



City Council Chamber
735 Eighth Street South
Naples, Florida 34102

City Council Workshop Meeting – August 13, 2001 – 8:30 a.m.

Mayor MacKenzie called the meeting to order and presided.

ROLL CALL ITEM 1

Present:

Bonnie R. MacKenzie, Mayor
Joseph Herms, Vice Mayor

Council Members:

Gary Galleberg
William MacIlvaine
Fred Tarrant
Penny Taylor
Tamela Wiseman

Also Present:

Kevin Rambosk, City Manager
Beverly Grady, City Attorney
Tara Norman, City Clerk
William Harrison, Asst. City Manager
Bill Overstreet, Building Official
Don Wirth, Community Services Director
Ronald Lee, Planning Director
James Whittaker, Recreation Supervisor
Susan Golden, Planner II
Steve Moore, Acting Chief, PESD
Karen Kateley, Administrative Specialist
Eileen Debish, Recording Specialist

Community Services Advisory Board:

Clark Russell
J.D. Loden
Henry Halle

Public Art Advisory Committee:

Sharon Kenny
William O'Neill
Barbara Hill

Other interested citizens and visitors:

Natasha Alveshire
Victor A. Valdes
Laverne Franklin
Chris Foster
Tony Shepard
Derald Pacetti
Barbara Turrentine
Tim Casey

Other interested citizens and visitors

Media:

Cathy Zollo, Naples Daily News
Gina Edwards, Naples Daily News

SET AGENDA.....ITEM 2

City Manager Kevin Rambosk noted that there would be no added items.

.....ITEM 3
**DISCUSSION REQUESTED BY THE PUBLIC ART ADVISORY COMMITTEE
GATEWAY SCULPTURE (GORDON RIVER BRIDGE) / “GATORS GALORE”
UPDATE**

City Manager Rambosk introduced the members of the Public Art Advisory Committee (PAAC), and explained that they were present to provide information on the proposed Gordon River Bridge sculpture and to give an update on the Gators Galore fundraiser.

Assistant City Manager Bill Harrison began by explaining that the PAAC had been formed by Council several months before, with Sharon Kenny being elected Chair, and members Bill O’Neill, Barbara Hill along with Council Member Taylor serving.

PAAC Chair Sharon Kenny said the Committee recommended that the sculpture be located at the gateway to the City (US 41 and Davis Boulevard) and that it be a signature piece symbolizing Naples. She further requested that Council give direction on procedures for acquisition and listed three funding options which had been submitted by letter to Council:

- Donated work
- Private funding to purchase
- Government funding

Cost was estimated at \$80,000 to \$100,000.

Ms. Kenny stated that the Committee recommended government funding as the option allowing the City Council the greatest control over the process, including timing. She also said that while private funding could be accomplished, PAAC could not spearhead such an effort. Council Member Taylor also pointed out that with a donated sculpture, undue influence in the acquisition could be inferred; she also urged that the piece be commensurate with a community of the national prominence of Naples. Nevertheless, Council Member Taylor noted, a fourth option would be for the City to choose to have no piece or artwork in this location.

In the ensuing discussion, Council Members indicated opposition to use of public funds for this purpose. Council Member MacIlvaine asserted that it would be a mistake to use tax money for a piece of art that would most likely not be appreciated by all. He said he felt very strongly that some type of other subscription funding should be the option chosen. Council Member Galleberg said that he believed that the area’s natural beauty, not a piece of sculpture, should be the City’s entrance symbol. Council Member Wiseman concurred and further expressed the view that the railings and other decoration on the bridge already provide a visual impact. She said there was a lack of unanimity among Council Members on the type of sculpture that would be suitable, but added that donated artwork or a private fundraising campaign should not be foreclosed if there was a groundswell of support for a sculpture at this location. Vice Mayor Herms also said he believed spending public funds would be very controversial. However, he asked whether the PAAC would be willing to recommend a theme for a sculpture, which could be privately funded. Council Member Tarrant expressed his concurrence with Council Member MacIlvaine’s views stressing that private funding should underwrite the cost with the City providing the setting. Nevertheless, he stressed the importance that any piece of artwork have community support. Both Council Members Wiseman and MacIlvaine also cautioned that a sculpture located at the entrance to the Gordon River Bridge might distract motorists.

Mayor MacKenzie said she had been surprised to receive PAAC’s letter making recommendations on acquisition of a sculpture for the Gordon River Bridge because she had

envisioned this group functioning differently. Rather than seeking artwork to display, she said she believed the group should develop parameters for considering artwork, establish a policy for placement, and consider standards for maintenance, landscaping, lighting, insurance and liability. She said she had also expected an acquisition policy, which would define the restrictions for gifts. Council Member Taylor, however, reiterated that artwork for the Gordon River Bridge should be carefully chosen, predicting that it would become a symbol of the community and would appear on promotional brochures; therefore, any artist would be anxious to donate a piece for this purpose. She also indicated that she had in fact been heavily lobbied by an artist.

PAAC Member Barbara Hill acknowledged that the Committee was not only charged with the responsibility of establishing guidelines but also defining a philosophy under which artwork would be accepted. If a work were to be donated, the Committee would review appropriate sites, but if work were to be funded by the City, the group should establish guidelines to assure a fair and democratic selection process. Nevertheless, she stated that neither the Committee nor the Council should undertake fundraising for artwork but rather act on proposals made by other groups in the community.

Noting the importance of guidelines, Vice Mayor Herms nevertheless observed that guidelines could in some cases actually inhibit placement of public art. He encouraged PAAC to bring to Council any proposals it receives, and if a majority of Council agrees, the piece could be placed, after considering aspects such as maintenance, insurance, and other City obligations. In further discussion Ms. Hill recommended that funds be budgeted for maintenance of artwork, pointing out that the sculpture at City Hall had not been maintained adequately. Ms. Hill also explained that artists would not work to produce public art unless funding had been established.

While excluding PAAC from his comments, Council Member Tarrant nevertheless criticized the process by which a previously proposed sculpture of a Native American for the Gordon River Bridge location had been deferred. He said that he knew of Native American artists in the state who could have accomplished the project four to five years earlier at little more than half of the current estimated cost. He said that while other public projects are quickly accomplished, the selection of this artwork had become complicated.

Noting that there was not majority support for a piece of artwork on the Gordon River Bridge, Council Member Galleberg recommended that PAAC first provide the Council with art acquisition policies for review. Council Member Galleberg then proffered a motion to instruct PAAC to present the Council with a public acquisition and maintenance strategy for review and approval prior to contemplating specific works of art, and Assistant City Manager Harrison stated that this and the Committee's by-laws were planned for presentation at the September 5th City Council meeting. Vice Mayor Herms however also made a motion to have the Committee continue examining potential sculptures, possibly donated by individuals, for either the Gordon River Bridge location or elsewhere. It was noted for the record that neither of the above motions were seconded (see additional motions below).

PAAC Member William O'Neill pointed out that community-funded artwork would provide the control not possible with donated artwork, which would be either accepted or rejected. He said that with general parameters regarding the image to be rendered, artists would submit bids; however, he said that it was unlikely that PAAC would identify that image. Mayor MacKenzie noted, however, that an overall theme could be publicized and said works, either donated or commissioned, could be ranked by the Council. She also acknowledged PAAC's reluctance in

undertaking fundraising, noting that members have affiliations that they support. Nevertheless, she urged that the Committee explore grant funding which was available exclusively for art projects in municipalities. Mr. O'Neill however pointed out that these funding sources are quite limited.

MOTION by Taylor DIRECT THE PUBLIC ARTS ADVISORY COMMITTEE to prepare for Council review a procedure to call for donations specifically for the Gordon River Bridge sculpture and also applicable to other sculptures within the City; seconded by Herms and failed 2-5, all members present and voting (Galleberg-no, Herms-yes, MacIlvaine-no, Tarrant-no, Taylor-yes, Wiseman-no, MacKenzie-no).

MOTION by MacIlvaine to INSTRUCT THE PUBLIC ARTS ADVISORY COMMITTEE to provide Council with a policy statement for all public art, with no specific reference to the Gordon River Bridge sculpture, and with the understanding that the Council was moving away from government funding and was urging the committee to examine donations and fundraising efforts. This Motion was 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,).

With reference to the Gators Galore fundraiser, PAAC Chair Sharon Kenny reported that after meetings with event sponsors, the Committee encouraged the Council to consider a modest increase in the number of sculptures from 6 to 12 on public property in order to allow patrons a greater choice of sites. As many as 15 sites would be identified in order to settle on 10 to 12.

Lois Selfon, President of the von Liebig Art Center ~~Center~~ Guild, assured Council that sponsors were making every effort to comply with Council's expressions for the Gators Galore project and that it would not be a tourist endeavor but would rather raise funds for local arts and children. She introduced Natasha Alveshire and Gary Price from the Boys and Girls Club for further comment.

Natasha Alveshire, Director of Marketing for Boys and Girls Club of Collier County, stressed the sponsors' cognizance of Council's need to determine what was best for the community. She however indicated that Gators Galore representatives sought to discuss the Fifth Avenue South locations, a modification of the City-County sculpture distribution, and expansion of the number of public sites allowed within the city limits. She also distributed an information booklet, a copy of which was contained in the file for this meeting in the City Clerk's Office. Ms. Alveshire assured Council that the Committee was sensitive to congestion and safety along Fifth Avenue, stipulating that concern was not with public versus private property but rather with what was appropriate and safe for the area. City Manager Rambosk recommended that the City staff and the Committee work together to insure that the gators are placed safely and further suggested that a risk management assessment; Council would then be provided with specific locations for approval. Ms. Alveshire added that the City Dock and Fishing Pier were the only additional requests on public property other than Fifth Avenue South.

Gators Galore representative Gary Price stated that his group, instead of determining whether a footprint of a statue would actually be on City or private property, would instead focus on what looked best and what was the safest on Fifth Avenue, working with the City to achieve an aesthetic appearance.

Council Member MacIlvaine made a motion to allow 15 site selections on Fifth Avenue South with placement of a maximum of 12 pieces, staff providing Council with final recommended locations; however, additional discussion ensued with the final motion appearing below.

Council Member Tarrant received assurance from Ms. Alveshire that any vandalized sculptures would be promptly removed and repaired. Ms. Alveshire also requested that the Council relax the ratio of City/County locations. Council Member Galleberg said that since the group's efforts had shown substantial progress in this regard, he would recommend that Council endorse up to 50 sculptures in the City, including public property placements; he added that there should be no greater difference than 20 sculptures between City and County. Council Member MacIlvaine concurred. In further clarification requested by Council Member Tarrant, Ms. Alveshire explained that artists are allowed to use a variety of approved media with sketches reviewed and approved in advance. Artist will also be allowed to make minor modifications to the sculpture itself as long as it does not affect placement on the base.

Council Member Tarrant requested an estimate of funding to be raised for the Boys and Girls Club. Ms. Alveshire said that the entire event was expected to net approximately \$300,000, divided evenly between the programs of the Boys and Girls Club and the von Liebig Art Center. Mr. Tarrant, however, said that he did not recall that proceeds would be donated to the von Liebig Art Center and asked for other examples of fund raising by the City for another non-profit organization; Council Member Wiseman mentioned the chalk art festival on downtown streets as such an endeavor.

Art Center President Selfon noted prior approvals of the aforementioned division of proceeds and noted that artists receive \$300 for supplies. She said that the majority of proceeds would be realized from the auction of gators at the conclusion of the project and clarified for Council Member Galleberg that virtually all of the work done locally will be by volunteers. Council Member MacIlvaine requested a pro forma statement for this project; however, Mr. Price cautioned that sharing this information could in some way influence the price of the gators at auction. In further discussion, Mr. Price indicated that he would share with the Council estimated expenditure information and confirmed that the City would be indemnified in relation to the project. He also noted that manufacture/base costs for the sculptures account for \$2,500, with the costs of maps and advertising at \$12,000. Mayor MacKenzie said that Council would expect a hold harmless clause in order to be indemnified with reference to the gators placed on public property. Mr. Price affirmed.

Vice Mayor Herms said he had viewed a similar project in Seattle and urged Gators Galore representatives to provide photographs so that the public may be better informed; he also said that he fully supported the local event.

MOTION by MacIlvaine DIRECT STAFF to work with Gators Galore to provide spaces for 15 sculptures with a maximum of 12 on public property, working with the City to establish locations on Fifth Avenue South, whether they are public or private, that exact locations be approved by City Council, and that the ratio of gators placed in the City to those placed in the County be 60-40. This motion was seconded by Herms 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 had voted against the motion because he believes all proceeds should go to the Boys and Girls Clubs, which he said had been his understanding. He predicted

that some taxpayers in the City would oppose the idea of using public property over such an extended period of time for this purpose. He also said he did not feel it appropriate to use City property and involve the City in raising funds for the Naples Art Association, albeit a worthy organization. Council Member Galleberg confirmed that the von Liebig Art Center is a 501C3, not-for-profit organization. Mrs. Selfon also pointed out that the center does not receive funding from the City or County, and offers all exhibitions at no admission charge.

Recess: 9:59 to 10:13 a.m. It is noted for the record that all Council Members were present when the meeting reconvened.

.....ITEM 4
**JOINT DISCUSSION WITH THE COMMUNITY SERVICES ADVISORY BOARD
PERTAINING TO THE DESIGN OF THE RIVER PARK COMMUNITY CENTER**

Assistant City Manager William Harrison noted the presence of Community Services Advisory Board (CSAB) members and pointed out that this would be City Council's first official viewing of the design for the new River Park Community Center. Several months ago, he said, the Council appointed a Design Committee consisting of Vice Mayor Herms; Community Services Advisory Board member Henry Halle; staff members Don Wirth, Bill Harrison and James Whittaker; Willie Anthony representing the River Park neighborhood; Laverne Franklin representing the NAACP; and two other citizens, David Rice and Barbara Turrentine. After design of the center, Owens-Ames-Kimball Company had been engaged as construction manager at risk, Mr. Harrison reported. He also noted a pre-bid conference which would be conducted by the contractor the following evening at 7:00 p.m. in the City Council Chamber.

City Manager Kevin Rambosk asked Council's direction on whether the aforementioned meeting was to be televised. Prior to making a determination, however, Council noted possible technical difficulties to be overcome if the meeting format consisted of small groups viewing various aspects of the project. However, Derald Pacetti, Naples Area Project Manager for Owens-Ames-Kimball Company, informed the Council that the meeting would be conducted as a general session to convey facts regarding the project and afford an opportunity to generate interest with the special focus on the minority business community. Council Member Tarrant supported live broadcast due to anticipated community interest. Mr. Harrison stated that a presentation from the Construction Manager would be followed by comments from interested citizens or contractors; the Construction Manager and sub-contractors bidding on the project could meet individually after this meeting, he said.

Council Member Galleberg, however, characterized the meeting as merely a technical step in the process of constructing a building and as such did not rise to the level of broadcast. Council Member Tarrant pointed out, however that Kemi Reed of the River Park Coalition for Justice had stated that the community had in fact not sufficiently participated in the planning, and said that he considered it important to have this meeting televised live with everyone's comments on record. Mr. Galleberg nevertheless pointed out that Ms. Reed had not been present when the community had participated in the planning and further asserted that Ms. Reed would be dissatisfied, regardless of the efforts put forth. While acknowledging the validity of Mr. Galleberg's statement, Mr. Tarrant noted that Ms. Reed's group is nevertheless a factor in the River Park area and, therefore, in the process.

MOTION by Herms DIRECT STAFF to televise pre-bid conference proceedings, seconded by Taylor, and failed 4-3, all members present and voting (Galleberg-no, Tarrant-yes, Wiseman-no, Herms-yes, MacIlvaine-no, Taylor-yes, MacKenzie-no).

Assistant City Manager Harrison then introduced Building Official Bill Overstreet, architect for the project. (Photographs of the scale model presented by Mr. Overstreet are contained in the file for this meeting in the City Clerk's Office.) Mr. Overstreet explained that in order to utilize the corner of Third Avenue North and Eleventh Street, setback modifications would be required within the land lease agreement for the adjacent George Washington Carver Apartment Complex. The Design Committee, he said, hoped to obtain this lessee's permission in order to allow the land on the west side of the building to be appropriately landscaped. He then proceeded to describe the design of the building, noting that two-story construction was necessary due to the lot size and the square footage needed for the project. He went on to describe the combination flat, sloped roof, which he explained was necessary to accommodate mechanical equipment and to coincide with the residential surroundings of the project. Mayor MacKenzie received assurance from Mr. Overstreet that with the correct construction techniques, the flat roof should not present problems.

Mr. Overstreet stated that the building would be multi-functional with spaces separated by a retractable wall system allowing rooms to be reconfigured depending on use. Council Member Taylor suggested that any outside blank wall be considered for public art. Mr. Overstreet also pointed out that since there had been strong sentiment for the inclusion of heritage displays, the waiting areas as well administrative space and hallways would contain built-in display cabinets.

In further discussion with staff, Council learned the following: 1) the building conforms to previous proposals with only minor modifications; 2) the 17,000 square foot structure is considered separate from the pool; 3) the second floor computer center will have state-of-the-art equipment and appropriate security; and 4) the structure is designed above the base flood level and will withstand 140 mph winds.

Mr. Overstreet also reported that with receipt of the site survey, design of the surrounding streetscape and landscape area west of the building could be completed. Council then discussed setbacks with Assistant City Manager Harrison, noting that either a variance for the setback area adjacent to the George Washington Carver Apartments would be necessary or the Carver Center lease must be modified. Although Council Member Galleberg expressed the view that a City building should not be subject to variances, Vice Mayor Herms and Council Member MacIlvaine indicated that due to site constraints, the Council should be flexible in this regard. Mr. Harrison also noted that the first requirement was to maintain a community center within the River Park neighborhood, and rebuilding on the same site was the only realistic alternative to accomplish this goal. Planning Director Ron Lee said that this property has a setback of 20 feet for the front yard, 10 feet for the side yard, and 25 feet for the rear yard. Mr. Harrison indicated that the Design Committee was at that time seeking a consensus from the City Council in order to move forward with the final building design, allow completion of the construction drawings, submit the project for bid, and then return to Council with a full construction contract.

Mayor MacKenzie commended the Design Committee on the floor plan which, she said allowed a majority of the community's requests to be realized. Clark Russell, representing the CSAB, stated that the design represents the results of four years of working with the community to collect ideas and goals for usage and would benefit the entire City as well as the immediate neighborhood. He said that his only remaining concern was the adequacy of parking facilities. Henry Halle, CSAB member, also commented on the extensive community research conducted prior to formulating the design and pointed out that the firm of Owens-Ames-Kimball had been

chosen not only because of former transactions with the City, but also because of experience in working with minority contractors. James Whittaker, Director of the River Park Community Center, reported that he had attended meetings and discussions, and was familiar with a number of the changes. He said he felt the design presented met the needs of both the River Park community and the community as a whole. He said that he was pleased.

In response to Vice Mayor Herms, CSAB Member Halle said that a heritage center had not been included in the design due to the need for rooms to serve more than one function. Regarding Mr. Russell's earlier comment on parking, Mr. Overstreet said that not only would there be an excess of parking over what is required, a shared parking agreement with the church across the street would be sought.

Mr. Tarrant asked whether the Council would be approving affirmative action hiring practices with passage of the motion on the item. Mayor MacKenzie said the Council had already agreed to a 35 percent minority contractor participation goal for the project.

MOTION by MacIlvaine that COUNCIL INSTRUCT STAFF TO PROCEED along the course already established; 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 stated he could not support a City project that does not provide equal opportunity employment.

Mayor MacKenzie commended Building Official Overstreet on his design and said that it would accomplish what the Council had envisioned and would be a source of pride for River Park and the entire community. She then relayed a request by an 8-year old to install a type of two-seater slide at the River Park pool which would enable use by handicapped children.

.....**ITEM 5**
DISCUSSION REGARDING A PROPOSED CITIZENS' POLICE REVIEW BOARD

City Manager Kevin Rambosk stated that the applicable ordinance, scheduled for a second reading on August 15, would most likely be considered a first reading due to substantive changes. Steven Moore, Chief of Police & Emergency Services, stated that on June 20, City Council had asked for revisions in both the ordinance and the policies and procedures, and had directed him to work with various community members to produce a final product. Chief Moore then reviewed the following changes:

Ordinance Section 2-285(a)(1) Board membership was increased from five to nine (one from each of the City's five patrol sectors and four at large residents of the City of Naples).

Ordinance Section 2-285(a)(1)a was added establishing a membership staggering system, as requested by Council.

Ordinance Section 2-286(a)(1)(e) was added to include all alleged violations of PESD Policies and Procedures.

In response to Council Member Taylor, Chief Moore indicated that there had been approximately 30 complaints in the current year and 35 to 40 last year. He noted that a majority of complaints would not require a formal investigation but would be handled by a supervisor. The proposed Board however could not initiate a complaint because of the requirement for a sworn statement. City Manager Rambosk stressed the goal of making the process as open as possible for the community, although various allegations heard over the past several months had not resulted in

the filing of complaints. He said that the proposed process would educate the community on what the officers do and, more importantly, what they do not do. Chief Moore continued his review:

Ordinance Section 2-286(a)(2) was added reflecting that a complaint would not be heard if filed more than 120 days after the incident. This does not include investigative time by the PESD.

Ordinance Section 2-286(a)(3) added the provision that once the Board reached a final decision, the matter would be considered closed, thus precluding complaints from continually being reopened. Chief Moore clarified that while there would be no appeal process in this format, a citizen would not be relinquishing any rights by coming before the Board.

Ordinance Section 2-286(a)(7)-a the Board Administrator had not been designated and a Board Attorney was added.

In response to Council Member Tarrant, Chief Moore indicated that the Board Administer would be in-house and the Board Attorney could be a City Attorney designee, such as an assistant, or an independent attorney. He also explained that no budget had been established and that it would be the Council's discretion whether this would be a pro-bono, volunteer attorney or a paid attorney. City Manager Rambosk stated that the Council may select a board administer from the City Manager's, City Clerk's or City Attorney's office. Council Member MacIlvaine suggested the City Clerk's office could provide personnel to do this and would provide a proper separation of powers.

Ordinance Section 2-286(a)(8) was added stating that all complaints written or verbal received by individual Board members would be referred to Professional Standards within PESD. Board members could still gather complaints and assist citizens in completing forms, but complaints would go through Professional Standards for processing. This process was preferred, leaving the Board Administrator out of this section, Chief Moore said.

Ordinance Section 2-286(a)(9) shows that the Policies and Procedures are adopted. Chief Moore noted that the Council had not been provided with the Policies and Procedures when this matter was last discussed.

Chief Moore distributed the complaint form and said that it had been utilized for several weeks in English, Spanish and Creole. In response to Council Member Taylor, Chief Moore explained that the Board would act by a majority vote and that under Subsections F and G in Section III, it would render a written report if the Board was making a recommendation to disapprove, make modifications, or was adding information. If the Board however approved of the Department's handling of the complaint, there would be no need for a written report other than what is reflected in the minutes. Section G states a simple majority can select a member to write the report with any dissenting reports attached.

Council Member Galleberg cited unequal distribution of population among the five police sectors. Chief Moore explained that the sectors are based on patrol/service needs rather than population. Council Member Galleberg further suggested that term expirations be divided into three stages. He also expressed the view that a complainant or an officer should not be limited to five minutes; however, Chief Moore pointed out that since each board member would have already reviewed the complaint and Internal Affairs investigation report, the time limit was intended to keep the process moving with the complainant and the officer merely providing a

summary. Council Member Taylor noted that this forces a complainant to formulate thoughts and agreed with a five-minute limit. Council Member Galleberg suggested that the 75 percent requirement for consideration of anonymous complaints (Procedures II A-2) be changed to six out of nine members. Council Member Galleberg also requested that the Naples PESD automatically refer complaints to the Board. Chief Moore said the Orlando City Attorney had indicated that approximately one-third of the complainants appear before Orlando's board and two-thirds do not pursue the complaint. The Orlando Police Department is represented by the Internal Affairs Sergeant or Lieutenant, who then gives a summary of the investigation and answers any procedural questions. The Orlando board, he said, very rarely found investigations improper and their Board meets monthly to assure that the Internal Affairs investigations were proceeding properly.

Council Member Taylor asked about training for board members. Chief Moore said that based on his conversations with the City of Orlando and a Justice Department representative, training should allow members to ride with officers in order to observe procedures on the road, include instruction in professional standards and the Internal Affairs process, and a review of statutes and other requirements. Council Member Taylor recommended adding this to both the Policies and Procedures and the ordinance. Chief Moore agreed that training should be conducted prior to members attending their first meeting. It was suggested that the training be referred to as orientation.

Council Member Wiseman asked whether this process would be considered quasi-judicial and whether rules of evidence, such as cross-examination, would be followed in the conduct of the meetings. City Attorney Beverly Grady explained that the end result would be the Board's report to the Police Chief; she also advised that the rules of evidence would not be required. Further action would be solely within the Chief's discretion, the Board itself having no other power. City Manager Rambosk stated that additional questions by Board members would be asked through the Chair, but that cross-examination by the complainant or the officer would not be part of the process.

In response to Council Member Taylor, Chief Moore explained that when an officer has been notified that charges are either sustained or are not sustained, the investigation is closed. However, when a complainant does not appear before the Board, a closed matter then means that the Board has taken action and the complainant cannot appear at another session. The procedure for continuance provides the Board certain flexibility, however, Chief Moore noted.

Council Member Taylor then questioned the potential liability from law enforcement officers filing suit and Chief Moore stated that an officer can sue the department, a citizen, or the Board. Council Member Tarrant also questioned the exposure of the Board to subpoena, and City Attorney Beverly Grady stated that members would merely hear reports and investigations and would not possess first-hand knowledge of the facts of a case; therefore, their testimony would not be relevant. Mayor MacKenzie stressed the importance of identifying the extent of Board member liability and providing adequate training for members. She also suggested the possibility of establishing an alternate position. In response to Council Member Taylor, Chief Moore stressed that the 120-day timeframe is important due to retention of evidence and for accurate recollections by witnesses.

Public Comment: Victor A. Valdes, 5349 Holland Street, gave a brief background regarding complaints which he had filed for residents. He provided the 2001 edition of *A Guide for Law*

Enforcement Agencies from the Office of the Attorney General and presented a plaque to Mayor MacKenzie in appreciation from the community. **Laverne Franklin**, representing the NAACP, requested the following changes: 1) 11 members broken down into two African-Americans, two Hispanics, two Haitians, two white, and three at large, and permanent seat designations; 2) meetings held more frequently than quarterly; 3) allowing complaints to be referred by the Mayor or City Council; 4) the 120 day deadline changed to six months or one year; 5) inclusion of reference to regulations from the United States Department of Justice and from Civil Rights authorities; 6) provision for an independent attorney within Collier County to serve as the Board's counsel; 7) requirement for one-third of the Board to constitute a quorum; and 8) further clarification of terms such as "appearance request" and provision of special meetings.

Council Member Tarrant suggested equal representation on the Board between minority and non-minority groups. The Council then discussed the definition of residency and it was the consensus that a board member be a full-time, domiciled resident.

MOTION by Galleberg DIRECT STAFF to return this item to Council for the September 5, 2001, regular meeting; 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).

PUBLIC COMMENT

Tim Casey representing **Stuart Shelton, 4565 Beechwood Lake Drive**, addressed the proposed noise ordinance amendment and asked Council to reconsider any intention to ban outdoor entertainment. He said that the majority of professional entertainers were also homeowners and taxpayers in Naples and Collier County and that he had been involved with a successful petition drive resulting in an agreement by Collier County government relative to outdoor entertainment. He requested that Council support the people who reside and perform in Naples, allowing them to benefit from growth of Naples nightlife. **Tony Sheppard, 3200 La Costa Circle**, asked Council to consider the ramifications of creating a blanket ban on amplified entertainment and to take into account that some instruments cannot be played without amplification. He also stated that venues where entertainment is performed are seeking to create a seaside resort atmosphere which reflects the community's casual outdoor lifestyle. He advised the Council that an organization had been formed to make recommendations to the Council for permitting and licensing procedures.

Recess: 12:30 p.m. to 3:00 p.m. It is noted for the record that Council Member MacIlvaine was absent when the meeting reconvened.

REVIEW OF ITEMS ON THE 8/15/01 REGULAR MEETING AGENDAITEM 6

City Manager Rambosk said that the staff would ask the Council to consider expediting approval of the construction management ordinance and also consider an additional special event. He also mentioned a request from Richard Yovanovich, attorney for the petitioner on Item 8 requesting an afternoon rather than morning consideration. **Consent Agenda** Council Member Taylor requested that Items 7-a, 7-b-2, 7-b-4, 7-c and 7-e be scheduled for separate discussion. **Item 12-b** Mayor MacKenzie noted an amendment to remove Zoning District R3T-18 from Sections 2 and 4-c-2. **Item 13** Mayor MacKenzie recommended changing low density residential to reflect 0-6 units per acre. **Item 17-a** Mayor MacKenzie noted that this would be continued to an August 27 Special Meeting. **Item 19** Mayor MacKenzie requested a larger map of Fleischmann Park as well as Community Services Advisory Board minutes. **Item 23** Mayor MacKenzie indicated that this would be continued to September 5.

DISCUSSION WITH COLLIER COUNTY COMMISSIONER PAM MAC'KIEITEM 7

Commissioner Pam Mac'Kie was not present at this meeting.

BRIEFING BY CITY MANAGER.....ITEM 8

City Manager Kevin Rambosk noted a bi-weekly update already provided in writing to the Council. Regarding a letter from John Pulling's attorney relative to property donated to the City, Mr. Rambosk said he would provide a draft response to the Council for discussion at the August 15 Regular Meeting. The letter had stated the City violated the agreement with the donor and sought to have the property quit-claimed back to Mr. Pulling. Mayor MacKenzie suggested the City's first letter be from the Mr. Rambosk, since the Pulling attorney's letter had been addressed to him. Council Member Tarrant cautioned against taking a defensive posture since the agreement regarding the donation had not been violated. Council Member MacIlvaine took the position that the response should be to the attorney who had written the letter, not the donor, although it may be necessary to also write Mr. Pulling to provide information on the City's efforts to utilize the property as designated.

MOTION by Herms INSTRUCTING the City Manager to advise John Pulling, and the City Attorney to advise Mr. Pulling's attorney, via letter, of the City's position on the property donated to the City by Mr. Pulling, and City's activities to date toward reaching these goals Mr. Pulling had set forth in the deed restrictions. This Motion was seconded by Tarrant and carried 6-1, all members present and voting. (Galleberg-no, Herms-yes, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-yes, Mackenzie-yes).

City Manager Rambosk presented further updates: the staff was still awaiting appraisals of Wilkinson House; the Point Royal potable water booster station is virtually complete; emergency repairs to the seawall at the Harbour Drive Bridge were required; emergency repairs were also made to the water line on Gulf Shore Boulevard just north of Park Shore Drive; and the railing on the north side of the Gordon River Bridge required re-manufacturing although the project will be completed despite its exceeding the contracted time.

City Manager Rambosk also reported that the County Commission was proceeding with an ordinance to establish a human relations commission to review questions and concerns of minority groups throughout the County. The River Park Coalition for Justice had asked for investigative and enforcement powers along with equipment for cases related to EEOC issues. Mr. Rambosk also said that the staff was still working with River Park residents regarding fights involving drunkenness and large gatherings. Council Member Wiseman questioned whether the Jasmine Cay property owners could be held responsible in conjunction with an incident involving a number of people going onto Jasmine Cay to avoid arrest. City Manager Rambosk replied that trespass was based upon a one-on-one situation and residents would not confront violators, however, the staff had been working with the apartment managers, property owners and the community with reference to these incidents. Vice Mayor Herms noted the large alleyway east of the location where the aforementioned gatherings occur, and Chief Moore explained that community policing officers had been working with other City departments in reviewing an environmental design which could be used in alleyways such as this one.

CORRESPONDENCE/COMMUNICATIONS.....

Council Member Tarrant suggested a future workshop review of standards used by the Naples Art Association for artwork displayed at the von Liebig Center in Cambier Park. He related his understanding that the Naples Art Association had agreed not to display controversial artwork like that currently in the gallery and asked Council to consider ways to tighten these standards in order to prevent this from happening in the future. City Manager Rambosk noted provisions within the use agreement with the Naples Art Association, which gives Council the ability to determine whether there is a violation of community standards. This requires five affirmative votes of Council followed by a notice to correct, with the correction period being 12 months.

Council Member MacIlvaine suggested drastically shortening the correction period. Council Member Galleberg said that he did not believe the community standards provision within the lease infringed on freedom of speech rights, however, he cautioned that the Council may not have the ability to impose another standard at that time. Mayor MacKenzie observed that revising the standards would require rewriting the use agreement. Vice Mayor Herms, however, said there might be enough concern regarding the content of the artwork in question to schedule a public meeting with representatives of the organization. He added that he had personally viewed the painting and thought the community standards should be considered, although the Council might not be in a position to make stipulations. Council Member MacIlvaine referred to the recently approved Gators Galore fundraiser wherein proceeds were estimated by the Art Association to be \$150,000 with the use of City property, and said he considered there to be a relationship. He found both the painting under discussion as well as a painting of President Clinton to be offensive and said the art center should take action in good faith by removing the pictures immediately. Council Member Galleberg however maintained that the method for addressing the issue was outlined the use agreement; this would require a majority of four Council Members to place the issue on an agenda for a vote of five to determine whether it violates community standards. Vice Mayor Herms, however, said he felt it could still be negotiated, considering the time required to undertake the lease procedure. Council Member Taylor stressed the importance of utilizing the lease procedure, and Mayor MacKenzie observed that it appeared that a majority of the Council would be willing to hold a workshop with the Art Association to discuss this issue.

Council Member Wiseman, however, said that she seriously objected to Council Member Tarrant's memorandum on the subject of the painting in question which, she said, had been submitted to the newspaper first which resulted in a color photograph of the painting being published on two occasions. She said she did not support a workshop discussion nor trying to censor what the Art Association displays. Mr. Tarrant, however, stated he had had a cordial meeting with the Art Association at their request, asked them politely to simply remove the painting, and they had refused. After further discussion, the motion below was finalized.

MOTION by Tarrant to DIRECT STAFF to place an item on an advertised agenda so that Council can examine and discuss the details of the lease between the City and the Naples Art Association, specifically as it relates to examples of art to be displayed at the von Liebig Art Center. This motion was seconded by Herms and carried 5-2, all members present and voting (Wiseman-no, MacIlvaine-yes, Tarrant-yes, Galleberg-yes, Herms-yes, Taylor-yes, MacKenzie-no).

Council Member MacIlvaine reiterated his request for immediate removal of the artwork. Mayor MacKenzie explained her dissent as a genuine hope that the Art Association would remove the painting but asserted that the Association had nevertheless shown poor judgment in allowing the matter to continue. She said she agreed with Council Member Wiseman in that the association has the right to display thought provoking artwork, but not where children could view it. Vice Mayor Herms said the important point was that children should not view artwork of this nature and this display should be relocated.

Vice Mayor Herms then requested that the Council review on a future agenda, Del Rey Marine's contracts for hazardous spill and emergency clean-up work and recommended engaging an independent auditor to evaluate the expenditures billed by Joseph Biasella, the operator of Del Rey Marine. Mayor MacKenzie asked for evidence of wrongdoing, and Mr. Herms referred to a recent article in Naples Daily News which he said he considered as evidence. Council Member

MacIlvaine opposed engaging further audit services, stating that a thorough annual audit of the City's funds is already performed by a leading firm. Vice Mayor Herms said he was asking for an independent entity to do this examination and expressed concern as to whether the City had been charged a reasonable fee for the work and whether Del Rey Marine had been legally hired. Council Member Tarrant concurred with such a review, stating that there are too many unanswered questions and suggested a thorough investigation be requested from an agency having the power to take depositions, such as the State Attorney's Office.

MOTION by Herms to ADD TO A FUTURE AGENDA discussion regarding Del Rey Marine / Joseph Biasella's work for the City; seconded by Tarrant and failed 3-3 (Galleberg-no, Herms-yes, MacIlvaine-no, Tarrant-yes, Taylor-yes, Wiseman-no, MacKenzie abstaining).

Council Members Galleberg and Wiseman indicated their agreement with Council Member MacIlvaine's statement that the City has an auditor who does a thorough inspection of funds and finances. Mayor MacKenzie said she abstained from voting because Mr. Biasella was in the process of paying her the balance of an outstanding loan.

Council Member Galleberg then referred to three follow-up items he requested that City Manager Rambosk cover in a future briefing or in a weekly report to Council: update on alleged problems with the Johnny T's All American Café; state grant for the Fleischmann property relative to costs and donation; and status report on the Cambier Park bandshell fundraising.

In response to Council Member MacIlvaine, City Manager Rambosk agreed to provide an overview of the Calusa Bay well matter.

Mayor MacKenzie noted that because City Dock issues had been scheduled for August 27, at 1:30 p.m., the President's Council meeting had been rescheduled to Wednesday, August 22, at 3:30 p.m. in Council Chamber. She also congratulated the Naples Airport Authority, Executive Director and staff for dismissal of the lawsuit regarding the Stage II jet ban. Mayor MacKenzie related to Council continuing correspondence regarding a proposal for providing beach chairs, umbrellas and sundry items for sale/rent at the Naples beachends.

MOTION by Herms NOT TO ALLOW the sale/rental of beach chairs, umbrellas, and sundries at beach ends; 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).

PUBIC COMMENT.....

None (4:24 p.m.)

ADJOURNED.....

4:25 p.m.

Bonnie R. MacKenzie, Mayor

Tara A. Norman, City Clerk

Minutes prepared by:

Minutes approved: 9/19/01

Eileen Debish, Recording Specialist



