response to Council, Ms. Benevitez stated that the Commission met monthly; however, work in the community was continuous. Council Member Wiseman agreed that the City should work in tandem with the County on this issue. Council Member Tarrant stated that he had worked and lived with various peoples from all walks of life and had never experienced victimization or discrimination; he therefore expressed caution about creating such an atmosphere.

Human Resources Director Lori Burke stated that in May, Council had discussed the creation of a Human Relations Liaison position. In various other agencies in Florida, she said, such a position does not ordinarily address citizen issues but focuses on employees. Currently, citizen complaints are directed to the specific City department, she said. Ms. Burke then explained that the proposed position however would include networking with community organizations and City departments, researching discrimination issues and practices, as well as recommending solutions and implementing changes, conducting or coordinating related employee training, facilitating and resolving employee or citizen complaints, and coordinating cultural and diversity awareness and programs. (A draft of the position description is contained in the file for this meeting in the City Clerk's Office)

Council Member Taylor recommended that staff investigate Council Member Wiseman's suggestion to include the County on this board. Council Member Galleberg added that the Board would likely be more effective if it included the entire County.

Public Comment: 7:22 p.m. **Laverne Franklin, 7005 Kiwi Place, NAACP President**, indicated support for the proposal on a countywide basis. She then suggested that staff also contact the Florida Commission on Human Relations. **Kemi Reed, 1380 Fifth Avenue North, representing the River Park Coalition for Justice**, commended Council and staff for the proposal and suggested an interlocal agreement with Collier County and expanding the Board to include economic justice and development.

Vice Mayor Herms however suggested that the Human Relations Advisory Board have the City as its primary responsibility, noting that the County's needs are substantially greater due its population. He then proffered the motion that appears below.

MOTION by Herms to EXPRESS APPRECIATION TO STAFF AND DIRECT CONTINUED RESEARCH INTO ADDITIONAL OPTIONS AND COOPERATION WITH THE COUNTY; PRESENT RECOMMENDATIONS IN A TIMELY MANNER BUT NO LATER THAN THE AUGUST 15, 2001 REGULAR MEETING; seconded by Taylor and carried 6-1, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-no, Taylor-yes, Wiseman-yes, MacKenzie-yes).

Council Member Tarrant said he believed the place to teach fairness, tolerance, and respect is in the home, in places of worship, and in schools and asserted that there are sufficient laws to protect citizens, calling this effort misdirected while well intended.

Recess: 7:35 p.m. to 8:18 p.m. It is noted that the same Council Members were present when the meeting reconvened except for Council Member Wiseman who returned at 8:21 p.m.

GULF COAST YOUTH FOOTBALL/NAPLES GATORS REQUEST TO LEASE THE FLEISCHMANN PARK FOOTBALL FACILITY (8:18 p.m.) Community Services Director Don Wirth stated that staff had requested authorization to negotiate a one-year lease with the Naples Gators. However, although he had previously made a good faith commitment to this group, Joseph Silva of Gulf Coast Youth Football had also made a proposal. Nevertheless, various difficulties within the Gator organization had prompted him to propose City co-sponsorship for the flag football program, extending the use agreement with the Gators until January 1st, and reevaluating both the Gators and Gulf Coast programs as well the City's needs with reference to a football program in the future.

Vice Mayor Herms however expressed a lack of confidence in the Gators organization and questioned the advisability of expending City funds when another organization such as Gulf Coast runs such a program on a volunteer basis. Mr. Wirth however stated that the Gators have experience, know the community well, have made a commitment to resolve their debts and intend to apply to the Pop Warner organization with a new Board of Directors. Council Members Galleberg and Wiseman expressed support for the program as outlined by Mr. Wirth. Mrs. Wiseman also noted that the Gators' program has attracted many River Park youth, and that it should continue with the City's assistance. Mr. Wirth also cautioned that breaking the Gators' existing use agreement might entail the City paying the Gators \$1,000 per year through 2012 for use of the Gators' structure at Fleischmann Park. Council Member Wiseman said that she believed the Gator's actions would breach any agreement of this type.

Mark Simmons, who indicated that he is an officer of the Gators, stated that not only had the City not funded this program, but that the Gators had actually given money to the City as well as the building and other permanent assets. He added that there is a new group in place to conduct the program and that the City's sponsorship would be more of an endorsement since the program can actually support itself. To that end, he said he would escrow an amount at the direction of Council; other anticipated costs he predicted would be minimal and would be covered by the participant fees. He also assured Council that the Gators would comply with all Pop Warner Football regulations. In further questioning by the Council, Mr. Simmons confirmed that while a new corporation and new Board of Directors is anticipated, two of the members who were banned from Pop Warner football for life remain involved. Council Member Wiseman said that Council is uncertain who it is dealing with and that the proposal contains a high degree of uncertainty. Mr. Wirth however reiterated that the proposal before Council was in fact a City staff proposal and that the Gators have agreed to comply with all the City's requirements. He pointed out that by January 1st, the staff would have evaluated the structures of both the Gators and Gulf Coast leagues and if the Gators Board receives approval from Pop Warner, he would recommend continuing with that organization. Council Member Galleberg recommended that Council direct staff to establish the program as presented, and decide on either the Gators or Gulf Coast program in January. Council Member Wiseman agreed, but suggested that staff disseminate information on tackle football programs in the City. Council Member MacIlvaine, while expressing support for staff proposal, said that he did not have confidence in a board that has two members barred from Pop Warner for life. He also pointed out that the board controls the name and the organization and that Mr. Simmons therefore could not take it; Mr. MacIlvaine therefore suggested that Mr. Simmons leave the Gators board and work with the City. In response to Vice Mayor Herms, Mr. Simmons said that there had been 245 tackle football players and 250 cheerleaders in the program last year.

Joseph Silva, Gulf Coast Youth Football President, questioned why the Council would consider Gator co-sponsorship as the original Gators board had been banned from Pop Warner, had failed to file for a state charter or reorganization, and has no insurance. Mr. Silva said his group has all the necessary equipment, is financially solvent, and operates a successful intramural program and that a tackle program was essential. Ms. Silva stated that he had proposed a three-year contract because a one-year lease would not be sufficient incentive to move equipment and make facility improvements and other needed changes. The contract contains a provision that allows the City to terminate the agreement at the end of any season if Gulf Coast proves to be a liability or embarrassment to the City, he added.

Council Member Wiseman stated that because of recent events, the Council must be cautious which is why she said she supports City control for the next six months. Mrs. Wiseman then agreed with Mr. Silva's assessment of the importance of tackle football and asked whether he would be willing to assist in developing a program in conjunction with staff. Council Member Galleberg disagreed that Fleischmann Park should host a tackle football program this year, and reiterated his recommendation to reconsider this issue in January. Council Member Wiseman however stated that tackle football, like every other City program, is important and that Fleischmann field is very assessable to the River Park community. She further urged that Council move forward with staff's proposal and suggested soliciting Mr. Silva for a tackle program. Vice Mayor Herms also emphasized the importance of tackle football for older children.

Jennifer Starnes, Gators Board Treasurer, said she believed the best thing the Gators can do is offer the children a well-rounded program, and said that she does not concur with the weight limits in the Gulf Coast program. Ms. Starnes further suggested that Council follow staff's recommendation and work with Mr. Silva to develop a tackle program. City Attorney Beverly Grady questioned the liability issues in operating the tackle program; however, Mr. Wirth stated that the City has a standard arrangement that it uses for any organization at its facilities.

MOTION by Wiseman to APPROVE AS A CITY PROGRAM THROUGH THE END OF THE YEAR; UTILIZE VOLUNTEER COACHES, ALL TO BE IN GOOD STANDING WITH THE POP WARNER ORGANIZATION; AND DEVELOP A TACKLE PROGRAM SOLICITING PARTICIPATION FROM GULF COAST YOUTH FOOTBALL; seconded by Taylor and unanimously carried, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

ORDINANCE (First Reading) ITEM 9
AN ORDINANCE AMENDING SECTION 46-67 OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES FOR THE PURPOSE OF UPDATING RECREATIONAL FEES FOR SERVICES ADMINISTERED BY THE COMMUNITY SERVICES DEPARTMENT; PROVIDING FOR A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk (9:31 p.m.) who stated that staff would present fee changes as previously directed by Council and, in addition, would propose bandshell fees. Community Services Director Don Wirth predicted that the new fee schedule would generate approximately \$10,000 to \$15,000 excluding the bandshell and would also provide the staff with clear direction on administering fees. Mr. Wirth then stated that the total budgeted fees for services in the Community Services Department is \$511,250 and that at Second Reading, Council would also be asked to consider a resolution that would place the amended fees into Appendix A of the Code. Mr. Wirth then stated that: 1) the River Park pool will remain free except for rentals or adult lessons; 2) there would be an increase in the annual individual fee membership from \$5.00 to \$10.00 for the skateboard park; and 3) participant fees are only for those entities which reserve facilities for their

exclusive use. Mr. Wirth further clarified that allowed fundraising events would be either a City-sponsored program, a not-for-profit organization's program, or a program for another beneficiary approved by the Council. In response to Council, Mr. Wirth confirmed that the Community Services Advisory Board expressed its approval with the exception of the proposed youth athletic fees which it had deemed too high and the booth charges for art shows which it had deemed too low.

Public Comment: None. (9:43 p.m.)

MOTION by Galleberg to APPROVE ITEM 9 AT FIRST READING WITH STAFF RECOMMENDATIONS; seconded by MacIlvaine and carried 6-1, all members present and voting (Galleberg-yes, Herms-no, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

RESOLUTION 01-9254 ITEM 10

A RESOLUTION AGREEING TO INCLUDE SPECIFIC REFERENCE TO THE FLEISCHMANN PARK REDEVELOPMENT PLAN IN THE AMENDED COMPREHENSIVE PLAN IN ORDER TO MEET PREREQUISITES IN THE APPLICATION FOR A U.S. DEPARTMENT OF INTERIOR (LAND AND WATER CONSERVATION FUND) GRANT; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk (9:43 p.m.).

Public Comment: None. (9:43 p.m.)

MOTION by Herms to APPROVE RESOLUTION 01-9254; 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).

RESOLUTION 01-9255 ITEM 29

A RESOLUTION APPROVING AN AMENDMENT TO THE LANDSIDE FACILITY RESTRICTED TO CHARTER BOAT OPERATIONS AT THE CITY DOCK, LOCATED AT 880 12TH AVENUE SOUTH, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk (9:44 p.m.).

Council Member Wiseman pointed out that there had been a consensus that conditions on the Bay had changed and that Council should trust staff to evaluate the situation and present a plan. Council, she said, was merely being asked to consider the addition of one multi-use slip and the associated parking. City Manager Rambosk alternately suggested that Council give staff 10 additional slips and allow it to operate the dock; Council Members Wiseman, Taylor, and MacIlvaine concurred. Council Member Wiseman also expressed appreciation for what she indicated were the diligent efforts made by the City Manager to accommodate Council and that Council's micromanagement only complicates issues. Mrs. Wiseman therefore proffered a motion to approve this resolution with 10 slips, seconded by Council Member Taylor. Mayor MacKenzie received confirmation from City Attorney Beverly Grady that this discussion had been continued from the June 19th Special Meeting and that the motion was appropriate. City Manager Rambosk recommended approval of the motion and reiterated that, as the property owner, he is asking Council to use 10 more slips to run the business in accord with all the City ordinances and regulations. Mayor MacKenzie clarified Section One would be amended to reflect 11.5 parking spaces instead of 1.5 for a total of 55.5 spaces instead of 45.5.

Public Comment: (9:52 p.m.) **Allen Walburn, 925 Eighth Avenue South**, stated that he believes the City currently has an ordinance in place that allocates 108 additional charter boat seats, but that there is dissention among staff as to its interpretation. He stated that in 1992 Council had approved the 12th Avenue parking lot and 37 places in the Broad Avenue parking lot, and allowed the City Manager to without further Council action begin expanding the City Dock at his direction based on the needs of the community. Mr. Walburn then alleged that staff is attempting to use the landside facility process to show that the only parking available for the City Dock is the Broad Avenue lot while the adjacent on-site parking in the 12th Avenue lot has been disregarded. He added that if the

City incorporates this parking with the conditional use permit, it would have approximately 95 parking spaces.

City Manager Rambosk said staff had not found this to be the case, and is therefore seeking authorization for 10 more spaces to accomplish its plan. He however suggested allowing the City Attorney to evaluate Mr. Walburn's premise. Council Member Wiseman concurred and said that Council's current action would not necessarily foreclose that possibility. In response to Council, City Manager Rambosk said there are also 30 spaces in the adjacent Crayton Cove parking lot and 10 spaces in an off-site parking lot that Council could grant. Council Member Galleberg observed this is analogous to allocating on-street parking to various projects such as the City Center Plaza in exchange for landscaping improvements. City Manager Rambosk concurred and said that the City had used Dock funds to improve the Crayton Cove parking lot and to add three spaces.

Mayor MacKenzie then disclosed that a complaint had been filed against her with the State Ethics Commission, however the City Attorney had previously indicated that it did appear that she had a true conflict of interest.

Vice Mayor Herms questioned whether it would be advisable to increase the slips from 11 to 21; however, City Manager Rambosk said there would be inadequate parking and reiterated that he is simply asking for the spaces in order to determine how to allocate them. Council Member Galleberg stated that the overriding point is that all of these issues can and should be handled at the staff level and that 11.5 parking spaces would be sufficient to adequately and fairly manage the Dock. City Manager Rambosk said this would allow staff to expand the business and address some of the concerns of the commercial slips and the pick-ups and drop-offs. He added that staff would also address and finalize the commercial waiting list and present Council with an overview of the operation. City Manager Rambosk also predicted there would be between six to eight commercial slips allocated, but that he would leave this decision to the General Manager. Council Member Taylor expressed confidence in the ability of staff to finalize the waiting list, and said she believes there was no criminal activity or corruption involved. City Manager Rambosk affirmed that mistakes had indeed been made with respect to the waiting list, but that it had been corrected to the greatest extent possible. Mayor MacKenzie noted that she could never support placing a new County business ahead of an established City business on the waiting list.

MOTION by Wiseman to APPROVE RESOLUTION 01-9255 AMENDING SECTION 1 TO REFLECT AN INCREASE OF 11.5 PARKING SPACES IN THE BROAD AVENUE PARKING LOT FOR A TOTAL OF 55.5 PARKING SPACES;
seconded by Taylor and carried 6-1, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-yes, MacKenzie-no).

Mayor MacKenzie stated that she believed the City needs a definitive plan for the Dock.

RESOLUTION 01-9256 ITEM 15
A RESOLUTION APPROVING A POLICY, PETITION PROCEDURE, PERMIT FORM AND PERMIT PROCESSING FEE FOR PERMITTING PARKING IN THE PUBLIC RIGHT-OF-WAY; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk (10:02 p.m.) who stated that staff is currently researching the parking issue, and if improvements become apparent, this plan would be amended. Traffic Engineer George Archibald explained that this item deals only with the issue of converting landscaped right-of-way to hard surface for parking. He added that, pursuant to Resolution 99-8455 and consistent with Council direction, staff had prepared what he termed a screening process. Mr. Archibald clarified that the process would ensure complete review prior to final action by the Council including such items as protection from liability, protection from maintenance cost and assurance that any such approval is

permissive in nature. He added that the City would retain the ability to revoke permission at the expense of the permittee at any time and that staff had determined that a fee of \$300 would be adequate to cover the internal processing and utility surveys. Mr. Archibald further explained that staff does not recommend impervious hardscape but such things as brick pavers which would allow grass to grow through and give the perception of being a grassed right-of-way.

Mayor MacKenzie recommended amending the permit conditions to direct the permittee to coordinate removal of City landscaping with the Parks and Parkways Design Superintendent. Vice Mayor Herms questioned the ability of Council to deny a hardship request and predicted that challenges would occur. He suggested establishing the process via ordinance. Mr. Archibald explained that this is strictly a policy, and said the forthcoming right-of-way ordinance would establish regulations. Council Member Wiseman proffered a motion to approve; however, further discussion ensued. Mr. Archibald then noted that staff is also at that time submitting a petition as part of this package for a location just off 10th Street on First Avenue and that the petitioner has developed a landscape plan that meets the parking requirements as set forth in the Downtown District. Therefore, if Council adopts the resolution, it could approve this first application, or delay it relative to the reviews currently underway within the 41-10 area. Council Member MacIlvaine predicted that this would be an issue throughout the 41-10 area and that the Heart of Naples Committee had been considering urging 10th Street property owners to allow some of their private parking for public use. Vice Mayor Herms noted the importance of maintaining green space, and expressed support for installing a type of paving mat that would provide for the grass as well as parking.

Public Comment: None. (10:30 p.m.)

MOTION by Wiseman to APPROVE RESOLUTION 01-9256; seconded by MacIlvaine and carried 6-1, all members present and voting (Galleberg-no, Herms-yes, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

Although noting his support for the policy, Council Member Galleberg said he did not realize Council would be approving an implementation at that time. City Manager Rambosk said staff would utilize this as a test case.

RESOLUTION 01-9257ITEM 22-b (1)
A RESOLUTION APPOINTING ONE CITY REPRESENTATIVE TO THE CITY/COUNTY AFFORDABLE HOUSING COMMISSION FOR THE BALANCE OF A THREE-YEAR TERM EXPIRING OCTOBER 6, 2001; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk (10:30 p.m.).

Public Comment: None. (10:30 p.m.)

MOTION by MacIlvaine to APPROVE RESOLUTION 01-9257 APPOINTING RICHARD SNYDER; seconded by Tarrant and carried 6-1, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-yes, Taylor-no, Wiseman-yes, MacKenzie-yes).

RESOLUTION 01-9258ITEM 22-b (2)
A RESOLUTION APPOINTING ONE CITY REPRESENTATIVE TO THE CITY/COUNTY AFFORDABLE HOUSING COMMISSION FOR THE BALANCE OF A THREE-YEAR TERM EXPIRING APRIL 4, 2003; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk (10:31 p.m.).

Public Comment: None. (10:31 p.m.)

MOTION by Herms to APPROVE RESOLUTION 01-9258 APPOINTING RUTH GRANT; 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).

RESOLUTION 01-9259 ITEM 22-c
A RESOLUTION APPOINTING ONE MEMBER TO THE COMMUNITY SERVICES ADVISORY BOARD FOR THE BALANCE OF A THREE YEAR TERM EXPIRING JUNE 15, 2002; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk (10:32 p.m.).

Public Comment: None. (10:32 p.m.)

MOTION by Galleberg to APPROVE RESOLUTION 01-9259 APPOINTING J.D. LODEN; 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).

Council Member Wiseman stated that the City Attorney had brought to Council's attention some inconsistencies in Code relative to definitions of residency. She added that there are some provisions that require being a registered voter and others that require domicile in the City. Mrs. Wiseman suggested that staff address these various provisions and in order to allow either residency or City business ownership in order to fill the boards with qualified people. Mayor MacKenzie affirmed the importance of consistency in the Code. Council Member MacIlvaine and Vice Mayor Herms both said they would prefer giving preference to residents. It was the consensus of Council to direct the City Attorney to clarify residency issues in the Code.

RESOLUTION 01-9260 ITEM 25-a
A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A RELEASE OF AN ORDER IMPOSING FINE/LIEN IN CODE ENFORCEMENT BOARD CASE NO. 99-496; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk (10:33 p.m.).

Public Comment: None. (10:33 p.m.)

MOTION by Wiseman to APPROVE RESOLUTION 01-9260 AS PRESENTED; seconded by Taylor and unanimously carried, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

RESOLUTION 01-9261 ITEM 25-b
A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE RELEASES OR SATISFACTIONS OF CODE ENFORCEMENT LIENS AND OTHER LIENS; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk (10:33 p.m.).

Public Comment: None. (10:33 p.m.)

MOTION by Wiseman to APPROVE RESOLUTION 01-9261 AS PRESENTED; seconded by Taylor and unanimously carried, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

..... ITEM 23
DISCUSSION/ACTION REGARDING THE BOARD OF COLLIER COUNTY COMMISSIONERS' RECENT ACTION RELATING TO AN ADDITIONAL SALES TAX (REQUESTED BY COUNCIL MEMBER TARRANT) (10:33 p.m.) Council Member Tarrant requested that the Council take a position in opposition to the proposed half-cent sales tax, and proffered a motion to this effect. Mayor MacKenzie however pointed out that none of the road projects to be funded by this additional sales tax are located in the City but that because a sales tax must be shared with municipalities there would be an allocation of revenue to Naples as well as Marco Island and Everglades City. Should the initiative fail, she said, the County would still build the roads but would raise ad valorem taxes; if it passes, however, the City could then challenge the County should it try to raise ad valorem taxes for road projects. Mayor MacKenzie said she could therefore not support the motion. Council Member Wiseman pointed out that she believed Mr. Tarrant to be a

proponent of government by referendum. Mr. Tarrant added that the County Finance Department had indicated it would bond the additional sales tax revenue for 20 years for \$50 million, which would create an interest load over the life of the bond issue of approximately \$30 million; he called it a liberal, democratic, tax-and-spend program. Council Member Galleberg said this characterization might apply to an ad valorem tax increase, but said that the sales tax is dedicated to road improvements. Council Member MacIlvaine said this is not in the City's purview.

Public Comment: None. (10:43 p.m.)

MOTION by MacIlvaine to TABLE ITEM 23; 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).

Vice Mayor Herms stated that the County should consider increasing impact fees; however, Council Member MacIlvaine reiterated this is not within the City's purview. Mayor MacKenzie said there nevertheless are some aspects of the sales tax initiative that are of concern, noting that although the bond would continue for 20 years, the tax would not sunset.

CORRESPONDENCE & COMMUNICATIONS (10:43 p.m.)

City Manager Kevin Rambosk stated that the Gordon River bridge railings did not fit correctly but are now being installed after an appropriate adjustment. Council Member Wiseman relayed citizen concern regarding unaccompanied youths standing on the north side where the fence is down and the railing is not yet installed. City Manager Rambosk then noted he would provide updated hurricane information including emergency contact numbers and evacuation routes and explained that Phase 1 is primarily for preparation, and said at that time he would contact Council and open the emergency operation center. Phase 2 is the hurricane itself, and Phase 3 is recovery. At that point, staff will begin briefings and request a Special Meeting with regard to emergency purchases. He added that Council would also receive an all hazards manual. Mayor MacKenzie noted that Senior Network Specialist Jeff Cochran had posted some hurricane information on the City's web site, and suggested that he include more. City Clerk Tara Norman stated that the County Elections Committee had voted to pursue a touch screen voting system as opposed to scanning. She added that the next step after State certification of a particular system would be for the County to draft a request for proposals. She explained that although the City would use punch cards in the February 2002 election, it would likely use touch screen voting afterwards. Council Member Taylor stated that while she had in last year's July 4th parade ridden in a vehicle furnished by Shelton Jaguar, she would walk the parade route this year because Shelton Jaguar is a lobbyist before Council, making riding in one of its vehicles a violation of the City's ethics ordinance. Council Member Wiseman suggesting amending the City Charter with respect to the way Council Members are elected because the process does not generally allow for either analyzing the candidates or for open debates. She therefore proposed that a candidate run for a particular seat, which would focus the campaign and allow the voters to better know the candidates. Mrs. Wiseman suggested that Council direct the City Attorney to research this. Mayor MacKenzie said she has no objection to this research, but Council Member Tarrant said he perceived no need to change the system. Vice Mayor Herms pointed out that such a change might require a vote of the people and that there could be both positives and negatives. Although it would lead to more debates, he said, it would also give the incumbents a decided advantage. Council Members Taylor and Galleberg suggested proceeding with the research. Council Member MacIlvaine said he did not see the advantage in making a change and that the candidate receiving the most votes should win. Council Member Tarrant further stated that this might bring the City closer to district voting system, which he said was not appropriate for a small community. It was the consensus of Council to receive more information. Mayor MacKenzie also suggested researching a procedure to address the handling of a tie vote. Council Member Tarrant distributed an article detailing the problems at Waste Management, Inc., a copy of which is contained in the file for this meeting in the City Clerk's Office, and noted that the County has again

extended its contract with this company without competitive bidding. Mayor MacKenzie questioned whether the tower antenna Council had approved (Item 17) would be subject to the City's ordinance regulating satellite antennas, towers and masts; City Attorney Grady said she would research this issue.

PUBLIC COMMENT.....
(11:10 p.m.) None.

ADJOURN
(11:10 p.m.)

Bonnie R. MacKenzie, Mayor

Tara A. Norman, City Clerk

Prepared by:

Jessica R. Rosenberg, Recording Specialist

Minutes approved: 8/15/01

City Council Regular Meeting – June 20, 2001 – 9:00 a.m.

6/20/01 City Council Regular Mtg. Attachment 1, Page 1 of 2.

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS	
LAST NAME—FIRST NAME—MIDDLE NAME WISEMAN, TAMELA EADY	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE Naples City Council
MAILING ADDRESS P.O. Box 460 34106	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:
CITY Naples	<input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
COUNTY Collier	NAME OF POLITICAL SUBDIVISION: City of Naples
DATE ON WHICH VOTE OCCURRED 6-20-01	MY POSITION IS: <input checked="" type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTIVE

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you otherwise may participate in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on other side)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, TAMELA EADY WISEMAN, hereby disclose that on 6/20, 20 01:

(a) A measure came or will come before my agency which (check one)

- ☐ inured to my special private gain or loss;
- ☐ inured to the special gain or loss of my business associate, _____;
- ☒ inured to the special gain or loss of my relative, husband, John P. Wiseman;
- ☐ inured to the special gain or loss of _____, by
whom I am retained; or
- ☐ inured to the special gain or loss of _____, which
is the parent organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

Item 6-d on Regular Council agenda:

Authorize a \$50,000 contribution to the Naples
Airport Authority Airport Road Beautification
Project.

My husband is the President of the construction company
that is the construction manager for the project.

Date Filed

6/20/01

Signature

Tamela Eady Wiseman

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.

City Council Regular Meeting – June 20, 2001 – 9:00 a.m.

6/20/01 City Council Regular Mtg. Attachment 2, Page 1 of 2.

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS			
LAST NAME—FIRST NAME—MIDDLE NAME WISEMAN, TAMELA EADY		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE Naples City Council	
MAILING ADDRESS P.O. Box 460 34106		THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:	
CITY Naples	COUNTY Collier	<input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY NAME OF POLITICAL SUBDIVISION: City of Naples	
DATE ON WHICH VOTE OCCURRED 6-20-01		MY POSITION IS: <input checked="" type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTIVE	

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

* * * * *

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

* * * * *

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you otherwise may participate in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on other side)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Tamela Eady Wiseman, hereby disclose that on 6/20, 20 01.

(a) A measure came or will come before my agency which (check one)

- ☐ inured to my special private gain or loss;
- ☒ inured to the special gain or loss of my business associate, Richard C. Grant;
- ☐ inured to the special gain or loss of my relative, _____;
- ☐ inured to the special gain or loss of _____, by whom I am retained; or
- ☐ inured to the special gain or loss of _____, which is the parent organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

The measure was agenda item 11(b) on City Council's regular meeting agenda to adopt, upon first reading, an ordinance to eliminate height and lot coverage allowances for ground floor parking in multifamily buildings that are subject to the Coastal Construction Control Line. Mr. Grant represents the Naples Beach Hotel and Club and the Club objects to the ordinance.

6-20-01
Date Filed

Tamela Eady Wiseman
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.

City Council Regular Meeting – June 20, 2001 – 9:00 a.m.

6/20/01 City Council Regular Mtg. Attachment 3, Page 1 of 2.

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS	
LAST NAME—FIRST NAME—MIDDLE NAME <u>WISEMAN, TAMELA EADY</u>	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <u>Naples City Council</u>
MAILING ADDRESS <u>P.O. Box 460 34106</u>	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:
CITY <u>Naples</u>	<input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
COUNTY <u>Collier</u>	NAME OF POLITICAL SUBDIVISION: <u>City of Naples</u>
DATE ON WHICH VOTE OCCURRED <u>6-20-01</u>	MY POSITION IS: <input checked="" type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTEE

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you otherwise may participate in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on other side)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, TAMELA EADY WISEMAN, hereby disclose that on 6/20, 2001:

(a) A measure came or will come before my agency which (check one)

- ☐ inured to my special private gain or loss;
- ☒ inured to the special gain or loss of my business associate, Richard C Grant;
- ☐ inured to the special gain or loss of my relative, _____;
- ☐ inured to the special gain or loss of _____, by whom I am retained; or
- ☐ inured to the special gain or loss of _____, which is the parent organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

Item 11(b) on regular agenda. The vote was to continue approval of an ordinance to eliminate height and lot coverage allowances for ground floor parking in multifamily buildings that are subject to the Coastal Construction Control Line. Mr. Grant represents the Naples Beach Hotel and Club, which objects to the ordinance and would be subject thereto.

Date Filed 6-20-01

Signature Tamela Eady Wiseman

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