



City Council Chamber
735 Eighth Street South
Naples, Florida 34102

City Council Workshop Meeting – April 29, 2002 – 8:30 a.m.

Mayor MacKenzie called the meeting to order and presided.

ROLL CALLITEM 1

Present:

Bonnie R. MacKenzie, Mayor
Gary Galleberg, Vice Mayor

Council Members:

Joseph Herms (arrived 8:36 a.m.)
William MacIlvaine
Clark Russell
Penny Taylor
Tamela Wiseman (arrived 8:35 a.m.)

Also Present:

Kevin Rambosk, City Manager
Tara Norman, City Clerk
Ron Lee, Planning Director
Laura Spurgeon, Planner
Karen Kateley, Administrative Specialist
Steve Weeks, Information Services Manager

Heart of Naples Committee:

Jacques Groenteman
William MacIlvaine
Phil McCabe
Robert Navarre
Jack Ullrich

Airport Zoning Commission:

Jim MacArthur
William MacIlvaine
Gene Schmidt

Gilbert Cox
Adrian Herbst
Frank Kowalski
Robert Pifer
Jeff Roberts
Mark Stegbauer
Austin White

Airport Authority:

Eric West

Planning Advisory Board:

Robert Navarre

Media:

Dianna Smith, Naples Daily News

Other interested citizens and visitors.

SET AGENDA.....ITEM 2

MOTION by Galleberg to SET THE AGENDA as presented; seconded by MacIlvaine and carried 5-0 (Galleberg-yes, Herms-absent, MacIlvaine-yes, Taylor-yes, Russell-yes, Wiseman-absent, MacKenzie-yes).

.....**ITEM 3**
OVERVIEW ON CABLE AND TELECOMMUNICATIONS CURRENT TRENDS AND OPTIONS

Cable Franchise Attorney Adrian Herbst delivered a presentation regarding cable television relative to the pending transfer of ownership of the City's franchisee (Attachment 1) and provided background material on cable television in general (a copy of which is contained in the file for this meeting in the City Clerk's Office).

It was noted for the record that Council Member Wiseman arrived at 8:35 a.m. and Council Member Herms arrived at 8:36 a.m.

Attorney Herbst explained that the Cable Consumer Protection and Competition Act of 1992 was intended to regulate rates and improve customer service, and was incorporated into the City's Code of Ordinances that year. With regard to customer satisfaction, he explained that the franchisee must comply with certain standards such as specific timeframes for telephone response, installation, and services calls, and the cable franchise must report this information to the FCC on a quarterly basis. In response to Mayor MacKenzie, Attorney Herbst clarified that the FCC has determined that high-speed modem connections are not a franchise service, however, there are no current laws governing it. He also noted that condominium associations and apartment complexes may establish a partnership directly with a cable franchise for specific programming and rates, which are not controlled by the City. With regard to technology improvements, he noted that many communities are utilizing web streaming for council meetings to be viewed live via the internet, which can be accomplished internally utilizing specific equipment connected to the City's website. No fees are associated with this service. Attorney Herbst concluded by describing the periodic review process (see Attachment 1), noting that the 15-year cable franchise agreement commenced June 21, 1995, and that the City has the right to perform periodic reviews to allow flexibility and modifications that may be necessary over the life of the franchise.

During discussion, Attorney Herbst explained that the hearing at the Regular Meeting of May 1 relates only to the franchise transfer of ownership. In response to Council Member MacIlvaine, Attorney Herbst explained that his experience has shown cities that monitor basic cable rates receive better performance from their franchisee who in turn tends to maintain basic rates. With regard to programming content, Attorney Herbst explained that the City can only establish broad categories of services, although he said he believed that the City's ordinance does include a periodic subscriber satisfaction survey to learn what type of programming is desired. Council Member MacIlvaine questioned whether the City had enforcement powers with regard to customer complaints, and Mr. Herbst explained that the City may impose financial penalties for non-compliance and continuing violations. In response to Mayor MacKenzie, Attorney Herbst explained that the law presumes that the franchise will be renewed unless the City Council finds one of the following has occurred: 1) the cable company did not provide satisfactory service; 2) non-compliance with the franchise terms and conditions had occurred; 3) the cable franchise will not meet the future needs of the City; or 4) the cable franchisee does not have the legal qualifications to perform the proposed franchise in the future. If the City denies the franchise renewal, the cable company would request an administrative hearing within 60 days and the City appoints an arbitrator/hearing examiner for a quasi-judicial proceeding. If the hearing examiner determines that there is no basis for the City's complaint and the City still desired to deny the renewal, the cable company would then appeal to the district court within 120 days. In response

to Mayor MacKenzie, Attorney Herbst confirmed that the City could not deny renewal based on programming, quality, or level of service.

Council Member Herms noted that in Naples, the primary competition for cable TV is satellite service and asked for the market distribution between the two entities nationwide. Attorney Herbst stated that satellite services have increased an average of 15-20% within the community, and because of satellite's superior sound, picture quality and availability of more channels, cable operators have in turn expanded their services to provide digital channels and pay-per-view events. Council Member Herms inquired whether the City could require the local cable company to transmit to customers the same high definition digital formatting received by them. Attorney Herbst noted however that not all digital formatting received by a cable company is high definition, but that the City could require the cable company to make high definition or digital formatting available to customers. Mr. Herbst then stated that Florida laws preempts local governments from collecting taxes for satellite service since it does not involve street rights-of-way. Council Member Herms then asked whether the City could grant a franchise to an overbuilder in a particular area, but Attorney Herbst explained that the City could not simply grant a limited service area franchise. Council Member Herms questioned when satellite providers would be required by law to provide local programming in Naples. Although he said he was unsure, Attorney Herbst agreed to research the issue and provide Council with an update. Mayor MacKenzie also agreed to provide a copy of prior cable franchise agreements in the Council office.

BRIEFING BY CITY MANAGER.....ITEM 7

City Manager Rambosk reported that the City's flood insurance fees had been reduced from level 7 to 6 by the Community Rating Service resulting in an estimated savings for residents of 20% (approximately \$250,000 in premiums Citywide), and complimented City and County staffs for working together in this regard; the pertinent report will be presented to City Council upon receipt. He then noted that the City is considering implementing a web interface system to allow the construction industry access to the City's HTE system to determine the status of building permits; this should be operational in one week with the ultimate goal being the ability to also apply for building permits and schedule building inspections online. In addition, the City is reviewing this system to allow checking the status of parking citations, review and pay utility bills, and web streaming capabilities to replay council meetings via the internet, which will be included in this year's CIP budget. In response to Council Member Taylor, Mr. Rambosk clarified that ultimately the recess portions of meetings will be edited out of meeting replays, and during live broadcasts, other information will be inserted when Council is recessed. In response to Council Member Herms, Mr. Rambosk explained that, initially, individuals viewing meeting replays over the internet cannot start the meeting at the beginning; however, this capability will be added once it becomes financially feasible. Mr. Rambosk then noted that the final draft of the management agreement with Florida Community Trust for the Naples Preserve is complete and has been forwarded to the State for final review; receipt of the \$3.5-million grant is anticipated in 30 days. He then reported that the City purchased a CO₂ system for the water treatment plant to replace sulfuric acid treatment primarily in order to address safety issues; it will be operational within 30 days. Mr. Rambosk then announced that an educational training session in labor relations had been held the previous week for union representatives, supervisors and staff. He also noted that the Police & Emergency Services Department has devised a traffic plan to better track areas where past violations have occurred.

Recess: 9:28 a.m. – 9:42 a.m. It is noted for the record that Council Member Wiseman was absent when the meeting reconvened.

~~CITI GRAPHICS VANTAGEPOINT~~ ITEM 4

City Manager Rambosk noted the company name change (see above) and introduced Gilbert Cox, Chief Executive Officer, to overview services. Mr. Cox explained that Vantagepoint produces software designed to assist architects, city planners, designers and developers to more realistically visually evaluate potential projects, and noted other potential applications such as police officer training, emergency response, and developing underlying infrastructure. He said he believed that costly mistakes could thus be avoided. With familiarity of the software, City staff will construct an environment that can be viewed from any perspective.

It was noted for the record that Council Member Wiseman returned at 9:45 a.m.

Mr. Cox then acknowledged Jeff Roberts, Vice President of Marketing & Sales, and Mark Stegbauer, Vice President in charge of Technology and Chief Operating Officer. He said he believed Vantagepoint to be the most advanced company in the world in this particular endeavor. Demonstrating the software capabilities, Mr. Roberts explained that Vantagepoint does not create data but is a data-visualizing tool that interacts with data from common systems in real time. He then reviewed the database built for Birmingham, Michigan, whose code now requires developers, architects, etc., to submit three-dimensional (3-D) design data which is then introduced into the context of the rest of the city in order to evaluate a project, or multiple projects simultaneously. Using the interior of the Birmingham council chamber, he then demonstrated how the system moves from the building interior through the wall and outside. Mr. Roberts further noted that Vantagepoint allows not only the management of current city views, but also maintenance of both historical and future views.

In response to Council Members, Mr. Roberts clarified that Vantagepoint can add images such as vehicles, pedestrians, etc., and explained that the main differential between their software and other software is that Vantagepoint software is a tool designed to allow the viewer to view true architectural information to scale and allows interaction with the model. With regard to accuracy, Mr. Roberts explained that information from multiple vendors can be incorporated into one common viewing environment.

In further discussion, Mr. Roberts confirmed that a data library contains such things as various types of roofs and roofing materials and that Vantagepoint is not a consultant but primarily a software company. Cost for the software demonstrated, including the cultural library, is \$3,750, plus \$800 per license agreement for support. He noted however that viewing the information is free, therefore, only the individuals using the software would be licensed and that this information can be transmitted over the internet.

Council Member Herms said he believed the cost to be reasonable in comparison to what could be accomplished; noting that one of the major problems elected officials face is not understanding the impact of a particular project. Council Member MacIlvaine concurred, noting that drawings of proposed streetscapes do not allow a realistic view of proposed changes. Mr. Roberts described the ease with which a petitioner's data can be translated into a Vantagepoint neutral file format guaranteeing that the content cannot be manipulated. Council Member Russell said he felt that this would be a valuable tool and that he would be willing for staff to explore this proposition further with other vendors. Steve Weeks, Information Services Manager, noted that

the City had already researched similar software packages using digital imagery by photographing streets and overlaying the photographs onto models. Mr. Roberts noted however that Vantagepoint software is total 3-D imagery with an interactive model in real time. During continued discussion, Mr. Roberts confirmed that Fifth Avenue could be modeled using a combination of 3-D models and photographs; City Council's direction appears below.

Staff to examine alternative software and report to Council, possibly including a prototype block generated on the Vantagepoint system.

.....**ITEM 5**
DISCUSSION TO REVIEW AIRPORT OVERLAY ZONING DISTRICT WITH THE AIRPORT ZONING COMMISSION *(Two or more members of the Naples Airport Authority, two or more members of the Airport Zoning Commission, and two or more members of the Planning Advisory Board may be present)*

Editors note: A transcript of this item is part of the 5/1/02 City Council Regular Meeting record in the City Clerk's Office.

Recess: 12:09 p.m. – 1:32 p.m. It is noted for the record that the same Council Members were present when the meeting reconvened.

.....**ITEM 9**
DISCUSSION OF "D" DOWNTOWN ZONING DISTRICT *(Two or more members of the Heart of Naples Committee may be present)*

City Manager Kevin Rambosk stated that the Heart of Naples Committee (HONC) had recently presented an extensive overview of recommended revisions to the "D" Downtown District zoning ordinance (3/18/02 Community Redevelopment Agency Special Meeting) therefore the discussion that day would focus on related questions. HONC Member Groenteman stated that the recommended changes had been incorporated into the ordinance (a copy of which is contained in the file for this meeting in the City Clerk's Office). He then reviewed the accompanying April 22 memo outlining the more recent changes by the HONC and a summary of the amendments to the ordinance (Attachment 2).

Referring to the extensive discussion at the last meeting (see 3/18/02 Community Redevelopment Agency Special Meeting Minutes on file in the City Clerk's Office), HONC Member Groenteman explained that the supermajority vote requirement to approve parking structures had been deleted since the HONC had determined that there were sufficient safeguards in place. These safeguards exist through the conditional use approval process, other zoning criteria relative to the project, and subsequent reviews by Planning Staff, Planning Advisory Board, and City Council. He further noted that the HONC determined that establishing a parking pool for property less than 30,000 square feet in size would provide incentives such as adding a second story to an existing building for residential units since the required number of parking spaces would be available. Council Member Taylor commended the HONC for its work and requested clarification for the change that incorporates parking garages with other types of parking. HONC Member Ullrich explained that the intent was to simplify and clarify the process whereby developers would determine what size of parking structure was required for a particular development and City Council would determine whether the size of the structure was appropriate. Council Member Taylor said that although she understood the HONC's recommendation, she felt that the supermajority vote for approving parking garages should be maintained. HONC Member Ullrich noted that the HONC approached the subject from a planning, not political perspective, noting that there are no other occurrences within the Code of

Ordinances requiring a supermajority vote. HONC Member McCabe also noted that approval of a parking garage would still require a majority vote of Council, and that stricter language had been incorporated regarding the architecture of a parking garage. Council Member MacIlvaine also pointed out that parking garages are now listed as conditional uses so that all such petitions must be heard by both the PAB and City Council. This, with the addition of a parking pool for properties 30,000 square feet and less along with more stringent architectural requirements, provides more protection than the supermajority rule, Mr. MacIlvaine said.

With regard to the charter amendment limiting commercial structures to three stories and 42 feet in height, Council Member Herms questioned whether the new language concerning parking structures actually allows a four-story garage where the fourth floor is the roof of the parking structure. Planning Director Ron Lee explained that, by definition, only two levels of parking over surface is allowed because when a deck is built over surface parking, the surface parking itself is considered one story; therefore, the maximum allowed would be two levels over surface parking. Council Member Herms consequently recommended clarifying the language to disallow multiple interpretations. With regard to requiring a supermajority vote for parking garages, Mr. Herms said he felt the most important decision that Council will make is whether to allow parking garages since garages themselves can drastically change the impact on a particular piece of property; he said he was unable to find any language that dealt with percentage of lot coverage for buildings which included a parking garage. Council Member MacIlvaine said one safeguard outlined in Section 102-854(6)(a) states that thirty square feet of landscaping shall be provided for each on-site parking space, which, he said, includes all levels of a parking structure. Planning Director Lee also noted other safeguards include setback requirements, heights, and the requirement that a parking structure must be architecturally consistent with the principal structure. Staff, he said, had performed a number of scenarios involving properties with and without parking structures; however, due to the unknown factor of the mixed use component an increase in building size between 25-30% had been estimated, depending on the site configuration.

HONC Member Groenteman said that the level of intensity on a particular lot would depend on whether the building would be mixed use, commercial, or fully residential, and predicted that developers with lots of 30,000 square feet or less would choose a parking pool rather than building a more expensive parking structure. HONC Member McCabe stated that in a hypothetical study a 40,000 sq. ft. building could be built using surface parking and a 58,000 sq. ft. building could be built with a parking deck, all of which being dependent on the types of uses. (City Manager Rambosk agreed to provide Council with copies of these hypothetical plans.) During further discussion, Council Member Herms stressed the importance of the current Council determining reasonable maximum levels for lot coverage, predicting that ramifications would not be realized for 20-25 years. HONC Member Ulrich reiterated that the proposed landscaping requirements relative to parking structures would result in less lot coverage by the principal building; however, Council Member Herms took issue with the assumption that this would reduce the overall size of the principal building, and stressed the importance of maintaining the low level character of the community rather than allowing more intensity and attracting County residents which would exacerbate traffic problems.

Vice Mayor Galleberg commended the committee on the recommended changes to parking requirements and suggested engaging a professional planner to review the HONC recommendations to determine economic viability and effectiveness in producing the perceived results. Council Member MacIlvaine concurred, and suggested instructing the City Manager to hire an urban planner to review the work performed by the HONC to ensure against unintended consequences and assurances that the City is in fact proceeding in the right direction. Council Member Russell also complimented the HONC, but disagreed with hiring a consultant, noting that the HONC is at least the fifth incarnation of a committee formed for this purpose; instead he suggested that Council work with the HONC to fine tune the information, if necessary, prior to approval. Mr. Russell also cited what he described as excellent incentives such as a parking pool for smaller properties. HONC Member Navarre noted that the committee had discussed and in fact agreed that a qualified consulting firm should review its conclusions although the consultant should report directly to City Council. Council Member Wiseman then also complimented the HONC and concurred that a professional town planner should review the committee's work, particularly since the "D" Downtown District contains both large and small parcels. Mayor MacKenzie requested clarification regarding the fact that no changes had been made to the maximum number of hotel units allowed (26) and the maximum number of residential units allowed (14). Various HONC Members however indicated that the committee would be agreeable to changing the number of hotel units currently allowed. Mayor MacKenzie complimented the HONC on the inclusion of a parking pool which she predicted would provide incentives for the smaller businesses and concurred with the majority of speakers that the HONC's plan be critiqued by a recognized leader in urban planning.

Staff to prepare a scope of work for urban planner to review proposed ordinance to be presented to City Council following the summer recess.

REVIEW OF ITEMS ON THE 05/01/02 REGULAR MEETING AGENDAITEM 8

Item 11 (Hotel Escalante) Council Member Wiseman inquired whether additional information from petitioner's attorney would be forthcoming; City Manager Rambosk said he was unsure whether this item would actually be heard on the 1st. **Item 13-b** (calendar provided) Council Member Taylor questioned whether the sidewalk sale would entail street closure. **Item 13-c** (artificial reef) Vice Mayor Galleberg asked whether there was an interlocal agreement with the County; if not, he recommended not participating in the cost of the artificial reef program. **Item 13-d** (health benefits fund) Vice Mayor Galleberg asked that the specifics of the requirements to make the fund actuarially sound be provided, and Mayor MacKenzie requested that the item be removed from the Consent Agenda for separate discussion. **Item 13-b** (special events) Mayor MacKenzie requested recalculation of the co-sponsorship account since, she said, it was out of balance. **Item 13-g** (storm sewer) Mayor MacKenzie asked whether the storm sewer outfall plans include a weir; Mr. Rambosk confirmed that it did. **Item 13-h** (Naples Preserve) Mayor MacKenzie requested clarification concerning the additional funding request in light of grant funds received. **Item 13-i** (proposed redevelopment of Seagate Park) Mayor MacKenzie requested a revised budget for Seagate Park. **Item 13-j** (Gulfview Middle School lights) Mayor MacKenzie requested information pertaining to cost. **Item 15** (outdoor dining) Vice Mayor Galleberg requested clarification of the dimensions for outdoor dining. **Item 16** (Gateway lighting) Council Member Herms asked for a cost breakdown. **Item 19** (Norris Community Center) Council Member Herms requested clarification of costs for design/build vs. separate architectural services. **Item 21** (land use petition policy) Mayor MacKenzie noted no information in meeting packet; Mr. Rambosk said that an overview would be presented along with a request

for guidance on how to proceed. **Item 22** (charter boat capacity) Mr. Rambosk noted that this item would be withdrawn.

.....**ITEM 6**
REQUEST FOR WAIVER OF CONFLICT RELATING TO CONTRACTS BETWEEN
THE CITY OF NAPLES AND THE COLLIER COUNTY SCHOOL BOARD (*Requested*
by City Attorney)

City Attorney Robert Pritt advised of a conflict of interest resulting from his firm representing the City Council regarding three interlocal agreements with the Collier County School Board; these agreements were to be reviewed by Council at the May 1 Regular Meeting since Roetzel and Andress represents both entities, he said, so City Council could either waive the conflict and he would review and execute the contracts, or the City could seek outside legal counsel in this regard. It was determined that the City Council would seek outside legal counsel (see below).

Consensus: No waiver to be granted; engage other counsel; if outside counsel not available by 5/1/02 meeting, item will be continued.

CORRESPONDENCE / COMMUNICATIONS

Council Member Russell noted recent turn lane revisions at Fifth Avenue South and Eighth Street which resulted in significant confusion and requested why these changes had been made. Council Member MacIlvaine expressed appreciation for Council support on the airport rezoning and Heart of Naples proposals. Vice Mayor Galleberg noted the excessive volume and hours which occurred in reference to music permitted at the Relay For Life event; Mr. Rambosk stated that these comments would be included in the critique of this event for next year's review. Vice Mayor Galleberg requested a status report of all interlocal agreements with Collier County for possible renegotiation. Council Member Herms noted an Atlanta-based jazz duo that had expressed an interest in providing free entertainment at some special events for being allowed to sell their CD's. Council Member Taylor noted the Lake Park Association meeting that evening at 7:30 p.m., sought support for a future Town Hall meeting in the River Park neighborhood, and suggested a multi-cultural celebration to inaugurate the new River Park Community Center. Mayor MacKenzie noted that she had met with a group of individuals who were proposing a variety of uses for the Grand Central Station property, but clarified that none of the reports to the effect that she supports the proposal were in fact accurate. Vice Mayor Galleberg suggested that City Manager Rambosk provide Lake Park residents with an overview of the fire training facility at the Town Hall meeting that evening. Mr. Rambosk noted that he would include an overview of the procedures for this facility. Council Member Taylor noted that she had the prior Friday observed fire trucks on both sides of Tenth Street during training exercises which blocked the view of the Naples Preserve.

PUBLIC COMMENT.....

None.

ADJOURN
3:00 p.m.

Bonnie R. MacKenzie, Mayor

Tara A. Norman, City Clerk

Minutes prepared by:

Brenda A. Blair, Recording Specialist

Minutes Approved: 8/20/02