



City Council Chamber
735 Eighth Street South
Naples, Florida 34102

City Council Regular Meeting – August 21, 2002 – 9:00 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
Clark Russell
Penny Taylor
Tamela Wiseman

Absent: William MacIlvaine

Also Present:

Kevin Rambosk, City Manager
Robert Pritt, City Attorney
Ron Lee, Planning Director
Tara Norman, City Clerk
Jon Staiger, Natural Resources Manager
Dan Mercer, Public Works Director
David Lykins, Community Services Director
Terry Fedelem, Parks & Parkways Design Supt.
Keeth Kipp, Solid Waste Superintendent
Laura Spurgeon, Planner
Jessica Rosenberg, Recording Specialist
Karen Kateley, Administrative Assistant
Bill Boggess
Charles Fraley
Gail Boorman
Henry Kennedy
Willie Anthony

Fred Hardt
Pam Arsenault
Abe Locker
Lana Hope
Colin Kelly
Doug Martin
Georgia Mosier
Michael O'Regan
John Passidomo
Michael Volpe
Dennis Cronin
Reverend Kirt Anderson
Richard Yovanovich

Media:

Dianna Smith, Naples Daily News

Other interested citizens and visitors.

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

Reverend Kirt Anderson, First Presbyterian Church

ANNOUNCEMENTSITEM 3

September 10 primary poll worker shortage; passing of City residents Christine Montgomery Paterno and Harvey Kaplan

SET AGENDA.....ITEM 4

Add Item 23-b(2) - appointment of Code Enforcement Board alternate

MOTION by Taylor to ADD ITEM 23-b(2); seconded by Russell and carried 6-0 (Galleberg-yes, Herms-yes, MacIlvaine-absent, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

Add Item 24-b – boat storage on the beach

MOTION by Russell to ADD ITEM 24-b; seconded by Taylor and carried 6-0 (Galleberg-yes, Herms-yes, MacIlvaine-absent, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

Add Item 25 – approval of U.S. 41 landscape plans

MOTION by Taylor to ADD ITEM 25; seconded by Galleberg and carried 6-0 (Galleberg-yes, Herms-yes, MacIlvaine-absent, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

Add Item 26 – 1:30 p.m. Hamilton Harbor executive session

MOTION by Russell to ADD ITEM 26; seconded by Galleberg and carried 6-0 (Galleberg-yes, Herms-yes, MacIlvaine-absent, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

Add Item 27 – budget amendment for TIF (Tax Increment Financing) funds

MOTION by Taylor to ADD ITEM 27; seconded by Russell and carried 6-0 (Galleberg-yes, Herms-yes, MacIlvaine-absent, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

MOTION by Galleberg to SET AGENDA CONTINUING ITEMS 7-m, 7-r, and 20 to 9/4/02, CONTINUING ITEM 8 TO 9/18/02, AND ITEM 14 TO 12/4/02; WITHDRAWING ITEMS 7-g, 18, and 23-i, AND SETTING A TIME CERTAIN FOR ITEM 13 AT 2:00 P.M.; seconded by Wiseman and carried 6-0 (Galleberg-yes, Herms-yes, MacIlvaine-absent, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

PUBLIC COMMENT.....ITEM 5

William Boggess, 1100 Eighth Avenue South, citing a reported 50 percent stormwater rate increase, and requested that Marina Manor condominium and the Adventurer's Club Bayfront Complex be excluded since, he said, the charges had been incorrectly levied. He also cited exemption of the Royal Poinciana Golf Club which had been annexed and provided with what he said was \$700,000 in stormwater and street improvements. Mr. Boggess said the agreement with Royal Poinciana should be revoked. **Abe Locker, 1294 13th Street North**, expressed concern regarding the proposed fire-training tower on 10th Street North. City Manager Kevin Rambosk however explained that currently the staff is merely evaluating whether to install a stair tower at this location. **Henry Kennedy, 2178 Tarpon Road**, requested funding to clean Naples Bay. City Manager Kevin Rambosk said alternatives would be presented as part of the staff's annual work plan.

CONSENT AGENDA

(It is noted for the record that item numbers on the Consent Agenda are as they appeared on the published agenda.)

APPROVAL OF MINUTES.....ITEM 6-a

Town Hall: March 14, 2002, March 21, 2002, March 26, 2002, March 28, 2002, April 4, 2002, and May 21, 2002; **Workshop**: April 1, 2002 (as amended), April 15, 2002, May 13, 2002 (as amended), April 29, 2002, June 3, 2002, and **Regular**: April 3, 2002 (as amended), April 17, 2002, May 1, 2002 (as amended), and May 15, 2002 Meetings.

MOTION by Galleberg to APPROVE ITEM 6-a; seconded by Taylor and carried 6-0 (Galleberg-yes, Herms-yes, MacIlvaine-absent, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

APPROVE THE FOLLOWING SPECIAL EVENTS..... ITEM 7-b

- 1) Naples on the Run 20k – 9/15/02
- 2) 22nd Annual Harold's Place Golf Tournament (Collier Food & Beverage) – 9/21/02
- 3) POW/MIA Candlelight Vigil (Vietnam Veterans of America) – Cambier Park Veterans Memorial 9/20/02
- 4) Third Street South "Festival of Lights" – 11/25/02
- 5) Third Street South "Celebration of Lights" – 11/26-30/02
- 6) (See Page 4)
- 7) Relay for Life (American Cancer Society) – Gulfview Middle School – 4/04/03

RESOLUTION 02-9726.....ITEM 7-c

A RESOLUTION APPROVING AN ASSIGNMENT/ASSUMPTION OF CONTRACT AND CONSENT ASSIGNING THE CITY'S CURRENT THREE-YEAR AGREEMENT WITH FLORIDA 1ST HEALTH PLANS, INC. TO FLORIDA FIRST SERVICE ADMINISTRATORS, INC., AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE ASSIGNMENT/ASSUMPTION OF CONTRACT AND CONSENT; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 02-9727.....ITEM 7-e

A RESOLUTION ACCEPTING THREE TEMPORARY BEACH DISPOSAL EASEMENTS AND APPROVING A MAINTENANCE DREDGING USE AGREEMENT IN ORDER TO PLACE SAND FROM GORDON PASS ON THE KEY ISLAND BEACH; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 02-9728..... ITEM 7-f

A RESOLUTION APPROVING AN AGREEMENT FOR BEACH END MAINTENANCE BETWEEN THE CITY OF NAPLES AND TLC LAWN MAINTENANCE, INC. TO PERFORM LANDSCAPE MAINTENANCE SERVICES AT FIFTEEN SELECTED BEACH-ENDS FOR A PERIOD OF TWO YEARS; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION (Withdrawn)ITEM 7-g

APPROVE AN AGREEMENT TO FURNISH AND INSTALL A PLAYGROUND, WATER PLAY AREA, AND A GAZEBO IN RIVER PARK \ VENDOR: CONTRACT CONNECTION, INC., JACKSONVILLE BEACH, FL \ COST: \$89,968.24 \ FUNDING: CIP #01WO5. (Editor's note: No draft resolution was provided for this item.)

RESOLUTION 02-9729..... ITEM 7-h

A RESOLUTION APPROVING A REVISED POLICY STATEMENT FOR THE PUBLIC ART ADVISORY COMMITTEE; REPEALING RESOLUTION 01-9296; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 02-9730..... ITEM 7-i

A RESOLUTION TERMINATING AN EXISTING LANDSCAPE MAINTENANCE AGREEMENT WITH GREENWERX GROUNDSKEEPING, INC.; APPROVING FIRST AMENDMENTS TO THE LANDSCAPE MAINTENANCE AGREEMENTS BETWEEN THE CITY OF NAPLES AND A PERSONAL TOUCH, INC., MACIAS' LAWN SERVICE, INC. AND TLC LAWN MAINTENANCE, INC. FOR THE PURPOSE OF PROVIDING SUPPLEMENTAL LANDSCAPE MAINTENANCE SERVICES FOR CITY MEDIANS AND CUL-DE-SACS; AUTHORIZING THE CITY MANAGER TO EXECUTE THE FIRST AMENDMENTS TO LANDSCAPE MAINTENANCE AGREEMENTS; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 02-9731..... ITEM 7-j
A RESOLUTION RATIFYING AND CONFIRMING THE ACTION OF THE CITY MANAGER TO APPROVE ADDITIONAL POLES, WIRE AND CONDUIT TO COMPLETE THE RIVERSIDE CIRCLE STREET LIGHTING PROJECT; APPROVING A FIRST AMENDMENT TO THE RIVERSIDE CIRCLE STREET LIGHT CONSTRUCTION AGREEMENT WITH BENTLEY ELECTRIC COMPANY, INC.; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 02-9732..... ITEM 7-k
A RESOLUTION ACCEPTING A DRAINAGE EASEMENT FROM ALICE FEHRENBACH FOR THE PURPOSE OF INSTALLATION, OPERATION AND MAINTENANCE OF AN 18-INCH STORM DRAIN AT 801 GALLEON DRIVE; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 02-9733..... ITEM 7-l
A RESOLUTION APPROVING A STATE HIGHWAY LIGHTING, MAINTENANCE, AND COMPENSATION AGREEMENT BETWEEN THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION AND THE CITY OF NAPLES; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION (Continued)..... ITEM 7-m
APPROVE AN INTERLOCAL AGREEMENT WITH THE DISTRICT SCHOOL BOARD OF COLLIER COUNTY FOR REVIEW AND INSPECTION SERVICES BY THE BUILDING AND ZONING DIVISION FOR CONSTRUCTION OF ALL EDUCATIONAL FACILITIES. (Editor's note: No draft resolution was provided for this item.)

RESOLUTION 02-9734..... ITEM 7-o
A RESOLUTION APPROVING THE TERMINATION OF A PORTION OF A UTILITY EASEMENT AND ACCEPTING A REPLACEMENT NONEXCLUSIVE UTILITY AND DRAINAGE EASEMENT AGREEMENT FROM AND TO THE MOORINGS, INCORPORATED; AUTHORIZING THE MAYOR TO EXECUTE ANY DOCUMENTS NECESSARY FOR CLOSING; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 02-9735..... ITEM 7-p
A RESOLUTION APPROVING AN URBAN AND COMMUNITY FORESTRY GRANT AWARD AGREEMENT BETWEEN THE FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES AND THE CITY OF NAPLES; AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 02-9736..... ITEM 7-q
A RESOLUTION APPROVING A FRANCHISE AGREEMENT BETWEEN PARADISE CARRIAGE SERVICES AND THE CITY OF NAPLES, RELATING TO THE USE OF CITY STREETS AND DESIGNATED CARRIAGE STOPS WITHIN THE LIMITS OF THE CITY OF NAPLES; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION (Continued)..... ITEM 7-r
APPROVE AN INTERLOCAL AGREEMENT WITH THE DISTRICT SCHOOL BOARD OF COLLIER COUNTY TO PROVIDE RAW WATER TO AN ELEMENTARY SCHOOL TO BE CONSTRUCTED IN EAST GOLDEN GATE. (Editor's note: No draft resolution was provided for this item.)

MOTION by Taylor to APPROVE CONSENT AGENDA EXCEPT ITEMS 7-b(6), 7-d AND 7-n (7-g WITHDRAWN, 7-m AND 7-r CONTINUED); seconded by Wiseman and carried 6-0 (Galleberg-yes, Herms-yes, MacIlvaine-absent, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

END CONSENT AGENDA

.....ITEM 7-b(6)

CELEBRATION COMMUNITY CHURCH CHRISTMAS EVE SERVICE–LOWDERMILK PARK–12/24/02. (9:32 a.m.) Council Member Taylor proffered a motion to approve without amplification, seconded by Council Member Herms. In further discussion, City Manager Kevin Rambosk indicated that no complaints regarding amplification had been received from the neighbors, and Council Member Wiseman pointed out that that another church had been allowed to use amplification and that it may in fact be necessary for participants to hear the service. Celebration Community Church Associate Pastor Lana Hope stated that the Christmas Eve service had become a community event, attracting up to 2,000 and although not needed for carols amplification must be used for the pastor to be audible. In addition, she pointed out that the service would last no more than 1½ hours and would commence at dusk. Vice Mayor Galleberg said that while Council Member Taylor’s point is well taken, the practicalities of the outdoor location require voice amplification, and that he believed the impact to be minimal. Noting the number of expected attendees, Council Member Herms withdrew his second but asked that the church minimize the volume to the extent possible. There was no further second to this motion.

Public Comment: None. (9:38 a.m.)

MOTION by Russell to APPROVE ITEM 7-b(6) AS SUBMITTED; seconded by Wiseman and carried 5-1 (Galleberg-yes, Herms-yes, MacIlvaine-absent, Russell-yes, Taylor-no, Wiseman-yes, MacKenzie-yes).

RESOLUTION (Denied) ITEM 7-d

A RESOLUTION APPROVING A FIRST AMENDMENT TO CONTRACT BETWEEN THE CITY OF NAPLES AND PARKER BEACH RESTORATION, INC. TO PROVIDE PAYMENT OF ADDITIONAL SAND ACCUMULATED DURING THE 2001/2002 EXPERIMENT ON THE NAPLES BEACH; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AMENDMENT; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk (9:38 a.m.). Natural Resources Manager Jon Staiger explained that when the City had negotiated the contract in 1999 with William Parker, the company’s original owner, Mr. Parker had sought to carefully define the area for which he would be paid for sand accumulation in order to overcome a problem experienced in a previous test which had been deemed unsuccessful because it had depleted the offshore sandbar system. However, by experimenting on a one-half mile stretch of beach for six months, the sandbar system which had provided sand in the short term had been replenished and remained intact. The request currently before Council therefore is to remit for the net-accumulated not yet paid for because of the way the contract had defined the pay area. Dr. Staiger confirmed that this sand is now in the beach system and that the project did in fact exceed the success criteria established in the permit, there being sufficient budgeted funds for this purpose.

Vice Mayor Galleberg however characterized it as a contractual proposal, not an engineering nor scientific change of circumstances and equates to a rate of \$8.50 to \$10.37 per cubic yard, which would not be considered if presented in that fashion. Mr. Galleberg further pointed out that both parties agreed to the contract, and that the Parker Web System itself had defined the total computational area. He said he could not support the request, also observing that only 24,000 of the anticipated 90,000 cubic yards had accumulated. Mr. Galleberg nevertheless stated that he maintained an open mind in regard to the overall sand web system. Council Member Wiseman concurred and proffered a motion to deny the request for the additional funds. Council Member Taylor however took the position that science is far from definitive in many areas and the City should in fact pay for the sand accumulated. In response to Council Member Herms, Vice Mayor

Galleberg stated that trucking sand from an inland source would result in accumulation of an equivalent amount of sand in only a few weeks.

Public Comment: (9:49 a.m.) **Colin Kelly, address not given**, Parker Beach Restoration, displayed samples of sand from the native beach before any restoration, from the Parker Web system, and from inland trucking. (Photographs of this sand are contained in the file for this meeting in the City Clerk's Office.) Calling it an inexact science, Mr. Kelly said this was simply trying to adjust and improve the process. He further said that his system does not disrupt City streets as is the case with inland trucking.

Council Member Herms commented on the success of the project, and said he believed the City should pay for the extra sand in fairness to the company as well as encourage further projects. Council Member Russell however said the City should honor the contract and pay for the sand accumulated in the designated area.

MOTION by Wiseman to DENY ITEM 7-d; seconded by Galleberg and carried 4-2 (Galleberg-yes, Russell-yes, Wiseman-yes, Herms-no, MacIlvaine-absent, Taylor-no, MacKenzie-yes).

RESOLUTION 02-9738.....ITEM 7-n(1)

A RESOLUTION DETERMINING RENEWAL OF LIVE ENTERTAINMENT APPROVAL FOR PADDY MURPHY'S IRISH PUB, LOCATED AT 457 FIFTH AVENUE SOUTH, MORE PARTICULARLY DESCRIBED HEREIN; SUBJECT TO THE CONDITIONS LISTED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk (9:56 a.m.). This being a quasi-judicial proceeding, ex parte disclosures were called for; however, no contact was noted. In response to a concern expressed by Council Member Russell, City Manager Rambosk said that Code does allow placement of renewals on the consent agenda and that he would work with the City Attorney to ensure the appropriate process. Notary Public Jessica Rosenberg then administered an oath to those intending to offer testimony; all responded in the affirmative.

RESOLUTION 02-9737.....ITEM 7-n(2)

A RESOLUTION DETERMINING LIVE ENTERTAINMENT RENEWAL FOR TOMMY BAHAMA CAFÉ AND STORE LOCATED AT 1220 THIRD STREET SOUTH, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk (9:58 a.m.).

Public Comment: None. (9:58 a.m.)

MOTION by Wiseman to APPROVE RESOLUTION 02-9737 (ITEM 7-n(2) AS SUBMITTED; seconded by Taylor and carried 6-0 (Galleberg-yes, Herms-yes, MacIlvaine-absent, Russell-yes, Taylor-yes Wiseman-yes, MacKenzie-yes).

City Manager Rambosk said no current live entertainment permit allows amplified music after 11:30 p.m.

Paddy Murphy's owner Michael O'Regan contrasted his establishment with those wherein alcoholic beverage service is secondary to food service, noting that the busiest time is between 10:00 p.m. and 1:30 a.m. In response to Mayor MacKenzie, Mr. O'Regan said that amplification is necessary in order to hear the performer but that he has received no complaints in three years. City Manager Rambosk also noted substantial improvement in the relationship between Paddy Murphy's and the City.

MOTION by Wiseman to APPROVE RESOLUTION 02-9738 (Item 7-n(1) AS SUBMITTED; seconded by Taylor and carried 4-2 (Galleberg-no, Herms-no, MacIlvaine-absent, Russell-yes, Taylor-yes Wiseman-yes, MacKenzie-yes).

Vice Mayor Galleberg recommended adherence to the 11:30 p.m. deadline for amplified music, but Council Member Taylor noted Paddy Murphy's cooperation and willingness to work with the City.

RESOLUTION (Continued).....ITEM 8

CONSIDER A VARIANCE FROM SECTION 110-45 OF THE CODE OF ORDINANCES IN ORDER TO ALLOW AN UNROOFED POOL TO BE CONSTRUCTED IN THE FRONT YARD OF A CORNER LOT LOCATED AT 1079 7TH STREET SOUTH. (Editor's note: No draft resolution was provided for this item.)

ORDINANCE (First Reading).....ITEM 9-a

AN ORDINANCE DETERMINING LARGE SCALE COMPREHENSIVE PLAN AMENDMENT 02-CPA1 FOR FIRST PRESBYTERIAN CHURCH IN ORDER TO DESIGNATE THE PROPERTY LOCATED AT THE SOUTHWEST CORNER OF THIRD AVENUE AND SIXTH STREET SOUTH FOR MEDIUM DENSITY RESIDENTIAL USES, SAID PROPERTY MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk (10:05 a.m.).

ORDINANCE (First Reading).....ITEM 9-b

AN ORDINANCE DETERMINING REZONE PETITION 01-R8 REZONING THE PROPERTY AT THE SOUTHWEST CORNER OF THIRD AVENUE SOUTH AND SIXTH STREET FROM PS, PUBLIC SERVICE, TO R3-12, MULTIFAMILY RESIDENTIAL; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk (10:05 a.m.).

Council made the following ex parte disclosures with reference to Item 9-b which is quasi-judicial: MacKenzie/viewed the site and the Planning Advisory Board (PAB) meeting videotape; Wiseman and Herms/no contact; Russell and Taylor/viewed the site; and Galleberg/viewed the site and exchanged pleasantries with Attorney Dennis Cronin. Notary Public Jessica Rosenberg then administered an oath to those intending to offer testimony; all responded in the affirmative.

It is noted for the record that Council considered Items 9-a and 9-b concurrently.

Attorney Dennis Cronin, representing First Presbyterian Church, explained that after filing the original rezoning petition in August 2001, it had later been determined that a large scale Comprehensive Plan amendment was also necessary although it was also necessary to await the second amendment cycle in 2002. Because design of the church campus made the parking lot in question unnecessary, Attorney Cronin said reverting to original multi-family would enable the church to achieve the proceeds of sale. Attorney Cronin noted that the PAB and staff have recommended approval. Planner Ann Walker confirmed that the new parking lot would contain 40 spaces, and that there had been no complaints received since opening the new facilities.

Public Comment: None. (10:15 a.m.)

MOTION by Wiseman to APPROVE ITEM 9-a AS SUBMITTED AT FIRST READING; seconded by Galleberg and carried 6-0 (Galleberg-yes, Herms-yes, MacIlvaine-absent, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

MOTION by Galleberg to APPROVE ITEM 9-b AS SUBMITTED AT FIRST READING; seconded by Wiseman and carried 6-0 (Galleberg-yes, Herms-yes, MacIlvaine-absent, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

Recess: 10:15 a.m. to 10:23 a.m. It is noted for the record that the same Council Members were present when the meeting reconvened.

RESOLUTION 02-9739.....ITEM 10

A RESOLUTION DETERMINING VARIANCE PETITION 02-V5 FROM SECTION 102-176 OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES, WHICH ESTABLISHES A MINIMUM FRONT YARD OF 30 FEET, MINIMUM SIDE YARDS OF 7.5 FEET, MINIMUM REAR YARD OF 25 FEET, AND A MINIMUM REAR YARD OF 15

FEET FOR POOL ENCLOSURES, FOR AN EXISTING SINGLE FAMILY HOME AND POOL ENCLOSURE AT 5215 SEASHELL AVENUE; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk (10:23 a.m.). This being a quasi-judicial proceeding, Council made the following ex parte disclosures: MacKenzie/viewed the site; Galleberg/viewed the site and watched the Planning Advisory Board (PAB) videotape; other Council Members registered no contact. Notary Public Jessica Rosenberg then administered an oath to those intending to offer testimony; all responded in the affirmative.

Attorney Michael Volpe, representing the petitioner, explained that the Eastons first purchased the property at 5241 Seashell Avenue and later the adjacent home at 5215 Seashell. Only later had a survey revealed several violations of the minimum setback requirements of the R1-10 zoning district. As a result, the Eastons had decided not to install a planned storage shed which would have also required a variance, but are now attempting merely to correct these encroachments. While the Eastons have no present plans to sell the property, these encroachments could in fact impact any future sale. In further discussion, Mr. Volpe stated that the home was built in 1973 prior to annexation and that the Eastons had in no way created this situation.

Mayor MacKenzie confirmed with Attorney Volpe that the petitioner agreed to the PAB recommended conditions that no further construction would increase the nonconformity and that the variance would be effective until the property was redeveloped. However, in response to Mr. Volpe, Planning Director Ron Lee clarified that if the house were demolished and rebuilt, setbacks must be complied with although remodeling is permitted up to the amount that would trigger FEMA requirements. If a structure were destroyed by disaster, the petitioner could rebuild due to its being a legal nonconformity. However, Vice Mayor Galleberg pointed out that adding a second story to the portion of the home which encroaches into the 11.1 foot front yard setback would be unacceptable because of mass and intrusion upon the view of the bay. Therefore a cure should be required for any remodeling aside from maintenance that affects the areas intruding on the setback, he said. Mr. Lee suggested specifying that if a second floor is added or if there are improvements made that require compliance with FEMA regulations, the standard setbacks must be met. Mr. Volpe concurred with adding this requirement. Council Member Herms observed that the petitioner already has the right to build a second story within the standard setbacks, but that this would make easier the selling of the property.

Public Comment: None. (10:47 a.m.)

MOTION by Galleberg to APPROVE RESOLUTION 02-9739 AMENDING SECTION 2 PARAGRAPH 1 “...AND NO FURTHER CONSTRUCTION SHALL BE PERMITTED TO INCREASE THE NONCONFORMING ASPECT OF THE HOME OR POOL ENCLOSURE INCLUDING, WITHOUT LIMITATION, INCREASES TO THE HEIGHT OF THE STRUCTURE.” (A SECOND FLOOR REQUIRES COMPLIANCE WITH ALL EXISTING REGULATIONS INCLUDING SPATIAL PERCEPTION.). This motion was seconded by Russell and carried 6-0 (Galleberg-yes, Herms-yes, MacIlvaine-absent, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

RESOLUTION 02-9740.....ITEM 11
A RESOLUTION DETERMINING FENCE AND WALL WAIVER PETITION 02-FWW7 FROM SECTION 110-37 (b) (1) c. OF THE CODE OF ORDINANCES WHICH REQUIRES MAXIMUM GATE AND GATEPOST HEIGHT OF SIX FEET FOR A MAIN ENTRY FEATURE AND MAXIMUM GATEPOST WIDTH OF TWO FEET FOR THE MAIN AND SECONDARY ENTRIES IN THE FRONT YARD AT 1832 GALLEON DRIVE, MORE PARTICULARLY DESCRIBED HEREIN, AND PROVIDING AN EFFECTIVE DATE. Title

read by City Manager Kevin Rambosk (10:47 a.m.). This being a quasi-judicial proceeding, Council made the following ex parte disclosures: MacKenzie, Russell, and Galleberg/viewed the property; and Wiseman, Herms, and Taylor/no contact. Notary Public Jessica Rosenberg then administered an oath to those intending to offer testimony; all responded in the affirmative.

Owner representative Charles Fraley stated that he had worked with the designers to minimize the entrance gates and gateposts to correspond with the scale of the home, including installing the gates as far onto the subject property as possible for safety.

Vice Mayor Galleberg observed that the gateposts, which are part of the waiver application, have already been built, and City Manager Rambosk affirmed that a permit is in fact required for this installation. Council Member Herms therefore pointed out that the gateposts violate the zoning. In further discussion, Mr. Fraley indicated that he had stopped the construction when he had learned that a variance, to be followed later by a building permit, was required for the gateposts. Mayor MacKenzie noted opposition by the Port Royal Property Owners Association Architectural Review Committee (ARC). (A copy of this correspondence is contained in the file for this meeting in the City Clerk's Office.) In response to Council, Planning Director Ron Lee stated that after Planning Advisory Board (PAB) review of fence and wall standards for the R1-15A zoning district, Council would consider revisions in October; the ARC is proposing a sliding height based on the width of the lot and the distance from the edge of pavement to the gate feature, he added, and that the gate in question would meet the ARC proposed standards. Although Council Member Russell suggested delaying action on this petition until after Council considers revisions in the standards, Mr. Fraley pointed out that the home has already received a certificate of occupancy. Vice Mayor Galleberg recommended adhering to the established waiver process until the Code had been changed. He nevertheless requested clarification of the ARC's proposals.

Public Comment: (11:01 a.m.) **Georgia Mosier, 1021 Spyglass**, (who responded in the affirmative to an oath administered by the Notary Public) stated that while the ARC expected discussion on the base point of measurement contained in their proposed standards, it did not perceive this particular petition as being inherently objectionable, although it does not support waivers of any kind.

MOTION by Galleberg to APPROVE RESOLUTION 02-9740 WITH THE CONDITION THAT NO FURTHER WORK BE ACCOMPLISHED ON THE POSTS AND GATES PRIOR TO OBTAINING A BUILDING PERMIT, AND THAT THE APPROPRIATE FEES AND PROCEDURES FOR AFTER-THE-FACT PERMITS APPLY TO THIS SITUATION; *seconded by Wiseman and carried 6-0 (Galleberg-yes, Herms-yes, MacIlvaine-absent, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).*

Council Member Wiseman however expressed concern regarding the granting of permits after construction has occurred.

RESOLUTION 02-9741.....ITEM 12

A RESOLUTION DETERMINING FENCE AND WALL WAIVER PETITION 02-FWW3 FROM SECTION 110-37 (b) (1) c. OF THE CODE OF ORDINANCES WHICH REQUIRES MAXIMUM GATE AND GATEPOST HEIGHT OF SIX FEET AND MAXIMUM GATEPOST WIDTH OF TWO FEET FOR A MAIN ENTRY FEATURE AND SECONDARY ENTRY IN THE FRONT YARD AT 3400 GORDON DRIVE, 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 Members made the following ex parte disclosures: MacKenzie/viewed the property and the Planning Advisory Board videotape; Wiseman and Herms/no contact; Russell and Galleberg/viewed the

property; and Taylor/familiarity with the property. Notary Public Jessica Rosenberg then administered an oath to those intending to offer testimony; all responded in the affirmative.

Attorney John Passidomo, representing petitioner Sandra Gerry, explained that the subject property is unique and comprises over six acres and 500 linear feet of street frontage on Gordon Drive and the Gulf of Mexico. In addition, there is a 2.5-acre passive park that connects the home on the beach with Champney Bay to the east. The property is zoned R1-10 and R1-15, and the home under construction meets and in most cases exceeds the dimensional standards in the R1-E Beach Estate district for setbacks, height, lot area, and lot width. While the petitioner is aware that entry gates on a six-acre property may not be appropriate elsewhere in the City, the Code requires a site-specific analysis in order to consider all relevant criteria, and staff had recommended approval, Mr. Passidomo said. Three neighboring homeowners had registered no objection, despite the fact that they can view the proposed entry gates from their homes. Mr. Passidomo also explained that the gates would be engulfed with what he described as lush, mature landscaping and would extend for approximately 38 feet or 7.5 percent of the 500 feet of frontage. While this petitioner is seeking no variance or a permit for walls, fences, or any other entry gate features, Mr. Passidomo cited approval by the Council a year before for entry gates for a home under construction with just 200 feet of street frontage with gates and gateposts substantially larger than those currently under consideration. (Copies of material referenced are contained in the file for this meeting in the City Clerk's Office.) Although the property is not located in Port Royal nor under the purview of the Port Royal Architectural Review Committee (ARC), he said he believed the ARC's recommendations on gate standards to be persuasive and helpful. Further, he said, the staff had concluded that applying those proposed standards to this proposal clearly indicates the request is within the range of the neighborhood.

In further review it was determined that the proposed gate is 10 feet 7 inches high, and the gate post is 8 feet 9 inches plus another 3 feet for light fixtures. Planner Laura Spurgeon explained that Council had approved a 14 foot 1.8 inch gate and an 11 foot 10.8 inch gatepost as measured from the crown of the road at 3060 Gordon Drive. Council Member Russell cited the most significant issue as lot size and the relationship of the gate to the overall property, therefore stating that he perceived neither potential for negative impact on the character of the neighborhood nor a proliferation of this type of installation. Planning Director Ron Lee said staff would present recommendations on measurement issues at a future meeting; Mayor MacKenzie suggested first making a presentation to the Presidents Council.

Vice Mayor Galleberg pointed out that the walls in question exceed the permitted height. Attorney Passidomo however explained that Code permits administrative discretion up to six feet in height for beachfront property, and that the four-foot wall on the Gerry property had been constructed pursuant to this administrative process. In addition, he noted the presence of what he characterized as an entry gate; he took the position that depicting this as a wall is a misnomer and is actually misleading. He reiterated that the petitioner's request is solely for the proposed entry gate system. Mr. Lee explained that staff had considered this a part of the gate and entry feature, which would be subject to the waiver process, and that everything exclusive would be permitted through the general regulations in the Code. Attorney Passidomo suggested that Council enact standards for entry systems noting the present lack in the Code.

Public Comment: None. (11:32 a.m.)

MOTION by Russell to APPROVE RESOLUTION 02-9741 AS SUBMITTED;
seconded by Wiseman and carried 5-1 (Galleberg-no, Herms-yes, MacIlvaine-
absent, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

Vice Mayor Galleberg said he would prefer a better defined process for waivers.

ORDINANCE (First Reading).....ITEM 15

AN ORDINANCE ADDING SECTION 102-720 TO THE CODE OF ORDINANCES OF THE CITY OF NAPLES FOR THE PURPOSE OF ESTABLISHING TIME LIMITATIONS FOR COMMENCEMENT OF CONSTRUCTION FOR APPROVED PLANNED DEVELOPMENTS; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk (11:32 a.m.). Vice Mayor Galleberg said he had suggested enacting expirations for Planned Development (PD) zoning after concerns expressed during prior discussions of the Commonage project. Planning Director Ron Lee explained that the proposed ordinance would require PD zoned property to commence construction within 18 months if less than five acres and within 36 months if more than five acres, although land clearing, land filling, and soil compaction would not constitute commencement of construction. PD zoning would be voided if the contractor failed to comply with Section 104.5 of the Florida Building Code, and the building permit would be invalid if construction lapsed for more than six months. City Council also learned that the applicant could request a maximum of two six-month extensions from City Council, and the property would revert to its former zoning if the PD zoning expires.

Council Member Herms expressed concern that the proposal would be a detriment to obtaining financing for a project or that a contractor could on the other hand technically comply by constructing only 5 percent of a large building. Vice Mayor Galleberg, however, pointed out that developers would recognize the reduced value of a smaller structure and Council Member Wiseman recommended allowing 24 months to commence construction on less than five acres along with administrative approval of an additional one-year extension. City Attorney Robert Pritt clarified that even the City Council could not grant extensions beyond whatever limitations are in force at the time. Vice Mayor Galleberg also noted that the proposed regulations would allow the City to plan for future development changes, which he said is common among municipalities. Mayor MacKenzie and Council Member Wiseman concurred. City Attorney Robert Pritt recommended amending Section 102-720(b) as follows: “Upon application filed prior to or on the date of commencement set forth in (a) above, ~~City Council by resolution~~ the City Manager may grant an extension of the commencement date upon a determination that a good faith effort to commence construction prior to the commencement date has been made.” Mayor MacKenzie recommended that a developer be allowed an additional year with City Council approval, and Vice Mayor Galleberg concurred. However, Mayor MacKenzie disagreed with a position expressed by Council Member Herms to the effect that the proposed ordinance would allow the City Manager to therefore grant zoning changes through extension of deadlines.

Vice Mayor Galleberg proffered a motion to approve the ordinance on First Reading with the amendment shown below.

Public Comment: None (11:57 p.m.)

MOTION by Galleberg to APPROVE AMENDING SECTION 102-720 a) STIPULATING COMMENCEMENT OF CONSTRUCTION WITHIN 24 MONTHS IF THE PD DISTRICT ENCOMPASSES LESS THAN FIVE ACRES AND b) “...THE CITY MANAGER MAY GRANT AN EXTENSION OF THE COMMENCEMENT DATE UPON A DETERMINATION THAT A GOOD FAITH EFFORT TO COMMENCE CONSTRUCTION PRIOR TO THE COMMENCEMENT DATE HAS BEEN MADE. THEREAFTER THE CITY COUNCIL BY RESOLUTION MAY GRANT AN EXTENSION OF THE COMMENCEMENT DATE FOR AN ADDITIONAL ONE-YEAR PERIOD. This

motion was seconded by Russell and carried 5-1 (Galleberg-yes, Herms-no, MacIlvaine-absent, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

Council Member Herms said the ordinance should have provided for an approximately five-year deadline for construction commencement in PD zoning rather than allowing the City Manager and City Council to grant extensions. He also predicted that the ordinance would create additional bureaucracy.

Recess: 11:59 a.m. to 1:30 p.m. It is noted for the record that Council Member Herms returned at 1:31 p.m.

**ADDED ITEM.....ITEM 26
EXECUTIVE SESSION (ATTORNEY/CLIENT SESSION) RELATING TO PENDING
HAMILTON HARBOR LITIGATION**

Mayor MacKenzie announced that at the request of the City Attorney, the City Council would commence an attorney/client session to discuss settlement negotiations and or strategy relating to litigation expenditures concerning the following: COLLIER ENTERPRISES, LTD. V CITY OF NAPLES, CASE NUMBER 00-1562-CA, (20TH Judicial Circuit, Collier County (LAWSUIT #4); CITY OF NAPLES V. COLLIER ENTERPRISES, LTD., ET AL., (Second District Court of Appeal) CASE #00-2632 (APPEAL #3); JAMES K. KESSLER, ET AL. V. CITY OF NAPLES; CASE NO. 99-1743-CA (20TH Judicial Circuit, Collier County) (LAWSUIT #1); JAMES K. KESSLER V. CITY OF NAPLES; (Second District Court of Appeal) CASE NO. 99-2132 (APPEAL #1); JAMES K. KESSLER, ET AL. V. CITY OF NAPLES, ET AL.; (Second District Court of Appeal) CASE NO. 99-4327 (APPEAL #2); JAMES K. KESSLER, ET AL. V. CITY OF NAPLES, ET AL.; (Second District Court of Appeal) CASE NO. Pending Assignment (APPEAL #4); THE CONSERVANCY OF S.W. FLORIDA V. CITY OF NAPLES, CASE NO. 99-2809-CA (20TH Judicial Circuit, Collier County) (LAWSUIT #2); JAMES KESSLER, ET AL. V. CITY OF NAPLES, CIRCUIT CASE NO. 99-2812-CA (20th Judicial Circuit, Collier County) (LAWSUIT #3); THE CONSERVANCY OF S.W. FLORIDA V. CITY OF NAPLES, ET AL., (DOAH CASE #99-2599); SAVE THE MANATEE CLUB, ET AL., V. CITY OF NAPLES, ET AL., (DOAH CASE #99-2600-GM); COLLIER ENTERPRISES-RELATED BERT J. HARRIS CLAIMS; AND COLLIER ENTERPRISES-RELATED VESTED RIGHTS CLAIMS. Mayor MacKenzie said that the City Council would commence an attorney/client session to discuss settlement negotiations and/or strategy relating to litigation expenditures. The estimated time for this session being one-half hour after which the regular meeting would be reopened. Those attending the attorney/client session were noted as the following: Mayor Bonnie MacKenzie, Vice Mayor Gary Galleberg; Council Members Joseph Herms, Clark Russell, Penny Taylor, and Tamela Wiseman; City Manager Kevin Rambosk; City Attorney Robert Pritt; and Fred Hardt of the law firm Roetzel & Andress; and Pam Arsenault of AAF Reporting, Court Reporter. The City Council had given notice of the time and date of the attorney/client session, and at the end of the attorney/client session, Mayor MacKenzie said she would announce termination of the session and reopen the meeting.

Executive Session 1:33 to 2:42 p.m. It is noted for the record that the same Council Members were present when the regular meeting reconvened.

Upon declaration of the reopening of the meeting, the following motion was made:

MOTION by Wiseman to AUTHORIZE ATTORNEY HARDT TO CONTINUE NEGOTIATIONS WITH COLLIER ENTERPRISES REGARDING HAMILTON HARBOR LITIGATION AND RELATED ADMINISTRATIVE PROCEEDINGS;
seconded by Russell and carried 6-0 (Galleberg-yes, Herms-yes, MacIlvaine-absent, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

ORDINANCE (First Reading).....ITEM 13-(1)
AN ORDINANCE AMENDING SECTION 1.2 OF THE CHARTER OF THE CITY OF NAPLES, FLORIDA, IN ORDER TO ANNEX A 6.6-ACRE PARCEL; CONSISTING OF PORTIONS OF ESTUARY DRIVE, THE ESTUARY CLUBHOUSE AND GOLF COURSE; WHICH WAS NOT INCLUDED IN THE ORIGINAL GREY OAKS ANNEXATION APPROVED BY ORDINANCE 89-5766; MORE PARTICULARLY DESCRIBED HEREIN, AND TO REDEFINE THE BOUNDARIES OF THE CITY OF NAPLES TO INCLUDE SAID PROPERTY; AND PROVIDING AN EFFECTIVE DATE.

ORDINANCE (First Reading).....ITEM 13-(2)
AN ORDINANCE GRANTING SMALL SCALE COMPREHENSIVE PLAN AMENDMENT PETITION 02-CPASS1, ASSIGNING LOW DENSITY RESIDENTIAL FUTURE LAND USE DESIGNATION FOR APPROXIMATELY 6.16 ACRES OF THE ESTUARY AT GREY OAKS, MORE PARTICULARLY DESCRIBED HEREIN, AND PROVIDING AN EFFECTIVE DATE.

ORDINANCE (First Reading).....ITEM 13-(3)
AN ORDINANCE GRANTING REZONE PETITION 02-R1 IN ORDER TO DESIGNATE AS “PD” AND INCLUDE AS PART OF THE GREY OAKS PLANNED DEVELOPMENT, ADOPTED BY ORDINANCE 90-6210 AND AMENDED BY ORDINANCE 00-8971, A 6.16-ACRE PARCEL, MORE PARTICULARLY DESCRIBED HEREIN, AND PROVIDING AN EFFECTIVE DATE. Titles read by City Manager Kevin Rambosk (2:43 p.m.). This being a quasi-judicial proceeding, Council made the following ex parte disclosures: MacKenzie, Wiseman, Galleberg, Herms, and Taylor/no contact; Russell/spoke with the petitioner’s attorney and observed a portion of the Planning Advisory Board (PAB) meeting. City Clerk Tara Norman then administered an oath to those intending to give testimony; all responded in the affirmative.

Attorney Richard Yovanovich, representing Estuary at Grey Oaks, Ltd., said that with reconfiguration of the Poinciana School site, the 6.16 acres of land had been inadvertently omitted from the original annexation. Responding to Council Member Herms, Planning Director Ron Lee said the City’s PD zoning legal description had included the 6.16 acres but the map and Comprehensive Plan had not.

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

MOTION by Russell to APPROVE ITEM 13-(1) AS SUBMITTED; seconded by Galleberg and carried 6-0 (Galleberg-yes, Herms-yes, MacIlvaine-absent, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

MOTION by Galleberg to APPROVE ITEM 13-(2) AS SUBMITTED; seconded by Russell and carried 6-0 (Galleberg-yes, Herms-yes, MacIlvaine-absent, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

Council Member Russell proffered a motion to approve Item 13-(3); however, further discussion ensued. Responding to Council Member Herms, Planning Director Lee said the City’s PD zoning for Grey Oaks would apply to the 6.16 acres, and City Attorney Robert Pritt confirmed that this had been appropriately addressed in the language.

MOTION by Russell to APPROVE ITEM 13-(3) AS SUBMITTED; seconded by Galleberg and carried 6-0 (Galleberg-yes, Herms-yes, MacIlvaine-absent, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

RESOLUTION (Continued)ITEM 14
CONSIDER A REQUEST TO AMEND A PREVIOUSLY APPROVED SITE PLAN FOR ADDITION AND RENOVATIONS TO THE CHARTER CLUB, 1000 10TH AVENUE SOUTH. (Editor’s note: No draft resolution was provided for this item.)

(Added Item / Withdrawn).....ITEM 25

APPROVAL OF CONCEPTUAL U.S. 41 MEDIAN LANDSCAPE PLAN IN ORDER TO ALLOW STAFF TO SUBMIT PLAN TO FLORIDA DEPARTMENT OF TRANSPORTATION / COST \$226,463.00 / FUNDING: CIP #01F69 (\$110,000) AND TIF FUNDS \$126,463.00) City Manager Kevin Rambosk said the Heart of Naples Committee (HONC) had recommended proceeding with a median landscaping plan for U.S. 41 from Third Avenue South to Seventh Avenue North that could be funded through the Capital Improvement Program (CIP) and in Tax Increment Financing (TIF) at \$110,000 and \$126,463, respectively. Gail Boorman, landscape architect and project planner, said she recommended replacing the median soils and trees and incorporating a similar design in all of the Downtown District medians by planting silver buttonwood, ligustrum, pink ixoras, variegated pittosporum, liriopse, and some royal palms. She said the landscape plan complies with Florida Department of Transportation (FDOT) guidelines, which allows only trees less than 4-feet wide, and that the improvements could commence after drainage and resurfacing of U.S. 41 by FDOT beginning in 2004.

The Council learned that medians on U.S. 41 between Fourth and Fifth Avenues South could not currently accommodate plantings. However, the landscape design could be amended to include removal and replacement of the concrete before the aforementioned road work began. Council Member Herms expressed support for more extensive green space in the medians and opposed the use of pavers. Ms. Boorman however said that the pavers would provide a necessary barrier to protect plantings from exhaust, heat and wind generated by passing vehicles. City Manager Rambosk said an additional phase could in fact incorporate additional landscaping design, and Ms. Boorman clarified that the project had not been proposed as a master plan.

Responding to Mayor MacKenzie, Ms. Boorman said the 4-by-8 inch pavers within the medians would provide pedestrian and maintenance accessibility when necessary, however, Council Member Wiseman cautioned that the appearance of pedestrian should be eliminated for safety reasons. City Manager Rambosk concurred. Responding to Council Member Herms, Mr. Rambosk also noted that the FDOT would not install a pedestrian access at Second Avenue North because it is not a signalized intersection despite the fact that children frequently cross U.S. 41 at that location.

It was noted for the record that Council Member Herms left at 3:30 p.m.

Council Member Russell expressed concern that the plan had not been provided in time to sufficiently receive public comment and that it appeared vague; Vice Mayor Galleberg and Council Member Taylor concurred. Ms. Boorman said, however, that HONC had encouraged her to prepare the landscaping plan quickly after the preliminary design had been approved.

Further discussion then dealt with replacement of sidewalks, which would occur before new lighting. Responding to Council Member Taylor, Development Services Director Ronald Wallace said that installation of reuse water lines during sidewalk reconstruction would be impractical both because of uncertainty of future demand and the significant expense of installing pipe large enough to serve the southern portion of the City. City Manager Rambosk then clarified that the project being reviewed had been intended to address just median plantings, although he said staff could prepare a plan that included landscaping adjacent to the sidewalks and curbing. Ms. Boorman nevertheless expressed concern about available space for landscaping in these areas. Mayor MacKenzie advocated postponing implementation until determining whether the proposed landscaping complies with a master plan for the area, and Vice Mayor Galleberg concurred. City Manager Rambosk said HONC had however proceeded with the plan in an effort to assist ongoing improvements to U.S. 41 after the committee sunsets in approximately December.

It was noted for the record that Council Member Herms arrived at 3:37 p.m.

Mayor MacKenzie said the plan could provide the impetus to require adjacent property owners to comply with landscaping standards upon redevelopment. Ms. Boorman offered to present to City Council a landscape overlay district concept for U.S. 41 in the Heart of Naples after consulting with Planning Director Ron Lee, and Mayor MacKenzie recommended additional landscaping and less hardscape. City Manager Rambosk suggested one master plan to address landscaping on U.S. 41 from the Gordon River Bridge to Seventh Avenue North and a second master plan to address U.S. 41 from Seventh Avenue North to Fleischmann Boulevard.

Further discussion then centered on installation of street lights, which City Manager Rambosk recommended be postponed until the master plan for landscaping had been approved. He withdrew the request to present the landscaping plan to FDOT until staff prepared a master plan for the U.S. 41 right-of-way from the Gordon River Bridge to Seventh Avenue North. City Manager Rambosk also said the funds for landscaping improvements would be retained.

Request withdrawn; staff will master plan the U.S. 41 right-of-way from the Gordon River Bridge to 7th Avenue North including the street lights.

RESOLUTION 02-9742.....ITEM 17

A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF NAPLES AND BENTLEY ELECTRIC IN ACCORDANCE WITH THEIR ANNUAL CONTRACT FOR THE PURPOSE OF PROVIDING LABOR, MATERIALS AND EQUIPMENT NECESSARY TO INSTALL NEW STREET LIGHTING AS PART OF THE HEART OF NAPLES BEAUTIFICATION PROJECT; AUTHORIZING A PURCHASE ORDER TO LUMEC, INC.; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk (3:47 p.m.) who explained that this is for purchase and installation of new street lighting on Fifth Avenue North to be funded by Tax Increment Financing (TIF) funds, and on Third Avenue and 11th Street North in the area around the new River Park Community Center to be funded through the Capital Improvement Program (CIP). Although not included in this approval, he estimated the cost of the landscaping component to be \$62,000.

Public Comment: None. (3:51 p.m.)

MOTION by Herms to APPROVE RESOLUTION 02-9742 AS SUBMITTED;
seconded by Galleberg and carried 6-0 (Galleberg-yes, Herms-yes, MacIlvaine-absent, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

(Withdrawn)ITEM 18

CONSIDER APPROVAL FOR THE HEART OF NAPLES LANDSCAPING PLAN FOR 5TH AVENUE NORTH BETWEEN 10TH STREET AND GOODLETTE ROAD.

RESOLUTION 02-9743.....ITEM 19

A RESOLUTION APPROVING A FIRST AMENDMENT TO A CONTRACT BETWEEN THE CITY OF NAPLES AND BONNESS, INC., TO CONTINUE THE ROADWAY IMPROVEMENTS ON 5TH AVENUE NORTH FROM 10TH STREET TO GOODLETTE ROAD IN ACCORDANCE WITH THE UNIT COST PROPOSAL SUBMITTED; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk (3:51 p.m.) who affirmed this is consistent with the avenue plans in place from Second to Fifth North, and that the cost would not exceed \$186,044.

Public Comment: None. (3:52 p.m.)

MOTION by Galleberg to APPROVE RESOLUTION 02-9743 AS SUBMITTED;
seconded by Russell and carried 6-0 (Galleberg-yes, Herms-yes, MacIlvaine-absent, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

RESOLUTION (Continued)ITEM 20

CONSIDER APPROVAL OF AN ELECTRICAL SERVICES AGREEMENT ON AN AS-NEEDED BASIS \ VENDOR: BENTLEY ELECTRIC COMPANY, INC. NAPLES, FL \ COST:

\$109,800.00 \ FUNDING: VARIOUS DEPARTMENT REPAIR AND MAINTENANCE ACCOUNTS. (Editor's note: No draft resolution was provided for this item.)

RESOLUTION 02-9744.....ITEM 27

A RESOLUTION OF THE CITY OF NAPLES, FLORIDA APPROPRIATING AVAILABLE FUNDING IN THE AMOUNT OF \$300,645 FOR ADDITIONAL HEART OF NAPLES PROJECTS, INCLUDING THE LANDSCAPING PLAN, LIGHTING PLAN AND ROADWAY IMPROVEMENTS; PROVIDING A SEVERABILITY CLAUSE; AND AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk (3:54 p.m.) who affirmed that this is for Fifth Avenue only.

Public Comment: None. (3:54 p.m.)

MOTION by Russell to APPROVE RESOLUTION 02-9744 AS SUBMITTED;
seconded by Herms and carried 6-0 (Galleberg-yes, Herms-yes, MacIlvaine-absent,
Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

ORDINANCE (First Reading).....ITEM 21

AN ORDINANCE ADDING SUBSECTION (d) TO SECTION 66-49, "YEAR ROUND LANDSCAPE IRRIGATION RESTRICTIONS" OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES FOR THE PURPOSE OF PROVIDING MANDATORY RAIN SENSOR REGULATIONS; AND PROVIDING FOR A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk (3:54 p.m.) who explained that this ordinance would allow one year for all existing irrigation systems to be equipped with a properly installed rain sensor. Public Works Director Dan Mercer said this information would be posted on the City's web site and cable television station, as well as enclosed in utility bills. He then estimated that the cost to the property owner for installation of the sensing device would be less than \$100. Vice Mayor Galleberg however predicted that many residents would not comply, and Council Member Herms also questioned whether all irrigation times could actually be retrofitted, noting that some older systems do not even have timers. It was determined that a modification could be made to the wording to clarify that the ordinance applies only to electronic systems. Council Member Russell noted the possibility of the City receiving a grant for these devices to which City Manager Rambosk suggested submitting a proposal to Big Cypress Basin. Mr. Mercer suggested proceeding with the understanding that within the next year staff would present an enhanced water conservation program. Mayor MacKenzie suggested contacting the Presidents Council and extending the effective date to two years if the funding is not approved. Vice Mayor Galleberg nevertheless expressed doubt that adequate enforcement could be accomplished.

Public Comment: None. (4:09 p.m.)

MOTION by Russell to APPROVE ITEM 21 STIPULATING ONLY EXISTING
ELECTRONIC SYSTEMS; and seconded by MacKenzie. This motion failed 3-3
(MacIlvaine-absent, Taylor-no, Russell-yes, Galleberg-no, Herms-no, Wiseman-
yes, MacKenzie-yes).

RESOLUTION 02-9745.....ITEM 22

A RESOLUTION APPROVING A THREE-YEAR AGREEMENT FOR HORTICULTURAL DEBRIS COLLECTION AND DISPOSAL SERVICES WITH T.F.R. ENTERPRISES, INC. OF AUSTIN, TEXAS, TO PROVIDE FOR COLLECTION AND DISPOSAL OF HORTICULTURAL DEBRIS TO THE CITY FOR THE PERIOD OCTOBER 1, 2002 THROUGH SEPTEMBER 30, 2005; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk (4:07 p.m.) who stated that rather than involving issues regarding the level of service being provided by City employees, the proposal was the result of the ongoing challenge relative to disposal of horticulture material. He cited alternatives of continuing operations at the existing site, hauling material to the Collier County Landfill or alternative transfer site, or

considering an alternative collection method. Staff had therefore developed a bid to determine the cost of private collection and lawful disposal of horticultural debris; based upon the proposals received, staff had confirmed that this is in fact a viable option for consideration.

Public Works Director Mercer then gave a presentation on the options for horticultural debris collection and disposal. (A copy of this material is contained in the file for this meeting in the City Clerk's Office.) Solid Waste Superintendent Keeth Kipp stated that T.F.R Enterprises, which is based in Austin, Texas, provides horticultural debris processing and is a prime subcontractor for disaster recovery throughout the Midwest. He then said that staff received primarily favorable references with regard to this company. Council Member Herms however pointed out that the company's experience involved one-time cleanup and grinding and not a regular, on-going pickup schedule. Mr. Kipp explained that while T.F.R. is seeking to expand its scope of services, disaster clean-up involves the same functions as that needed by the City although on a smaller scale. Council Member Taylor observed that this would nevertheless be the company's first daily curbside contract. Mr. Kipp affirmed that T.F.R would use its own collection equipment and then haul to a local plant nursery. Although Council Member Taylor suggested that the City could also negotiate such a disposal contract with a nursery, Mr. Kipp explained that the City is not willing to undertake the necessary marketing involved in a co-composting operation. Vice Mayor Galleberg indicated support for privatizing the service, but expressed reservations about Naples being its first customer for this type of service. Council also learned that T.F.R could subcontract this service after first notifying the City, and that it would use three trucks daily to cover the City. Public Works Director Mercer also affirmed that the City cannot substantially reduce costs while maintaining current operations at the existing horticultural site; therefore, he recommended proceeding with T.F.R which he said would maintain the current level of service. However, if T.F.R does not perform, the City could either redeploy its current vehicles, which would be retained for a period of time, or engage one of several local companies that can clean up this material in case of emergency. He however reiterated the credentials and work history of T.F.R.

City Manager Rambosk then stated that the current AFSCME bargaining unit contract requires that this union be allowed to present a proposal before privatization occurs. While the applicable City staff had done so, performing the work with current City crews would actually be more costly than privatization. Nevertheless, Mr. Rambosk added, job interviews for possible placement of two of the three employees in this division had been scheduled.

Doug Martin, Communications Director of AFSCME Florida Council #79, said this issue is about policy, the direction that Council wants the City to take, and control it wants to retain of its services. He then gave a presentation entitled "Horticultural Privatization: The Rest of the Story." (A copy of this material is contained in the file for this meeting in the City Clerk's Office.)

City Manager Rambosk said he took exception to any inference that there had been an effort to dismiss workers; instead, the effort was to run a more efficient and effective operation. In response to Council, Mr. Kipp explained that the City pays no tipping fees because it shreds the horticultural debris on-site and exports it. The City charged \$21 per ton before it closed its facility to contractors, the Collier County Landfill charges \$21.85 per ton, and that the current operation costs less than hauling the material to the landfill. He added that the main considerations are cost, maintaining the existing level of services, as well as maintaining quality employees who wish to remain with the City. Council Member Wiseman expressed concern at the level of detail Council was requiring with reference to this request and said that they should trust the staff's judgment and approve the contract which represents several hundred thousand dollars of savings and contains a clause allowing

termination without cause. Council Member Taylor concurred but voiced concern about one negative reference about T.F.R. Mr. Kipp explained that he had spoken to the Solid Waste Director of that agency and found that the contract had in fact been renewed. Vice Mayor Galleberg expressed support for privatization, noting that the City does not have the same level of expertise as the company. He then proffered a motion for approval, seconded by Council Member Wiseman.

Public Comment: (5:12 p.m.) **Willie Anthony, 559 14th Street North**, stated that the City tried unsuccessfully to privatize garbage collection several years ago, and that there are ongoing problems with the privatization of recyclables, especially with regard to their pick-up. Mr. Anthony then expressed concern that T.F.R. proposes to use two employees to perform this service when the City currently uses five, and questioned whether the residents would receive the same level of service. City Manager Rambosk said the City should increase the level of the punitive fine it could assess against the company; citizens should report service deficiencies to the City's Public Works Department.

Council Member Russell recommended proceeding. City Manager Rambosk said that staff would endeavor to find another position for any employee who wishes to remain with the City. Public Works Director Mercer also explained that the employee could experience a five percent reduction in salary for a lesser position, but would retain the same salary for a lateral move to similar pay grade.

MOTION by Galleberg to APPROVE RESOLUTION 02-9745 AS SUBMITTED;
seconded by Wiseman and carried 6-0 (Galleberg-yes, Herms-yes, MacIlvaine-
absent, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

ORDINANCE (First Reading).....ITEM 16

AN ORDINANCE ADDING SECTIONS (7) a., b. AND c. TO SECTION 86-210 OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES FOR THE PURPOSE OF PROVIDING THE CITY COUNCIL AUTHORIZATION TO REVOKE PERMITS AND PROVIDING NOTICE AND HEARING; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk (5:26 p.m.). City Manager Rambosk said Council had requested assistance from the City Attorney in determining a universal procedure for the revocation of permits. Vice Mayor Galleberg proffered a motion to approve; however, further discussion ensued. Although Council Member Wiseman suggested that the hearing process be better defined, City Attorney Robert Pritt explained that his assignment for this particular matter was to devise a revocation process including the notice and hearing, and that he had hesitated to exceed the scope of the original assignment.

Public Comment: None. (5:31 p.m.)

MOTION by Galleberg to APPROVE ITEM 16 AT FIRST READING AS
SUBMITTED; seconded by Russell and carried 6-0 (Galleberg-yes, Herms-yes,
MacIlvaine-absent, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

RESOLUTION 02-9746.....ITEM 23-a(1)

A RESOLUTION APPOINTING ONE COMMISSIONER TO THE CITY OF NAPLES AIRPORT AUTHORITY, AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk.

APPOINT Richard Cobb (nominated by Galleberg) via Resolution 02-9746. This
was carried 6-0 (Galleberg-yes, Herms-yes, MacIlvaine-absent, Russell--yes,
Taylor-yes, Wiseman-yes, MacKenzie-yes).

RESOLUTION 02-9747.....ITEM 23-a(2)

A RESOLUTION APPOINTING ONE COMMISSIONER TO THE CITY OF NAPLES AIRPORT AUTHORITY; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk.

APPOINT Eric West (nominated by Russell) via Resolution 02-9747. This was carried 6-0 (Galleberg-yes, Herms-yes, MacIlvaine-absent, Russell--yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

RESOLUTION 02-9748.....ITEM 23-b(1)
A RESOLUTION APPOINTING ONE MEMBER TO THE CODE ENFORCEMENT BOARD FOR A THREE-YEAR TERM; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk.

APPOINT Ernest Linneman (nominated by Galleberg) via Resolution 02-9748. This was carried 6-0 (Galleberg-yes, Herms-yes, MacIlvaine-absent, Russell--yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

RESOLUTION 02-9749.....ITEM 23-b(2)
A RESOLUTION APPOINTING ONE MEMBER TO THE CODE ENFORCEMENT BOARD FOR A THREE-YEAR TERM; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk.

APPOINT Derek Chorlton (nominated by Galleberg) via Resolution 02-9749. This was carried 6-0 (Galleberg-yes, Herms-yes, MacIlvaine-absent, Russell--yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

RESOLUTION 02-9750.....ITEM 23-c
A RESOLUTION APPOINTING ONE MEMBER TO THE BOARD OF APPEALS; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk.

APPOINT Thomas Scholter (nominated by Taylor) via Resolution 02-9750. This was carried 6-0 (Galleberg-yes, Herms-yes, MacIlvaine-absent, Russell--yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

RESOLUTION 02-9751.....ITEM 23 -d(1)
A RESOLUTION APPOINTING ONE MEMBER TO THE COMMUNITY SERVICES ADVISORY BOARD FOR A THREE-YEAR TERM; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk.

APPOINT Judy Jones (nominated by Galleberg) via Resolution 02-9751. This motion failed 3-3 (Galleberg-yes, Herms-no, MacIlvaine-absent, Russell--no, Taylor-yes, Wiseman-yes, MacKenzie-no).

APPOINT Kevin Confoy (nominated by Russell) via Resolution 02-9751. This motion was carried 6-0 (Galleberg-yes, Herms-yes, MacIlvaine-absent, Russell--yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

RESOLUTION 02-9752.....ITEM 23-d(2)
A RESOLUTION APPOINTING ONE ALTERNATE MEMBER TO THE COMMUNITY SERVICES ADVISORY BOARD FOR A THREE-YEAR TERM; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk.

APPOINT Judy Jones (nominated by Galleberg) via Resolution 02-9752. This motion was carried 5-1 (Galleberg-yes, Herms-no, MacIlvaine-absent, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

RESOLUTION 02-9753.....ITEM 23-e
A RESOLUTION RECOMMENDING ONE CITY RESIDENT FOR APPOINTMENT TO THE COLLIER COUNTY CONTRACTORS LICENSING BOARD FOR A THREE-YEAR TERM IN THE CATEGORY OF CONSUMER; DIRECTING THE CITY CLERK TO PROVIDE SAID RECOMMENDATION TO THE COLLIER COUNTY COMMISSION FOR APPOINTMENT; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk.

APPOINT Ann Keller (nominated by Herms) via Resolution 02-9753. This motion was carried 6-0 (Galleberg-yes, Herms-yes, MacIlvaine-absent, Russell--yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

RESOLUTION 02-9754.....ITEM 23-f(1)

A RESOLUTION APPOINTING ONE MEMBER TO THE BOARD OF TRUSTEES OF THE FIREFIGHTERS' RETIREMENT TRUST FUND FOR A TWO-YEAR TERM; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk.

APPOINT Murray Hendel (nominated by Wiseman) via Resolution 02-9754. This motion was carried 6-0 (Galleberg-yes, Herms-yes, MacIlvaine-absent, Russell--yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

RESOLUTION 02-9755.....ITEM 23-f(2)

A RESOLUTION APPOINTING ONE MEMBER TO THE BOARD OF TRUSTEES OF THE FIREFIGHTERS' RETIREMENT TRUST FUND FOR A TWO-YEAR TERM; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk.

APPOINT David Gray (nominated by Herms) via Resolution 02-9755. This motion failed 2-4 (Galleberg-no, Herms-yes, MacIlvaine-absent, Russell--yes, Taylor-no, Wiseman-no, MacKenzie-no).

APPOINT Charles Pittman (nominated by Galleberg) via Resolution 02-9755. This motion was carried 4-2 (Galleberg-yes, Herms-no, MacIlvaine-absent, Russell-no, Taylor-yes, Wiseman-yes, MacKenzie-yes).

RESOLUTION 02-9756.....ITEM 23-f(3)

A RESOLUTION APPOINTING MARC GERTNER TO THE BOARD OF TRUSTEES OF THE FIREFIGHTERS' RETIREMENT TRUST FUND FOR A TWO-YEAR TERM; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk.

MOTION by Wiseman to APPOINT Marc Gertner via Resolution 02-9756; seconded by Taylor and carried 6-0 (Galleberg-yes, Herms-yes, MacIlvaine-absent, Russell--yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

RESOLUTION 02-9757.....ITEM 23-g(1)

A RESOLUTION APPOINTING ONE MEMBER TO THE BOARD OF TRUSTEES OF THE POLICE OFFICERS' RETIREMENT TRUST FUND FOR A TWO-YEAR TERM; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk.

APPOINT Murray Hendel (nominated by Galleberg) via Resolution 02-9757. This motion was carried 6-0 (Galleberg-yes, Herms-yes, MacIlvaine-absent, Russell--yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

RESOLUTION 02-9758.....ITEM 23-g(2)

A RESOLUTION APPOINTING ONE MEMBER TO THE BOARD OF TRUSTEES OF THE POLICE OFFICERS' RETIREMENT TRUST FUND FOR A TWO-YEAR TERM; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk.

APPOINT Marc Gertner (nominated by Wiseman) via Resolution 02-9758. This motion was carried 6-0 (Galleberg-yes, Herms-yes, MacIlvaine-absent, Russell--yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

RESOLUTION 02-9759.....ITEM 23-g(3)

A RESOLUTION APPOINTING CHARLES PITTMAN TO THE BOARD OF TRUSTEES OF THE POLICE OFFICERS' RETIREMENT TRUST FUND FOR A TWO-YEAR TERM; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk.

MOTION by Wiseman to APPOINT Charles Pittman via Resolution 02-9759; seconded by Taylor and carried 6-0 (Galleberg-yes, Herms-yes, MacIlvaine-absent, Russell--yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

RESOLUTION 02-9760.....ITEM 23-h(1)
A RESOLUTION APPOINTING ONE RESIDENT OF THE CITY WITH EXPERTISE IN FINANCIAL MARKETS TO THE BOARD OF TRUSTEES OF THE CITY OF NAPLES GENERAL RETIREMENT SYSTEM FOR A FOUR-YEAR TERM; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk.

MOTION by Wiseman to APPOINT Marc Gertner via Resolution 02-9760; seconded by Russell and carried 6-0 (Galleberg-yes, Herms-yes, MacIlvaine-absent, Russell--yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

RESOLUTION 02-9761.....ITEM 23-h(2)
A RESOLUTION APPOINTING ONE RETIREE, CURRENTLY RECEIVING BENEFITS FROM THE GENERAL EMPLOYEES RETIREMENT SYSTEM, TO THE BOARD OF TRUSTEES OF THE CITY OF NAPLES GENERAL RETIREMENT SYSTEM FOR A FOUR-YEAR TERM; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk.

MOTION by Galleberg to APPOINT Arlene Guckenberger via Resolution 02-9761; seconded by Wiseman and carried 5-1 (Galleberg-yes, Herms-no, MacIlvaine-absent, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

RESOLUTION (Withdrawn) ITEM 23-i
STAFF ACTION COMMITTEE APPOINTMENT. (Editor's note: No draft resolution was provided for this item.)

RESOLUTION 02-9762..... ITEM 23-j
A RESOLUTION APPOINTING ONE CITY COUNCIL MEMBER TO THE NAPLES (COLLIER COUNTY) METROPOLITAN PLANNING ORGANIZATION; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk.

MOTION by Galleberg to APPOINT Clark Russell via Resolution 02-9762; seconded by Wiseman and carried 6-0) Galleberg-yes, Herms-yes, MacIlvaine-absent, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

ORDINANCE (First Reading).....ITEM 24-a
AN ORDINANCE AMENDING SECTION 110-34 OF THE CODE OF ORDINANCES, CITY OF NAPLES TO ADD A SUBSECTION (g) TO PROVIDE FOR STORAGE OF BOATS ON THE BEACH FOR CITY RESIDENTS; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk (5:45 p.m.). City Clerk Tara Norman said that staff had told her not to advertise this for Second Reading. City Attorney Robert Pritt therefore said it cannot be adopted, but that Council could consider the City Manager's recommended changes and schedule Second Reading at the next meeting.

City Manager Rambosk said there are two systems in the City that regulate boats stored on the beach; one is managed by the Police & Emergency Services Department (PESD) and the other by Community Services. He however recommended allowing Community Services to manage all operations and PESD to perform enforcement and that the number of spaces via Miramar be reduced from nine to seven. Language now allows storage by City residents only.

Public Comment: None. (5:57 p.m.)

MOTION by Herms to APPROVE ITEM 24-a AT FIRST READING AS AMENDED WITH RECOMMENDED CHANGES AND OMITTING GENDER REFERENCE IN SECTION 110-34 (b); seconded by Taylor and carried 6-0 (Galleberg-yes, Herms-yes, MacIlvaine-absent, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

BOAT STORAGE ON THE BEACH (5:57 p.m.) It was the consensus of Council that revisions be reflected at the September 4, 2002 Regular Meeting review.

CORRESPONDENCE & COMMUNICATIONS (5:57 p.m.)

Council Member Taylor asked that Council allow landscape architect Gail Boorman to address U.S. 41 median landscaping. Vice Mayor Galleberg suggesting directing staff to review the Florida Department of Transportation (FDOT) document requirements and City Manager Rambosk recommended Traffic Engineer George Archibald for this task. Miss Taylor then noted the sale of art on public rights-of-way. City Manager Rambosk said this is prohibited unless given permission by the City, but that this is currently not being enforced.

Council Member Herms requested an update on the status of the tree-planting program saying he would like to see additional trees planted this year if possible. Vice Mayor Galleberg asked for an update on Council's direction to explore Third Street traffic calming, and requested that staff address the maintenance of the northern portion of the Naples Preserve. Council Member Russell recommended that Council address in a workshop the water quality in Naples Bay. Mayor MacKenzie expressed appreciation of the recent Council Chamber renovation.

PUBLIC COMMENT (6:06 p.m.)

None.

ADJOURN

6:06 p.m.

Bonnie R. MacKenzie, Mayor

Tara A. Norman, City Clerk

Prepared by:

Jessica R. Rosenberg, Recording Specialist

Annette Thompson, Recording Specialist

Minutes approved: 9/18/02