



City Council Chamber
735 Eighth Street South
Naples, Florida 34102

City Council Regular Meeting – January 9, 2002 – 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
Tamela Wiseman

Also Present:

Kevin Rambosk, City Manager
Beverly Grady, City Attorney
Tara Norman, City Clerk
Ron Lee, Planning Director
William Harrison, Asst. City Manager
Jon Staiger, Natural Resources Manager
Don Wirth, Community Services Director
Ron Wallace, Development Services Director
William Overstreet, Building Official
Laura Spurgeon, Planner
George Archibald, Traffic Engineer
Jessica Rosenberg, Recording Specialist
Karen Kateley, Administrative Specialist

Harold Krantz
Franklin Starks
Jonathan Mason
Ed Oelgchlaeger
G. Dale Benson
Georgia Mosier
Trista Youngquist
Roger Cheetham
John Passidomo
Dennis Cronin
Larry Farese
Richard Yovanovich
Arlene Guckenberger

Media:

Diana Smith, Naples Daily News

Other interested citizens and visitors

INVOCATION AND PLEDGE OF ALLEGIANCE.....ITEM 2

Pastor G. Dale Benson, First Church of Nazarene

ANNOUNCEMENTS.....ITEM 3

None.

SET AGENDA.....ITEM 4

Added Item 17-b Selection of Canvassing Board member.

MOTION by Galleberg to ADD ITEM 17-b; 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).

Added Item 18 Potential City Attorney conflict of interest/waiver.

MOTION by Taylor to ADD ITEM 18; 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).

MOTION by Galleberg to SET AGENDA ADDING ITEMS 17-b and 18; 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.....ITEM 5
Harold Krantz, 309 Goodlette Road South, Apt. 501A, introduced into the record a petition opposing the live entertainment proposed at the Comfort Inn, (Attachment 1 / See Item 13).

CONSENT AGENDA

APPROVAL OF MINUTES.....ITEM 8-a
September 17, 2001 Special, October 1, 2001 Special, and October 17, 2001 Regular.

APPROVE THE FOLLOWING SPECIAL EVENT..... ITEM 8-b
Bayfront, Inc. Fashion Show/Dinner (Bayfront Place) – 2/21/02.

RESOLUTION 02-9469.....ITEM 8-c
A RESOLUTION RATIFYING AND CONFIRMING THE ACTION OF THE CITY MANAGER TO CONTRACT WITH BROOKS MASONRY AND CONCRETE, INC. IN THE AMOUNT NOT-TO-EXCEED \$38,565.58 FOR SIDEWALK REPAIRS AT 5TH AVENUE SOUTH AND FLEISCHMANN PARK; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 02-9470..... ITEM 8-d
A RESOLUTION APPROVING A CONTRACT BETWEEN THE CITY OF NAPLES AND PETROPAC SOLUTIONS, INC., TO FURNISH AND INSTALL A FUEL MONITORING SYSTEM AT THE CITY DOCK; AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 02-9471.....ITEM 8-e
A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A FIRST AMENDMENT TO CAMBIER PARK BALLFIELD BLEACHERS AGREEMENT BETWEEN THE CITY OF NAPLES AND SOUTHERN BLEACHER COMPANY, INC., TO EXTEND THE COMPLETION DATE TO MARCH 30, 2002; AUTHORIZING THE CITY MANAGER TO EXECUTE THE FIRST AMENDMENT TO CONSTRUCTION AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 02-9472..... ITEM 8-f
A RESOLUTION AMENDING AND RESTATING THE EXISTING DEFERRED COMPENSATION PLAN DOCUMENT WITH THE VARIABLE ANNUITY LIFE INSURANCE COMPANY (VALIC) FOR ADOPTING CHANGES REQUIRED BY THE ECONOMIC GROWTH AND TAX RELIEF RECONCILIATION ACT OF 2001; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 02-9473.....ITEM 8-g
A RESOLUTION APPROVING A CONTRACT BETWEEN THE CITY OF NAPLES AND SEVERN TRENT PIPELINE SERVICES, INC. FOR THE PURCHASE OF SINGLE LINE STOP EQUIPMENT, HYDRA-STOP MODEL 4120THS; AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 02-9474..... ITEM 8-h
A RESOLUTION ACCEPTING A UTILITY EASEMENT FOR THE MAINTENANCE OF WATER LINES ON A PARCEL OF LAND OUTSIDE THE POINCIANA ELEMENTARY SCHOOL ADDITION, DESCRIBED ON EXHIBIT "A", FROM COLLIER COUNTY POINCIANA ELEMENTARY SCHOOL; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 02-9475..... ITEM 8-i
A RESOLUTION APPROVING AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF NAPLES AND COLLIER COUNTY FOR 800 MHZ RADIO MAINTENANCE; AND PROVIDING AN EFFECTIVE DATE. Title not read.

..... ITEM 8-j
AUTHORIZE A \$550.00 INCREASE IN THE CITY'S CO-SPONSORSHIP OF THE MARTIN LUTHER KING JR. PARADE/CELEBRATION (1/21/02).

MOTION by Wiseman to APPROVE ITEMS 8-a THROUGH 8-j; 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

ORDINANCE 02-9476..... ITEM 9
AN ORDINANCE PERTAINING TO REGULATING SURFACE WATER MANAGEMENT; AMENDING SECTION 94-75 SUBMISSION OF SIDEWALK AND DRIVEWAY PLANS TO ADD STREET AND PROJECT SITE DRAINAGE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER PROVISION AND AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk (9:05 a.m.) who explained that applicants would supply a site plan demonstrating that all drainage would flow into the front or back system and not to the side yards and onto adjoining properties. He also confirmed that drainage into a lake is allowed if it is utilized as part of the City's drainage system, and that the City employs a water quality maintenance plan to ensure adequate water cleansing. Council Member Tarrant said he could not support this ordinance without assurance that property owners could prepare their own site plans without retaining a professional. Mayor MacKenzie pointed out that the ordinance allows great flexibility in that it simply requires anyone with a construction project to prepare an acceptable method of dealing with stormwater runoff either during or after construction, but Council Member MacIlvaine expressed concern about untrained property owners acting in this capacity.

Public Comment: None. (9:13 a.m.)

MOTION by Galleberg to ADOPT ORDINANCE 02-9476 AS SUBMITTED; seconded by MacIlvaine and carried 6-1, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-no, Taylor-yes, Wiseman-yes, MacKenzie-yes).

ORDINANCE 02-9477..... ITEM 10
AN ORDINANCE PROPOSING TO THE ELECTORS OF THE CITY OF NAPLES, FLORIDA, AN AMENDMENT TO THE CHARTER OF THE CITY OF NAPLES CREATING THE OFFICE OF INTERNAL AUDITOR AND PROVIDING FOR DUTIES OF THE INTERNAL AUDITOR; PROVIDING FOR THE PROPOSED AMENDMENT TO BE SUBMITTED TO THE ELECTORS OF THE CITY OF NAPLES AT THE NEXT MUNICIPAL ELECTION TO BE HELD ON FEBRUARY 5, 2002; PROVIDING BALLOT LANGUAGE; DIRECTING THE CITY CLERK TO TAKE ALL APPROPRIATE ACTIONS NECESSARY TO CARRY OUT THE PROVISIONS OF THIS ORDINANCE; PROVIDING A DATE FOR THE AMENDMENT TO TAKE

EFFECT AND DIRECTING THE CITY CLERK TO INCORPORATE THE AMENDMENT INTO THE CHARTER AND TO FILE THE REVISED CHARTER WITH THE FLORIDA SECRETARY OF STATE; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk (9:13 a.m.). Mayor MacKenzie stated that the Clerk of Courts had recently indicated a willingness to review the actual job description after it is in draft form. City Attorney Beverly Grady clarified that the internal auditor is specified under the legislative branch to report only to Council and not the City Manager (executive branch). Council Member Galleberg suggested adding specific language to this effect, however, Mrs. Grady cautioned against specifically prohibiting the Internal Auditor from ever reporting to other branches. Mayor MacKenzie also noted that there could be an instance when a department head would request Council to authorize a performance management audit, and later receive a copy of the Internal Auditor's findings along with Council. The Clerk of Courts having approved the proposed language, Mayor MacKenzie recommended that Council approve the ordinance as submitted. In response to Council Member Wiseman, Mrs. Grady indicated that no reference to job description or qualifications is necessary in the Charter, but recommended placing these other criteria in the Code of Ordinances for greater ease of amendment.

Public Comment: None. (9:25 a.m.).

MOTION by Herms to ADOPT ORDINANCE 01-9477 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 02-9478.....ITEM 15
A RESOLUTION APPROVING A CONTRACT BETWEEN THE CITY OF NAPLES AND PRO DISPOSAL, INC., FOR HAULING AND DISPOSING OF SELF-CONTAINED SOLID WASTE CONTAINERS; AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk (9:25 a.m.) who confirmed that Pro Disposal had submitted the lowest bid and that the \$80 unit cost is essentially the same as the current contract rate.

Public Comment: None. (9:26 a.m.)

MOTION by Galleberg to APPROVE RESOLUTION 02-9478 AS SUBMITTED; 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).

ORDINANCE (First Reading).....ITEM 6
AN ORDINANCE PERTAINING TO PARKING IN THE RIGHT OF WAY AND LIMITING PARKING OF COMMERCIAL VEHICLES IN RESIDENTIAL DISTRICTS; AMENDING SECTIONS 62-94, OBSTRUCTING WIDTH OF ROADWAY; REPEALING SECTION 62-63, MANNER OF STANDING OR PARKING; REPEALING SECTION 62-106, WORKERS PROVIDING SERVICES TO RESIDENTIAL PROPERTY; AMENDING SECTION 110-86, PROVIDING FOR COMMERCIAL VEHICLE PARKING IN RESIDENTIAL DISTRICTS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER PROVISION AND AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk (9:26 a.m.) who stated there had been no changes since last review. He added that staff would still provide sufficient time to correct a parking violation, and that the fine for a first offense would be \$50.

Public Comment: None. (9:29 a.m.)

MOTION by Galleberg to APPROVE ITEM 6 AS SUBMITTED AT FIRST READING; 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).

ORDINANCE 02-9479.....ITEM 11
AN ORDINANCE AMENDING SECTION 62-158 (b) “METER RATES” AND SECTION 62-159 (a) “VIOLATIONS; PENALTIES; PAYMENT OF FINES; PUBLIC UTILITY, CITY VEHICLES PARKING IN METERED SPACES” OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES FOR THE PURPOSE OF ADJUSTING METERED PARKING RATES AND FINES FOR VIOLATIONS AT NAPLES LANDING; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION, AND AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk (9:29 a.m.) who explained that the purpose of the increase was to approximate County rates and eliminate any incentive to select the City over County facilities. Should the City opt out of its Interlocal Agreement for funding assistance at Naples Landing, it would be required to return approximately \$143,000 received from the County and approximately \$60,000 from the State via the County.

Assistant City Manager William Harrison also explained that the ordinance addresses only time purchased on a parking meter and the fine for a violation but not the \$20 annual parking pass which the City Manager could now increase to the level of the County’s fee at \$60. Vice Mayor Herms, however, suggested that this fee be set in the Code and not established by the City Manager. Mayor MacKenzie recommended retaining the same standard for City residents, and City Manager Rambosk suggested working with the City Attorney to determine whether this contract language requires the City be consistent. He further explained that the average stay at a parking meter is four hours, but that the meter could accommodate up to 12 hours.

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

MOTION by Herms to ADOPT ORDINANCE 02-9479 AS SUBMITTED;
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).

City Manager Rambosk said staff would later present information and a resolution relative to the annual parking pass, and Council Member MacIlvaine suggested installing a credit card machine, to derive extra income to the City as well as convenience to boaters. City Manager Rambosk assured Council that staff would explore several options.

RESOLUTION 02-9480.....ITEM 12
A RESOLUTION DETERMINING PETITION 01-FWW5 FOR A WAIVER FROM FENCE AND WALL REQUIREMENTS AS PROVIDED IN SECTION 110-37(a)(2.1)f. OF THE CODE OF ORDINANCES IN ORDER TO ALLOW ADDITIONAL GATE AND GATE POST HEIGHT FOR THE RENOVATION OF THE MAIN GATE FOR PROPERTY LOCATED AT 3093 FORT CHARLES DRIVE, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk (9:40 a.m.). This being a quasi-judicial proceeding, Council made the following ex parte disclosures: MacKenzie/met with Attorney John Passidomo who overviewed the changes made to the original petition; Taylor/met with Mr. Passidomo and with the builder, David Rogers; Herms/received telephone messages but had had no contact; Galleberg, Wiseman, Tarrant, MacIlvaine/no contact. Notary Public Jessica Rosenberg then administered an oath to those who intended to give testimony; all responded in the affirmative.

Attorney John Passidomo explained that the Fort Charles Drive residence is currently under construction and is situated on a parcel of some 1.33 acres in size, or 2½ building lots, which

comprises 237 feet of road frontage. The proposed gates and gateposts would comprise 25 feet of this frontage or approximately 10%. Attorney Passidomo said that based upon discussions with Council, the petitioner had subsequently met with the Port Royal Property Owners Association (PRPOA) and is now withdrawing the previously requested secondary gate and the driveway expansion. He further pointed out that in addition to considering lot size and the street frontage, the Code requires that Council take into account compatibility with surrounding uses, explaining that the proposed 10 foot gate with 8 foot gateposts would be more compatible with the home under construction than the existing gate which is also in excess of the six foot standard. Additionally, he cited a nearby 12 foot gate with approximately 9 foot columns previously approved by the PRPOA. In conclusion, Attorney Passidomo also stated that the proposed gate would create visual accessibility through its open ironwork, and that there had been no objections raised by the neighbors to the proposal.

Public Comment: (9:52 a.m.) **Dennis Cronin, 4001 Tamiami Trail North**, representing the PRPOA, stated that the nearby gates referred to by Attorney Passidomo were actually built before the City had adopted standards in 1999 and that it is the position of the PRPOA that all property owners in Port Royal should comply with the City's guidelines. **Georgia Mosier, 1021 Spyglass Lane**, PRPOA Architectural Review Board (ARB) representative, reported a unanimous vote of denial by the Board of Directors, although noting that most PRPOA members are not aware of this request. Ms. Mosier also pointed out that several PRPOA members had expressed concern that the proliferation of large and garish structures was changing the nature of Port Royal. Ms. Mosier then read a letter into the record regarding the petition under consideration (Attachment 2). In response to Vice Mayor Herms, Ms. Mosier explained that deed restrictions require ARB review of all proposed structure designs, and although there are no particular criteria for driveway entry treatments, the ARB generally follows the City's Code.

Although Attorney Dennis Cronin asserted that the Building Department generally looks for the review and approval of the PRPOA when assessing plans, City Manager Rambosk said that while the City considers deed restrictions, it is bound only by the Code. Planning Director Ron Lee nevertheless added that the City considers standards such as setbacks, height, and spatial perception but looks to the PRPOA for comments on architectural components because the Code does not contain any reference to them. Ms. Mosier then noted various instances wherein the PRPOA has negotiated design changes with property owners. Council Member Wiseman observed that the ARB's criteria seemed rather subjective, and Council Member Galleberg also noted the importance of scale in making determinations. Ms. Mosier explained that the ARB is seeking the help of design professionals in order to establish an appropriate, objective gate scale. Council Member Taylor noted the trend to combine lots, and encouraged Ms. Mosier to work with staff to create a formula that would assess the size of the lot in proportion to the size of the gate. In further response to Council, Ms. Mosier said that the ARB believes its meeting with the property owner was productive although the property owner had chosen not to accept its proposals.

Attorney Passidomo expressed the view that the ARB had not been flexible and apparently had no interest in a site-specific analysis with respect to the lot or home size, or the compatibility with surrounding properties. He however reiterated that these gates, which would be engulfed by lush mature landscaping, would be compatible with all these elements and that approval would be consistent with that of a gate at a property at 3260 Green Dolphin Lane. Attorney Passidomo further said that the proposed gates are not garish, and that the petitioner has undergone an expensive and painstaking process to ensure the quality of the product.

Expressing support for local property owner associations setting standards, Council Member MacIlvaine proffered a motion to deny this petition and Vice Mayor Herms seconded, noting that disregard thereof would negate the purpose of architectural review boards. Council Member Wiseman however expressed concern about possible litigation and voiced doubt about the enforceability of deed restrictions which do not specify appropriate standards. Council would therefore be allowing what she termed a very subjective analysis to guide its decision process. Mr. MacIlvaine however said that denying this waiver would indicate support of both the City ordinance and the PRPOA. Mr. Herms added that the PRPOA is simply asking that the City apply the standards in its Code; however, Mrs. Wiseman pointed out that this association supported adoption of the ordinance, which does in fact provide a process for waivers. Council Member Tarrant said the Council would be shirking its responsibility if it allowed the association to make the decision, and Council Member Taylor said she could not support the motion, noting that she believed the gate would be compatible with the home and the neighborhood. Council Member Galleberg said that Council should refine its waiver provision in order to implement appropriate guidelines with respect to visual impact and design. He however said Council must make its determination based on Code and not on a property owners association, and said he would not support the motion. In response to the City Attorney, Council Member MacIlvaine said his motion to deny was based on lack of compatibility with adjacent properties. In addition, he said he believed in the principle of supporting the neighborhoods as well as local citizen empowerment.

MOTION by MacIlvaine to DENY ITEM 12; seconded by Herms. This motion failed 2-5, all members present and voting (Taylor-no, MacIlvaine-yes, Wiseman-no, Galleberg-no, Tarrant-no, Herms-yes, MacKenzie-no).

Although saying she generally favored a six-foot height limitation on fences, gates, and walls, Mayor MacKenzie said the petitioner has attempted to compromise.

MOTION by Tarrant to APPROVE RESOLUTION 02-9480 AS SUBMITTED; seconded by Wiseman and carried 5-2, all members present and voting (MacIlvaine-no, Taylor-yes, Tarrant-yes, Galleberg-yes, Herms-no, Wiseman-yes, MacKenzie-yes).

MOTION by Taylor to DIRECT THE CITY MANAGER TO SEND CORRESPONDENCE TO THE PROPERTY OWNERS ASSOCIATIONS TO ASCERTAIN WHETHER THERE IS ANY INTEREST IN CREATING SITE SPECIFIC STANDARDS FOR FENCES AND GATES AND IF SO, TO CREATE AN ORDINANCE FOR DISCUSSION AT A FUTURE WORKSHOP. There was no second to this motion.

Recess 10:49 a.m. to 11:05 a.m. It is noted for the record that the same Council Members were present when the meeting reconvened.

RESOLUTION 02-9481.....ITEM 13-a
A RESOLUTION DETERMINING LIVE ENTERTAINMENT PETITION 01-LE4 FOR PROPERTY LOCATED AT 1221 5TH AVENUE SOUTH, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk (11:05 a.m.).

RESOLUTION 02-9482..... ITEM 13-b
A RESOLUTION DETERMINING RESIDENTIAL IMPACT STATEMENT PETITION 01-RIS8 FOR PROPERTY LOCATED AT 1221 5th AVENUE SOUTH, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk (11:05 a.m.). This being a quasi-judicial proceeding, Council made the following ex parte disclosures: Taylor/spoke to Harold Krantz regarding the petition he delivered to Council; Herms/encouraged Mr. Krantz to come to the

Council Meeting to submit his petition; MacKenzie, MacIlvaine, Galleberg, Wiseman, Tarrant/ no contact. Notary Public Jessica Rosenberg then administered an oath to those who intended to give testimony; all responded in the affirmative.

Comfort Inn Director of Operations Trista Youngquist explained that she is requesting approval of live amplified entertainment on Thursday, Friday, and Saturday evenings from 5:00 p.m. to 10:00 p.m. for the enjoyment of her guests and any bar patrons. She added that there would be hotel guests within 10 feet of the entertainment, and would immediately lower the volume of music if she receives any complaints. Additionally, she explained that she is required to issue refunds to guests if they are disturbed by the music. Ms. Youngquist further commented on the difficulty in hiring entertainers who would perform for several hours without amplification. She added that activity at the bar would help to attract business, noting that there have been 2,000 hotel rooms added to the City since 1998 resulting in increased competition. In response to Council, Ms. Youngquist stated that the entertainment would be located on the back deck on the water on the east side of the hotel, and would be amplified towards U.S. 41 and the pool area.

Planner Laura Spurgeon then explained that of the 140 notices mailed to surrounding neighbors one response was received in opposition and two in support, although some of the petitioner signers most likely were among those included in the mailing. Vice Mayor Herms pointed out that a letter received in support had come from the Commonage office complex, not a residence, but Council Member Galleberg said he did not believe the official description of the request mailed by staff raised significant concern.

Citing the petition presented (Attachment 1), Mayor MacKenzie stated that amplification would create an unacceptable residential noise impact. Planning Director Ron Lee said that while he was not aware of noise complaints regarding this site, there had been concerns regarding the distance the music carries at the nearby Naples Inn and Suites. Noting that the hotel itself would regulate the noise, Council Member Galleberg proffered a motion to approve Item 13-a. Council Member Wiseman seconded the motion, however noting that the petitioner had requested two speakers and one microphone, and suggested amending the motion accordingly.

In response to Mayor MacKenzie, Mr. Lee confirmed that Council had decided to consider both noise complaints as well as certified noise ordinance violations when evaluating live entertainment renewals. Council Member MacIlvaine however commented that Council should not ignore the 53 residents who signed the petition in opposition to this request, and said that he could not support the motion. Council Member Galleberg nevertheless emphasized that the City would determine the source of this noise problem, which he said could not be the Comfort Inn. Mayor MacKenzie stated that the Comfort Inn deserves the same chance as other establishments and that the City needs to be more vigilant to ensure that all are in compliance.

Public Comment: None. (11:28 a.m.)

MOTION by Galleberg to APPROVE RESOLUTION 02-9481 (ITEM 13-a) LIMITED TO ONE MICROPHONE IN SECTION 2, PARAGRAPH 1;
seconded by Wiseman and carried 4-3, all members present and voting (Wiseman-yes, Tarrant-no, Taylor-yes, Galleberg-yes, Herms-no, MacIlvaine-no, MacKenzie-yes).

MOTION by Galleberg to APPROVE RESOLUTION 01-9482 (ITEM 13-b) LIMITED TO ONE MICROPHONE IN SECTION 2, PARAGRAPH 1;
seconded by Wiseman and carried 4-3, all members present and voting

(Galleberg-yes, Herms-no, MacIlvaine-no, Tarrant-no, Taylor-yes, Wiseman-yes, MacKenzie-yes).

RESOLUTION 02-9482.....ITEM 14

A RESOLUTION ADOPTING A USE AGREEMENT BETWEEN THE CITY OF NAPLES AND THE ROWING ASSOCIATION OF NAPLES, INC. (“RAN”); AUTHORIZING THE CITY MANAGER TO EXECUTE THE USE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Manager Kevin Rambosk (11:29 a.m.). Community Services Director Don Wirth stated that the Rowing Association of Naples (RAN) had been meeting with staff and the Community Services Advisory Board (CSAB) for approximately three years with regard to the development of the Pulling property, and is now requesting approval to relocate its floating dock structure there. He added that staff recommends approval because it has determined the area would accommodate it, noting the absence of mangroves and the fact that Natural Resources Manager Jon Staiger had said he believed that the Department of Environmental Protection (DEP) approval process would be relatively simple. Terry Fedelem, Parks and Parkways Design/CIP Superintendent, stated that the site proposed for the temporary racks is north of the road right-of-way, and would provide the most convenient access with respect to the existing grade.

RAN representative Roger Cheetham said the association is requesting to relocate its docking facility and several storage racks, which he explained would be six foot high T-racks that hold approximately five boats each. Mr. Cheetham added that RAN would also need to construct a platform that would extend 15 feet into the water, which would be anchored in the ground with posts, and a ramp to the first dock. He said he would also install a temporary construction trailer to store oars, a workbench, and hardware for repairs, and that he would chain the boats to the T-racks for security. Mr. Cheetham further said that the association must leave its current site due to escalation in rent.

In response to Mayor MacKenzie, Mr. Cheetham said that while various other locations had been investigated, Anthony Park had not been one of these but that the association would willingly vacate the Pulling site should the City later determine another use for the land. Council Member Tarrant expressed approval for the proposal predicting that the general public would enjoy this activity. Mr. Cheetham then explained that the association would seek approval to store its boat trailers in the City’s equipment storage area, or would move them to an alternate location. He added that the association would also respect the 1/3 mile strip in that area used at certain times by the marine patrol to test propulsion systems. Council Member MacIlvaine however suggested amending the appropriate ordinance to eliminate this activity in areas where manatees are present. In response to Council Member Wiseman, Mr. Cheetham predicted that the users of the facility would park in the vicinity of the Community Services building. Mr. Wirth said this would pose no conflict, noting the understanding that there would no driving onto the site. Mrs. Wiseman said the use agreement should reflect this, suggesting changes to Sections 8.2 and 10.1. Vice Mayor Herms however recommended providing some access to the site, and suggested filling or grading it slightly or installing limestone or gravel. Council Member MacIlvaine questioned the proposed \$1 per year lease; however, City Attorney Beverly Grady affirmed that the City could negotiate a higher price.

Dr. Staiger said the association had not discussed using Anthony Park, noting that it is fully grassed and contains no roadway system in which to access the docks. Mayor MacKenzie however said the association could make the necessary accommodations, saying there is already a dock and off-site parking available at this location. She added that non-motorized boats in this

part of the river would be a compatible use, and that Council has not yet determined its ultimate plans for the Pulling property. Dr. Staiger however pointed out that this would be a temporary, low impact use, and Vice Mayor Herms said this would be an ideal location in which to set a canoe or kayak. In response to Council, Mr. Wirth said the association, which has agreed to assume full responsibility for operations, could invite other users, but that the facility is not open to the public. City Manager Rambosk suggested a two-week continuance so staff could research alternate sites, amendments to the use agreement, and insurance issues prior to giving Council a final recommendation.

Public Comment: (12:03 p.m.) **Harold Krantz, 309 Goodlette Road South**, said that although he favored the concept of the rowing facility, a number of boats race through the proposed site each day and he predicted there would be a conflict. He suggested either eliminating the testing area or strictly enforcing the 1/3 mile limitation. Council Member MacIlvaine commented on boaters' disregard of the no-wake zones.

In response to Council, Dr. Staiger said he had not ascertained the cause of the recent death of a manatee. He further predicted that if City were to develop the Pulling site into a park, it would eliminate boat speeding in that area.

MOTION by Taylor to CONTINUE ITEM 14 TO THE JANUARY 23, 2002 REGULAR MEETING; *seconded by Wiseman and carried 6-1, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-no, Tarrant-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).*

MOTION by MacIlvaine to DIRECT THE CITY MANAGER TO PRESENT A REVISION OF SECTION 78-145, PARAGRAPH 3, ELIMINATING THE SECOND SENTENCE RELATIVE TO THE EXCEPTION TO THE NO-WAKE ZONE; *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).*

ORDINANCE (First Reading).....ITEM 7-a
AN ORDINANCE DETERMINING PETITION 01-R10 TO REZONE FROM R3-T18 TO R318 FOR PROPERTIES ON THE WEST SIDE OF GULF SHORE BOULEVARD NORTH (GSBN) BETWEEN OLEANDER DRIVE AND DOCTORS PASS TO INCLUDE SURFSIDE CLUB 1065 GSBN, BAHAMA CLUB 1121 GSBN, VIA DELFINO 1221 GSBN, WHITEHALL 1255 GSBN, COLONIAL CLUB 1275 GSBN, LAURENTIANS 1285 GSBN, MANSION HOUSE 1601 GSBN, EMBASSY 1717 GSBN, GULFSHORE COLONY 1785 GSBN, LA TOUR RIVAGE 1851 GSBN, DIPLOMAT 1919 GSBN, GULF TOWERS 1977 GSBN, CARRIAGE CLUB 2011 GSBN, ROYAL PALM CLUB 2121 GSBN, CHATEAU CLUB 2151 GSBN, GULF VIEW BEACH CLUB 2171 GSBN, INDIES WEST 2200 GSBN, MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING A SEVERABILITY CLAUSE AND AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk (1:30 p.m.). Council Member Wiseman disclosed that she had performed legal services for Mansion House and the Carriage Club, and that due to the appearance of conflict, she would abstain from voting. City Attorney Beverly Grady stated that the statute requires that at least one of the two hearings on this item be held after 5 p.m. unless a majority plus one vote for a different time. This being a quasi judicial proceeding, Council made the following ex parte disclosures: MacKenzie/worked with the property and unit owners to coordinate this proposal, discussed the merits and timing of the proposal, as well as the best ways to eliminate the building height and lot coverage bonuses, and the ability of condominiums and cooperatives to become

hotels; MacIlvaine/no recent substantive discussions; Galleberg/viewed the Planning Advisory Board (PAB) deliberations; Taylor/met with Richard Yovanovich, Franklin Starks, and several other citizens in regards to general zoning issues and the Tides Motor Inn; Herms/no contact; Tarrant/no contact. In response to Council, City Attorney Grady stated that the purpose of the disclosure is to ensure that all information upon which Council is making its decision is contained in the record. Notary Public Jessica Rosenberg then administered an oath to those who intended to give testimony; all responded in the affirmative.

Planning Director Ron Lee stated that the request is to rezone 18 properties on the west side of Gulf Shore Boulevard from R3-T18 to R318, noting that it has the full support of the affected residents. The results of this rezoning would be that the properties would no longer have the ability to have transient lodging as a conditional use, and they would no longer be allowed an additional 12 feet of building height or a 5% increase in lot coverage if 75% or more of the required parking is located underneath the building. Mr. Lee further said this was one of the largest mailings ever undertaken by the Planning Department, noting that staff sent a notice to every unit owner in the 18 properties and another notice to all property owners within 500 feet. Additionally, he noted that the PAB voted 5-2 to approve the rezone excluding the Tides Motor Inn, noting that those dissenting had favored its retention.

In response to Council Member Galleberg, Mr. Lee stated that the next step of this process would be to begin discussions with the owners of those properties Council had directed to remain zoned R3-T18; namely, the Naples Beach Hotel and the Edgewater Beach Hotel with respect to building height issues.

Public Comment: (1:42 p.m.) **Franklin Starks, 1717 Gulf Shore Boulevard North**, representing the Gulf Shore Property Owners Association, noted the Association's firm support of this amendment, and stated that retaining the lower building heights may actually increase property values as well as protect the ambience in the area. In response to Mayor MacKenzie, Mr. Starks expressed no preference regarding the meeting time for the second hearing.

MOTION by Galleberg to APPROVE ITEM 7-a ON FIRST READING NOTING THE REVISED ATTACHMENT A; seconded by MacIlvaine and carried 6-0-1 (Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-abstain, MacKenzie-yes). (See Attachment 3, Form 8B Memorandum Of Voting Conflict For County, Municipal, And Other Local Public Officers).

MOTION by Galleberg to CONDUCT SECOND READING AT THE JANUARY 23, 2002 REGULAR MEETING AT 1:30 P.M.; seconded by Tarrant and carried 6-0-1 (Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-abstain, MacKenzie-yes). (See Attachment 3 above.)

ORDINANCE (First Reading)..... ITEM 7-b
AN ORDINANCE DETERMINING PETITION 01-R10 TO REZONE THE TIDES MOTOR INN LOCATED AT 1801 GULF SHORE BOULEVARD NORTH FROM R3-T18 TO R3-18, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk (1:50 p.m.). As per Council's previous direction, City Manager Rambosk said Attorney Larry Farese of Cummings & Lockwood would represent Council as the City's attorney. This being a quasi-judicial proceeding, Council made the following ex parte disclosures: MacKenzie/met with Richard Yovanovich the prior week to discuss his client's concerns about the rezoning impacts, noting

that the majority of the discussion is contained in the public record as part of the PAB minutes, spoke with Attorney Farese regarding the potential relevance of the 42 foot commercial height amendment to this petition as well as the deadlines for various applications; MacIlvaine/no contact; Galleberg/received a telephone call from Attorney Yovanovich's office regarding a meeting which they were unable to arrange, spoke briefly to Attorney Yovanovich with no substantive dialogue; Taylor/ received a telephone message from Attorney Yovanovich, met with Attorney Yovanovich, Mr. Starks and several other affected neighbors regarding the Tides rezone and the overall rezone petition, attended a staff meeting with several affected neighbors several months prior; Wiseman/met the prior week with Attorney Yovanovich, the substance of which was similar to that described by the Mayor; Herms/received a telephone call from Bert Pohlmann relative to this issue; Tarrant/received a telephone call but had no discussion of the issue. Notary Public Jessica Rosenberg then administered an oath to those who intended to give testimony; all responded in the affirmative.

Mr. Lee stated that a Tides Motor Inn coastal construction setback variance had engendered a process of text amendments to eliminate height and lot coverage bonuses as well as the subsequent rezoning. However, when staff had worked with the property owners along Gulf Shore Boulevard, the Tides owners would not agree; therefore, this request is being considered separately. Council had included neither the Tides nor the Naples Beach Hotel and the Edgewater Beach Hotel as exempt properties because at the time of the aforementioned coastal construction setback variance, there had been a representation that the Tides would be converted to a condominium.

Attorney Yovanovich, representing the ECO Group, the contract purchaser of the Tides Motor Inn, reiterated that the property owners had not requested to rezone the property, and that there appeared to be no basis in the record for a such rezone. He then said that his client would continue to maintain the Tides as a residential condominium after closing on the property, and has no intention of operating a hotel although some modifications to the building originally considered when the City had granted the coastal construction setback variance are intended. He clarified that the massing, footprint, and square footage would remain unchanged, but the building would be divided into 23 rather than 15 units. Natural Resources Manager Jon Staiger, he said, had advised that repartitioning into additional units would not represent a significant change and Council approval was not required. Attorney Yovanovich further said that his client now has a firm contract to purchase the property for \$17-million, but would lose 21,000 square feet of building area if not granted the additional 12 feet and 5% lot coverage. He therefore said his client would like to proceed under the terms and conditions of the existing variance, and requests an exemption from any rezone of the Tides property. In response to Council, Attorney Yovanovich said that his client had purchased the property after Council had considered the coastal construction setback variance.

Public Comment: (2:03 p.m.) **Jonathan Mason, 3150 Gordon Drive**, said that Tides project would enhance the neighborhood through reduced hotel exposure and traffic, and expressed support for the proposed 23 units.

Planning Director Lee stated that the resolution that granted the coastal construction setback variance included the ability to maintain the additional 12 feet provided there was no substantial change in the plan. He however added there was nothing to preclude Council from rezoning the property to R3-18 after the project was completed and grandfathering it. In this way, even if destroyed, the property could be rebuilt with the additional 12 feet, unlike some planned

developments which contain a sunset clause reverting to previous zoning if not built. Mr. Lee noted that that in other cases, Council had required that the plans be built in substantial compliance with a General Development and Site Plan (GDSP), although he recommended constraining such flexibility in this case. Mayor MacKenzie concurred, expressing concern that significantly increasing the number of units would not be considered substantial.

Vice Mayor Herms emphasized the distinction between coastal construction setback variances and zoning although zoning issues had arisen in this case due to the additional building height and lot coverage. He also observed that the Council had limited basis on which to render denial, noting that although the prospective buyers may develop condominiums, they may ultimately not purchase the property leaving the current owner with R3-T18 zoning. Mr. Herms also expressed the desire to eliminate the building height and lot coverage bonuses, but stressed that the standard be applied equally to all three remaining transient properties. Mr. Herms further expressed concern that adjusting the height would reduce the values of the properties which would in turn impact lenders. Council Member Galleberg, however, pointed out that although it is important to understand the ramifications, the decision at this time is whether to rezone.

In response to Council, Attorney Farese said the variance did not specify when the property owner must act and that the Council could in fact petition to repeal a variance. The issue would then become whether the property owner had taken action based upon the variance and has vested rights, in which case the variance could not be repealed. Attorney Farese also said that Council is not obligated to rezone, and concurred with Mr. Herms' suggestion to make all three properties consistent. He also said that Council is not bound by a representation made by Natural Resources Manager Staiger but is the ultimate determinant of whether there was a significant deviation of this plan. Council Member MacIlvaine suggested tabling this item in order to consider all three hotels simultaneously. Council Member Tarrant however voiced concern that a delay may impose a hardship on the petitioner.

Attorney Yovanovich reported that his client is scheduled to close on the property on January 25, assuming it is not rezoned and that his client could record a deed restriction at that time assuring that there would be no hotels on the site. Attorney Yovanovich further pointed out that the resolution indicates only that the Natural Resources Manager would prepare an analysis in the event of a design change and that his client has expended significant funds for design and permitting, and had nearly completed the process.

Public Comment: (2:25 p.m.) **Ed Oelgchlaeger, 425 Dockside Drive**, ECO Group President, stated for the record that he would enter into a deed restriction affirming that neither ECO Group nor any future buyer would convert the property into a transient facility. **Bert Pohlmann, address not given**, stated on behalf of his partners that he would sell the property only to a condominium developer.

MOTION by Galleberg to DENY ITEM 7-b; seconded by Tarrant and carried 6-1, all members present and voting (Tarrant-yes, Galleberg-yes, Herms-yes, Wiseman-yes, Taylor-yes, MacIlvaine-no, MacKenzie-yes).

Council Member MacIlvaine said he did not believe it to be in the public interests to deny this petition.

ORDINANCE (First Reading).....ITEM 16
AN ORDINANCE AMENDING SECTION 94-32 (b) OF THE CODE OF ORDINANCES
FOR THE PURPOSE OF ADOPTING NEW WIND SPEEDS FOR CITY OF NAPLES AS
REQUIRED BY THE FLORIDA BUILDING CODE AND DESIGNATING THE CITY

OF NAPLES AS AN IMPACT ZONE, THEREBY AMENDING SECTION 1606 OF THE STANDARD BUILDING CODE; PROVIDING FOR CODIFICATION; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.

Title read by City Manager Kevin Rambosk (2:27 p.m.) who explained that under the new Florida Building Code, all new construction within the city limits must sustain minimum wind speed of 140 mph, effective January, 2002. Building Official William Overstreet explained that only a 2.6% increase in cost had been realized on a 3,400 square foot home recently built in Cape Coral under the new standard. Nevertheless, he predicted a significant financial impact would occur in March when the City begins to enforce a new Code that requires impact standards for openings, such as doors and windows, as well as a new energy code.

In response to Vice Mayor Herms, Mr. Overstreet stated that most changes would be imperceptible as the masonry walls currently used in the City already meet the Code, and that the tie beams and roof trusses would change only slightly. He however added that screening for pool screen enclosures would be affected, increasing the costs significantly. In further discussion, Mr. Overstreet said there may be a decrease in insurance premiums due to these changes.

Public Comment: None. (2:36 p.m.)

MOTION by Wiseman to APPROVE ITEM 16 AT FIRST READING AS SUBMITTED; seconded by MacIlvaine 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 expressed objection to what he described as the constant succession of rules and regulations imposed on citizens.

**RESOLUTION 02-9483.....ITEM 17-a
A RESOLUTION APPROVING THE FORM AND CONTENT OF THE BALLOT OF THE CITY OF NAPLES GENERAL ELECTION TO BE HELD FEBRUARY 5, 2002, A COPY OF WHICH IS ATTACHED HERETO AND MADE A PART HEREOF; AND PROVIDING AN EFFECTIVE DATE.** Title read by City Manager Kevin Rambosk (2:37 p.m.). City Clerk Tara Norman said Council had received a revised ballot due to a Spanish translation error.

Public Comment: None. (2:38 p.m.)

MOTION by Wiseman to APPROVE RESOLUTION 02-9483 AS SUBMITTED; seconded by Taylor and carried 6-1, all members present and voting (Galleberg-yes, Herms-no, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

Vice Mayor Herms said the language in the second charter amendment is incorrect, and would be deceiving to the public.

**RESOLUTION 02-9484.....ITEM 17-b
A RESOLUTION APPOINTING A CITY ELECTOR TO THE CANVASSING BOARD FOR THE CITY OF NAPLES GENERAL ELECTION OF FEBRUARY 5, 2002 AND PROVIDING AN EFFECTIVE DATE.** Title read by City Manager Kevin Rambosk (2:38 p.m.). Council Member Galleberg proffered a motion to appoint former Mayor Bill Barnett; however, further discussion ensued. City Clerk Tara Norman said she recently contacted Charles Rhoades, and determined that he would in fact be willing to serve. Council Member Tarrant proffered a motion to appoint Mr. Rhoades seconded by Vice Mayor Herms, and Council Member Wiseman subsequently seconded Mr. Galleberg's motion to appoint Mr. Barnett. Council briefly discussed the order in which to consider the motions; however, City Attorney

Beverly Grady said there is nothing in the bylaws to address this issue and that it is therefore the Mayor's decision.

Public Comment: None. (2:43 p.m.)

MOTION by Tarrant to **APPOINT CHARLES RHOADES**; seconded by Herms. This motion failed 3-4, all members present and voting (Galleberg-no, Tarrant-yes, MacIlvaine-no, Wiseman-no, Taylor-yes, Herms-yes, MacKenzie-no).

Although voicing support for Mr. Rhoades, Mayor MacKenzie said she had already spoken to Mr. Barnett whom she said expressed enthusiasm for this appointment.

MOTION by Galleberg to **APPOINT BILL BARNETT (02-9484)**; seconded by Wiseman and carried 5-2, all members present and voting (MacIlvaine-yes, Wiseman-yes, Tarrant-no, Galleberg-yes, Herms-no, Taylor-yes, MacKenzie-yes).

.....**ITEM 18**
CONSIDERATION OF CONFLICT OF INTEREST/WAIVER REGARDING LAND USE PETITION BY SUNSTREAM, INC. (2:43 p.m.) City Attorney Beverly Grady stated that when she reviewed the Planning Advisory Board (PAB) applications for January, she determined that one of the petitioners is Sunstream, Inc., which she has represented and may again represent in the future. She therefore offered to withdraw on that particular matter.

Public Comment: None. (2:45 p.m.)

MOTION by Herms to **ACCEPT THE CITY ATTORNEY'S WITHDRAWAL AND DIRECT LARRY FARESE TO REPRESENT THE CITY IN THIS MATTER**; 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).

PUBLIC COMMENT(2:45 p.m.).....
None.

CORRESPONDENCE & COMMUNICATIONS (2:45 p.m.).....
Council Member Taylor questioned whether there was a means for a property to revert to prior zoning when a particular property changed ownership. City Attorney Beverly Grady said that whenever Council makes a decision to rezone one parcel from one category to another, it must make findings of consistency with the comprehensive plan and with all the rezoning criteria in the Code. If the owner or the City were at a later date to make an application to amend the zoning again, Council would follow the same process but that she had never seen an incidence wherein zoning expired. Mayor MacKenzie pointed out that variances, waivers, building permits, and conditional uses can expire and suggested that Council consider imposing a time limit on zoning as well. Council Member Taylor expressed concern that a property owner would apply to amend the zoning to increase the property value, and then sell it. Council Member Galleberg commented that zoning should be appropriate for the property, not the owner, and City Attorney Grady explained that land use is associated with the land, because the determination is relative to a plan being suited to a particular zoning category. Mayor MacKenzie recommended determining a way to ensure that the petitioner builds only what Council approves, with the opportunity for subsequent changes significantly reduced. She further suggested discussing this issue at a future workshop.

Referencing Item 12 (gate in Port Royal), Council Member Galleberg stated that although he did not support Council Member Taylor's motion on setting architectural standards, he is in favor of conducting future workshops in order to identify better tools with which Council could make decisions. Additionally, he said it is incumbent on the Port Royal Property Owners Association

to develop its own standards; Mayor MacKenzie said that she did encourage Georgia Mosier of the Port Royal Architectural Review Board to work with her group in this regard. Council Member Taylor further suggested enacting an ordinance that would apply only to Port Royal because of the number of exceptions requested there.

Council Member MacIlvaine stated that at the November 5, 2001 Community Redevelopment Agency (CRA) meeting there was a motion to recommend to the Council that it consider the concept of rerouting U.S. 41, and suggested directing the City Manager to meet with the Heart of Naples Committee (HONC) to develop some specific recommendations as well as a timeline for Council review. Mayor MacKenzie expressed concern that the FDOT may then control both Goodlette Road and Ninth Street (U.S. 41). City Manager Rambosk said he would meet with a FDOT representative to discuss this and other related topics. Council Member MacIlvaine said that he believed the FDOT would relinquish control of bypass roads, and that the City could in fact gain control of U.S. 41 in the City.

Vice Mayor Herms said a citizen had recently asked him whether the City allows the Escalante Hotel to sell rooms. City Manager Rambosk said there are hotels in the City that do sell rooms, but that he would check on the applicable regulations.

Council Member Tarrant voiced concern regarding what he termed significant incongruities with the 1999 Royal Poinciana Golf Club annexation and development agreement, inasmuch as the acreage annexed into the City was supposed to be 319.67 acres but the County Tax Collector's Office indicates 362 acres. City Attorney Grady however said that the legal description indicates what was actually annexed into the City, and that the survey of the work indicates 358 acres. Council Member Tarrant pointed out that there was no legal description in the ordinance, and that the documentation was not filed with the State Department until more than one year later. Mrs. Grady however said the legal description was in fact attached to the ordinance, and that the Council has since adopted several ordinances which reiterate the boundaries of the City which do specify the entire 358 acres. In response to Council Member Tarrant, Mrs. Grady also said that the legal description for the parcel to be annexed was contained in both the PAB and Council meeting packets; however, Vice Mayor Herms disagreed. Development Services Director Ron Wallace explained that staff changed the City's legal description after Council's vote, but that Wilson Miller engineering firm had prepared the legal description submitted to the PAB. Mr. Herms said the document did not specify the acreage. Mr. Wallace however said the original legal description included the golf club and two other lots, all of which comprise the 358 acres. Council Member Tarrant stated that he wanted the record to reflect that all of the documentation contained in the record at the time Council had approved the annexation reflected 319.67 acres. Mrs. Grady said that while it is always preferable to have the acreage figure consistent with the legal description, and although it would be a collegial decision for the Council to correct the 319.67 acres indicated on the face of the ordinance, the legal description, which shows 358 acres, is the overriding document.

City Manager Rambosk stated that although it is sometimes difficult for staff to perform its duties during the political season, he requires that staff remain neutral during this process. He explained that he was recently informed of an allegation of widespread corruption throughout staff, with which he took personal offense and declared to be untrue. Mr. Rambosk added that if it were determined, however, that any member of staff is involved in this conduct, he would take action.

ADJOURN
3:13 p.m.

Bonnie R. MacKenzie, Mayor

Tara A. Norman, City Clerk

Prepared by:

Jessica R. Rosenberg, Recording Specialist

Minutes approved: 4/17/02