



City Council Chamber  
735 Eighth Street South  
Naples, Florida 34102

**City Council Regular Meeting – February 5, 2003 – 9:00 a.m.**

Vice Mayor Galleberg called the meeting to order and presided until Mayor MacKenzie arrived.

**ROLL CALL ..... ITEM 1**

**Present:**

Bonnie R. MacKenzie, Mayor (arrived 9:07 a.m.)  
Gary Galleberg, Vice Mayor

**Council Members:**

Joseph Herms  
William MacIlvaine  
Clark Russell  
Penny Taylor  
Tamela Wiseman

**Also Present:**

Kevin Rambosk, City Manager  
Robert Pritt, City Attorney  
Tara Norman, City Clerk  
Ron Lee, Planning Director  
Dan Mercer, Public Works Director  
Jon Staiger, Natural Resources Manager  
David Lykins, Community Services Director  
Robert Middleton, Utilities Director  
Terry Fedelem, Parks & Parkways Design Supt.  
William Overstreet, Building Official  
Ann Walker, Planner  
Laura Spurgeon, Planner  
Michael O'Reilly, Police Officer  
Jessica R. Rosenberg, Recording Specialist  
Karen Kateley, Administrative Specialist  
David Corban  
James Rideoutte  
Becky Allen  
Sharon Kenny  
John Passidomo

Kevin Higginson  
Vincent Apruzzese  
Dean Van Nest  
Stephen Pistner  
Don Wirth  
Beverly White  
Barton Mercer  
James Stockman  
Garrett Beyrent  
Art Chesterton  
George Kraus  
Walter Spengler  
Robin Wheeler  
Georgia Mosier  
Corbin Wyant  
Arthur Newmann  
Rev. Michael Bickford  
Other interested citizens and visitors.

**Media:**

Dianna Smith, Naples Daily News

**INVOCATION & PLEDGE OF ALLEGIANCE ..... ITEM 2**

Rev. Michael Bickford, Community Congregational Church

**ANNOUNCEMENTS ..... ITEM 3**

Presentation of Plaque by the Department of Community Affairs

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**SET AGENDA.....ITEM 4**

Add Item 18 – Amend agreement with E.B. Simmonds Electric.

***MOTION by Herms to ADD ITEM 18; seconded by MacIlvaine and carried 6-0 (Galleberg-yes, Herms-yes, MacIlvaine-yes, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-absent).***

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**It is noted for the record that Mayor MacKenzie entered the meeting at 9:07 a.m.**

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***MOTION by Herms to SET AGENDA WITHDRAWING ITEM 17, CONTINUING ITEMS 15 AND 11-f TO THE FEBRUARY 19, 2003 REGULAR MEETING, REMOVING ITEM 11-g FROM THE CONSENT AGENDA FOR SEPARATE DISCUSSION AND ADDING ITEM 18; seconded by MacIlvaine and unanimously carried, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).***

**PUBLIC COMMENT.....ITEM 5**

None.

**RESOLUTION 03-9939.....ITEM 16**

**A RESOLUTION CONSIDERING THE DONATION AND PLACEMENT OF TWO BRONZE SCULPTURES TO BE LOCATED IN THE CITY OF NAPLES; AND PROVIDING AN EFFECTIVE DATE.** Title read by City Manager Kevin Rambosk (9:12 a.m.). Public Arts Advisory Committee (PAAC) Chair Sharon Kenny stated that local artist Walter Koenigstein had offered to donate two bronze sculptures of natural forms from the environment which could serve as gateway features into the City. Discussions with the proposed neighborhoods had been positive, with the only concern being the size of the pieces, Ms. Kenny said, and noted that the finish on the pieces is sufficiently dark and varied in texture so as not to reflect sunlight and create a traffic hazard. Although the Gordon River bridge had been considered, limited median size and other factors however caused the PAAC to seek alternative sites. Ultimately the public park at Sandpiper Street and U.S. 41, and the widest median in the vicinity of Park Shore Drive and U.S. 41 had been selected. Each sculpture is 30 feet tall and would stand atop a six-foot marble base, she added. Ms. Kenny also pointed out that the southern sculpture would visually designate Oyster Bay and Royal Harbor as the City's parameter as well as enhance this commercial corner. Moreover, lacking public art outside of the Fifth Avenue corridor, she said that placing these sculptures at the entrance to the community would demonstrate that the City values art and takes pride in its public spaces.

Council Member Russell expressed appreciation to the artist and recommended proceeding with the project. In response to Mayor MacKenzie, Community Services Director David Lykins stated that the Florida Department of Transportation (FDOT) had approved both proposed locations and that he believed the City could meet all State criteria.

**Public Comment:** (9:26 a.m.) **Stephen Pistner, 10 Seagate Drive**, stated that he was to handle donated funds for the installations and commented favorably on the artist's talent. He said he believed the City would benefit significantly from the offer. **Don Wirth, 2425 Tarpon Road**, representing Royal Harbor Homeowners Association president John Highland, noted a written request that the Council delay its decision on the Sandpiper Street location. (A copy of this correspondence is contained in the file for this meeting in the City Clerk's Office.) Mr. Wirth however expressed his personal approval of the concept and expressed appreciation to Council

for creating the guidelines under which the PAAC operates. **Beverly White, 1400 Blue Point Avenue**, stated that the community had not had sufficient opportunity to consider this proposal and suggested sending the mock-up pictures to the residents for additional public input. Mayor MacKenzie said that while she believed the sculptures to be attractive and the locations selected appropriate, she too perceived the need for further public comment. **John Staiger, 1313 Chesapeake Avenue**, said he believed the sculptures to be attractive and predicted little objection. He added that, while important, the concerns of an individual neighborhood must be balanced against the needs of the City. Community Service Director Lykins pointed out that the Park Shore Board of Directors had approved of the concept and location but had not taken a formal position.

Council Member Herms voiced support for the quality of the sculptures as well as the statement they make relative to the community. He however suggested obtaining additional public comment, using a three-foot pedestal to reduce overall height, and amending the resolution to include reference to an alternative suitable location for the southern sculpture as determined by Council. Council Member MacIlvaine also commented on the attractiveness of the sculptures; however, he observed that the sculpture proposed for Park Shore Drive appears massive, and therefore recommended obtaining additional public comment. Vice Mayor Galleberg stressed however that the appropriate process had been followed, and that although neighborhood boards could consult with their respective communities, Council would make the ultimate decision. He therefore recommended proceeding with approval of the proposal, saying that the City could later address siting concerns should they arise; Council Members Wiseman and Taylor concurred. Mayor MacKenzie commented on the attractiveness of the sculptures and suggested displaying models at City Hall to garner stronger support.

**MOTION by Galleberg to APPROVE RESOLUTION 03-9939 AS AMENDED AS FOLLOWS: IN THE FIRST WHEREAS CLAUSE "...ENTITLED "THE GATES OF NAPLES BENCH ..." AND ADDING SECTION 5. "THAT THE SCULPTURES SHALL NOT EXCEED 30 FEET IN HEIGHT AND MOUNTED ON A SIX-FOOT BASE."** *This motion was seconded by Russell and unanimously carried, all members present and voting (Herms-yes, Galleberg-yes, Taylor-yes, MacIlvaine-yes, Wiseman-yes, Russell-yes, MacKenzie-yes).*

Council Member Herms expressed willingness to work with the neighborhoods with regard to location, and recommended that residents view the models. Although expressing some reservation regarding the input provided to the neighborhoods, Council Member MacIlvaine commended the generosity of the donor and the quality of the project.

**(Withdrawn – See Item 4) .....ITEM 17  
DISCUSSION REGARDING THE WILKINSON HOUSE.**

**RESOLUTION (Continued) .....ITEM 6  
A RESOLUTION DETERMINING SAC WAIVER 03-02 FROM SECTION 102-1095 (c)  
(2) OF THE CODE OF ORDINANCES WHICH REQUIRES THAT RESTAURANTS OR  
COCKTAIL LOUNGES NOT BE LOCATED ON THE SECOND FLOOR OF  
BUILDINGS WITHIN THE FIFTH AVENUE SOUTH SPECIAL OVERLAY DISTRICT,  
IN ORDER TO ALLOW A RESTAURANT AND BAR ON THE SECOND FLOOR OR  
THE GATEHOUSE BUILDING, 898 5<sup>TH</sup> AVENUE SOUTH, MORE PARTICULARLY  
DESCRIBED HEREIN, AND PROVIDING AN EFFECTIVE DATE. Title not read.**

Petitioner's attorney Richard Yovanovich requested that Council continue this item until the next meeting. Vice Mayor Galleberg expressed opposition to continuance, saying that a motion to approve had previously failed and that the record is therefore complete.

**Public Comment (on continuance):** (10:00 a.m.) **Barton C. Mercer, 273 10<sup>th</sup> Avenue South** expressed no objection to the continuance.

**MOTION by Russell to CONTINUE ITEM 6 TO THE FEBRUARY 19, 2003 REGULAR MEETING;** *seconded by Taylor and carried 5-2, all members present and voting (Galleberg-no, Herms-yes, MacIlvaine-no, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).*

Council Member Wiseman said she was dismayed to discover Council had voted for reconsideration at the last meeting, but said she believed Attorney Yovanovich had the right to evaluate any new information.

### CONSENT AGENDA

**APPROVAL OF MINUTES.....ITEM 11-a**  
January 8, 2003 Regular (as amended on Page 11 to clarify the motion and Council Member Taylor's remarks on the water rate change); January 21, 2003 Workshop, and January 21, 2003 Special Meetings.

**COMMUNITY SERVICES..... ITEM 11-b**  
1) Shelton Jaguar & Thalheimers Dinner and Auction – Naples Community Hospital parking garage (top floor) – 2/8/03  
2) Naples Antique Show & Sale – Trinity by the Cove Episcopal Church – 3/12 – 3/17/03  
3) 20<sup>th</sup> Taste of Collier – 3rd Street South – 5/4/03  
4) 27<sup>th</sup> Annual Great Dock Canoe Race – 5/10/03 (with a maximum of \$1,000 for co-sponsorship)  
5) 15<sup>th</sup> Annual Depot Show of Antique Automobiles – Naples Depot – 3/15/03  
6) Naples Concert Band 10/26, 11/16, and 12/7/03  
7) John Lennon Art Exhibit – 1300 3rd Street South (3rd Street South Association) – 2/14-2/17/03  
8) Naples Cultural Heritage Celebration - River Park Community Center 2/22/03

**RESOLUTION 03-9940.....ITEM 11-c**  
**A RESOLUTION APPROVING AN AGREEMENT WITH ROCK N ROLL STAFFING, INC., FOR FURNISHING TEMPORARY LABORERS; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.** Title not read.

**RESOLUTION 03-9941..... ITEM 11-d**  
**A RESOLUTION APPROVING AN AGREEMENT WITH HANNULA LANDSCAPING, INC. FOR FURNISHING AND INSTALLING LANDSCAPE AND IRRIGATION ON THE MOORING LINE DRIVE MEDIANS, FROM BOWLINE DRIVE TO THE MOORING LINE BRIDGE; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.** Title not read.

**RESOLUTION 03-9942.....ITEM 11-e**  
**A RESOLUTION APPROVING AN AGREEMENT WITH LEO'S SOD, INC., FOR FURNISHING AND INSTALLING VARIOUS TYPES OF SOD; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.** Title not read.

**RESOLUTION (Continued – See Item 4) ..... ITEM 11-f**  
**CONSIDER APPROVING THE PROPOSED PUBLIC ART FACT SHEET AND**  
**APPLICATION FORM. (Editor’s note: No draft resolution was provided for this item.)**

***MOTION by Galleberg to APPROVE ITEMS 11-a, 11-b, 11-c, 11-d, and 11-e;***  
***seconded by MacIlvaine and unanimously carried, all members present and***  
***voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Russell-yes, Taylor-yes,***  
***Wiseman-yes, MacKenzie-yes).***

**END CONSENT AGENDA**

**RESOLUTION 03-9943.....ITEM 7-a**  
**A RESOLUTION DETERMINING CONDITIONAL USE PETITION 03-CU2 TO**  
**ALLOW FOR AN ADDITIONAL PARCEL OF LAND TO BE ADDED TO AN**  
**AUTOMOBILE DEALERSHIP IN THE HIGHWAY COMMERCIAL ZONING**  
**DISTRICT, AT 850 TAMIAMI TRAIL NORTH, MORE PARTICULARLY DESCRIBED**  
**HEREIN; PROVIDING FOR THE CITY CLERK TO RECORD SAID CONDITIONAL**  
**USE; AND PROVIDING AN EXPIRATION DATE AND AN EFFECTIVE DATE. Title**  
**read by City Manager Kevin Rambosk (10:02 a.m.).**

**RESOLUTION 03-9944..... ITEM 7-b**  
**A RESOLUTION DETERMINING A RESIDENTIAL IMPACT STATEMENT FOR**  
**PETITION 03-RIS3 LOCATED AT 850 TAMIAMI TRAIL NORTH, MORE**  
**PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.**  
**Title read by City Manager Kevin Rambosk (10:02 a.m.).**

**RESOLUTION 03-9945.....ITEM 7-c**  
**A RESOLUTION DETERMINING PETITION 03-GDSP2 FOR A GENERAL**  
**DEVELOPMENT AND SITE PLAN FOR PROPERTY LOCATED AT 850 TAMIAMI**  
**TRAIL NORTH, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING**  
**AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk (10:02 a.m.).**

**It is noted for the record that Items 7-a, 7-b, and 7-c were considered concurrently.**

This being a quasi-judicial proceeding, Council made the following ex parte disclosures: MacKenzie and Galleberg/visited the site and the viewed the Planning Advisory Board (PAB) meeting; Wiseman and Herms/visited the site; Russell/no contact; MacIlvaine/visited the site, and served on the PAB when this matter was discussed; and Taylor/familiar with the site and conversation with petitioner’s attorney John Passidomo who, in response to her request, had met with the Lake Park Homeowners Association president. Notary Public Jessica Rosenberg then administered an oath to those intending to give testimony; all responded in the affirmative.

Attorney John Passidomo stated that the Shelton Dealerships had operated Jaguar, Aston Martin, and Land Rover franchises on this 3.3 acre property for the last ten years. Noting that the property extends approximately 575 feet along the east side of U.S. 41 immediately north and adjacent to Eighth Avenue North, he explained that Shelton had received a conditional use permit from Council for each portion of the site as it was acquired. This included a March 2001 approval for a structure on a 9,000 square foot parcel in the southeast corner which had not been built and the building permit has subsequently expired. However, the petitioner is again requesting conditional use approval of that parcel in conjunction with a major renovation of the entire site, he said. These changes would include: razing all existing buildings, adding a Porsche dealership, improving internal and external traffic circulation patterns, and enhancing the landscaping. He added that the proposal meets or exceeds all performance standards in the

underlying “HC” Highway Commercial district, and that no variances, waivers, or other relief are being sought from the Comprehensive Development Code. Nevertheless, the proposal does require approval of a General Development and Site Plan (GDSP) for the proposed improvements along U.S. 41 as well as a residential impact statement for commercial development adjacent to residential uses. Moreover, Mr. Passidomo explained that Shelton Dealerships intends to continue operating in the same manner but on an improved site. He observed the staff and PAB recommendation for approval, and requested that Council, too, approve all three petitions.

In response to Council, John Cooney of Randall Stofft Architects stated that the lot coverage for all three buildings is approximately 143,300 square feet, and that the landscaped area covers 42,000 square feet, or 29 percent. He added that landscape buffers would be placed around the perimeter and rear, and drainage swales for water retention around the south and west property lines would be added. Planning Director Ron Lee pointed out that staff had also recommended improving the entire public alley which would be redesigned to properly drain and therefore alleviate flooding. Mr. Cooney further affirmed that the lighting poles would be 20 feet in height, that the trash container would be screened from the alley and would not interfere with the access points, and that the petitioner would minimize the number of curb cuts along U.S. 41 and Eighth Street. Council Member Russell noted concern regarding increased traffic to the alley, and Council Member MacIlvaine observed that using the northern service drop-off contained on the property rather than the alley would accrue to a significant improvement in the layout.

**Public Comment:** None. (10:34 a.m.)

**MOTION by Russell to APPROVE RESOLUTION 03-9943 (ITEM 7-a) AS SUBMITTED; seconded by MacIlvaine and unanimously carried, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).**

**MOTION by Russell to APPROVE RESOLUTION 03-9944 (ITEM 7-b) AS SUBMITTED; seconded by Herms and unanimously carried, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).**

**MOTION by Russell to APPROVE RESOLUTION 03-9945 (ITEM 7-c) ADDING SECTION 2-7 “TRAFFIC FLOW FROM NORTHERN SERVICE DROP-OFF SHALL BE RETAINED ON SITE AS OFTEN AS POSSIBLE BY REALIGNING SAID DROP-OFF”; AND SECTION 2-8 “ALLEYWAY CUTS ON THE EASTERN SIDE OF THE PROPERTY SHALL BE REDUCED FROM 5 TO 3.” This motion was seconded by MacIlvaine and unanimously carried, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).**

**Recess 10:36 a.m. to 10:48 a.m. It is noted for the record that the entire Council was present when the meeting reconvened.**

**RESOLUTION 03-9946.....ITEM 8  
A RESOLUTION DETERMINING CONDITIONAL USE PETITION 03-CU1 FOR  
MODIFICATION TO A PRIOR CONDITIONAL USE APPROVAL IN ORDER TO  
ALLOW PERMANENT VEHICULAR ACCESS TO GORDON DRIVE BY MEMBERS**

**AND GUESTS OF THE PORT ROYAL TENNIS/FITNESS FACILITY, AT 2900 GORDON DRIVE, MORE PARTICULARLY DESCRIBED HEREIN, SUBJECT TO THE CONDITIONS LISTED HEREIN; PROVIDING FOR THE CITY CLERK TO RECORD SAID CONDITIONAL USE; AND PROVIDING AN EXPIRATION DATE AND AN EFFECTIVE DATE.** Title read by City Manager Kevin Rambosk (10:48 a.m.). This being a quasi-judicial proceeding, Council made the following ex parte disclosures: MacKenzie and Galleberg/familiar with the site, viewed the Planning Advisory Board (PAB) meeting, and greeted the petitioner's agent; Wiseman/familiar with the site; Russell and MacIlvaine/familiar with the site and spoke to neighborhood residents; Herms/greeted the petitioner's agent; and Taylor/familiar with the site and spoke to Stella Thomas and Jim Kessler. Notary Public Jessica Rosenberg then administered an oath to those intending to give testimony; all responded in the affirmative.

Port Royal Club representative Vincent Apruzzese explained that the current request was for a permanent vehicular access point on Gordon Drive. He explained that when the Club had received conditional use approval for emergency and maintenance access, Council had suggested that he poll Club membership on full Gordon Drive access, the results of said poll later indicating 93 percent support. Mr. Apruzzese then explained that the site lends itself to tennis players using the Kingstown Drive access and the fitness center users using the Gordon Drive access. He added that, unlike the Kingstown Drive access, Gordon Drive offers unimpeded views in both directions and is therefore inherently safer. Moreover, he said that Traffic Engineer George Archibald indicated that this would not impact the design capacity on Gordon Drive, and that having two access points would increase safety. In addition, Mr. Apruzzese pointed out that the deed indicates the Port Royal Club did anticipate a Gordon Drive access for club purposes. (A copy of the deed is contained in the file for this meeting in the City Clerk's office.) Mr. Apruzzese also observed that a Gordon Drive access approved for nearby Little Harbor has presented no traffic problems.

Kevin Higginson of Coastal Engineering Consultants indicated concurrence with Mr. Archibald's traffic analysis and recommendations. He then explained that while the Gordon Drive access at Little Harbor has 37 peak hour trips, he predicted that the access proposed for the Port Royal Club would be 30. In response to Council, Mr. Higginson said Gordon Drive has two 12-foot lanes and an 8-foot wide bicycle lane. Police Officer Michael O'Reilly said there had not been traffic concerns relative to the Little Harbor Gordon Drive access or the 10 curb cuts in the block south of 15<sup>th</sup> Avenue since February, 2000.

**Public Comment:** (11:11 a.m.) **Becky Allen, 100 Kingstown Drive**, said that diverting any traffic away from the Kingstown entrance would significantly enhance safety. **Dean Van Nest, 2900 Ft. Charles Drive**, stated that the majority of the membership supports the Gordon Drive access, and that it would alleviate traffic in the complex. **Art Chesterton, 3034 Gordon Drive**, said the Gordon Drive access would enhance safety as well as emergency access. **George Kraus, 2976 Gordon Drive**, said the Gordon Drive access would greatly improve traffic circulation. **Walter Spengler, 2970 Fort Charles Drive**, said the proposed access would not alter traffic on Gordon Drive, but would greatly enhance safety. **Robin Wheeler, 736 Kingstown Drive**, stated that a Gordon Drive access would help to separate the fitness center and tennis court users.

Council Member MacIlvaine proffered a motion to approve; however, further discussion ensued. Mayor MacKenzie predicted that vehicles stopped on Gordon Drive waiting to turn left into the new access would impede traffic flow since cars behind would have insufficient room to pass. Traffic Engineer Archibald however predicted that the southbound left turn movements would be low in number, and that staff had recommended a series of conditions that would enhance the safety of this access.

**MOTION by MacIlvaine to APPROVE RESOLUTION 03-9946 AS SUBMITTED; seconded by Wiseman and carried 6-0-1 (Galleberg-yes, Herms-yes, MacIlvaine-yes, Russell-abstain, Taylor-yes, Wiseman-yes, MacKenzie-yes). (See Attachment 1, Form 8-B Memorandum of Voting Conflict for County, Municipal, and Other Local Public Officers.)**

**ORDINANCE 03-9947.....ITEM 12**  
**AN ORDINANCE AMENDING SECTION 102-121 OF THE CODE OF ORDINANCES, CITY OF NAPLES BY AMENDING SUBSECTION (4)c. AND ADDING A SUBSECTION (4)d.; AND AMENDING SECTION 102-122(b), IN ORDER TO MODIFY PROVISIONS FOR PIERS AND BOAT LIFTS IN THE R1-15A ZONING DISTRICT; PROVIDING FOR CODIFICATION; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk (11:23 a.m.).**

**Public Comment:** None. (11:24 a.m.)

**MOTION by MacIlvaine to ADOPT ORDINANCE 03-9947 AS SUBMITTED; seconded by Taylor and unanimously carried, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).**

**RESOLUTION (Withdrawn) .....ITEM 11-g**  
**A RESOLUTION APPROVING THE 2003-2004 SOUTH FLORIDA WATER MANAGEMENT DISTRICT BIG CYPRESS BASIN COOPERATIVE AGREEMENT FOR THE RAIN SENSOR INSTALLATION PROGRAM; AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk (11:24 a.m.) who said that staff had previously determined that approximately 3,000 residences would benefit from this program. He added that the grant is for approximately \$54,000, which the City would match totaling \$108,000. Vice Mayor Galleberg however expressed concern regarding the use of Public Works/Sewer funding, saying that water users who had already purchased sensors would then be underwriting the costs for those who had not. He instead suggested a program whereby those who needed the sensors would match 50 percent of the cost. Council Member Russell said he nevertheless favored such an initiative in an effort to preserve the water supplies and ensure the City's consumptive use permits. City Manager Rambosk however withdrew the item, stating that staff would later structure an alternate program. (This item was subsequently withdrawn.)**

**ORDINANCE (First Reading).....ITEM 13**  
**AN ORDINANCE AMENDING SECTION 106-71 AND ADDING SECTION 106-76, "STANDARDS FOR LANDSCAPING NEW SINGLE FAMILY AND TWO FAMILY DWELLINGS" TO THE CODE OF ORDINANCES OF THE CITY OF NAPLES FOR THE PURPOSE OF PROVIDING MANDATORY REGULATIONS FOR LANDSCAPING; AND PROVIDING FOR A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk**



(11:30 a.m.). Vice Mayor Galleberg said this ordinance as having evolved from a concept to require ground covering for new construction prior to receiving a certificate of occupancy into what he termed to be a very intrusive and bureaucratic landscaping provision. He recommended retaining only the section pertaining to the planting of sod or landscaping material on areas not designated for use as buildings, sidewalks, and driveways. Council Member MacIlvaine concurred, saying that the proposed ordinance in its present form interferes with private property rights. Planning Director Ron Lee said staff had forwarded the ordinance to the Planning Advisory Board (PAB) which, upon discussion, had decided to include additional items regarding the Florida Yards and Neighborhoods program. He therefore recommended continuing this item to allow staff to draft a new ordinance with the provisions as originally stated. He however suggesting including a clear definition of landscaping material, saying that this could in fact be construed to mean fill. Council Member Wiseman concurred but recommended including the sections prohibiting barren soil and gravel yards and adding a sentence encouraging the use of drought tolerant species.

**Public Comment:** (11:37 a.m.) **Georgia Mosier, 1021 Spyglass**, representing the Port Royal Property Owners Association, read a prepared statement into the record expressing opposition to the proposed ordinance. (Attachment 2) **Corbin Wyant, 1020 Eighth Avenue South**, Port Royal Property Owners Association Manager, read a prepared statement by landscape architect Koby Kirwin into the record also voicing concern regarding the ordinance. (Attachment 3)

**MOTION by Galleberg to CONTINUE ITEM 13 FOR REDRAFTING PURSUANT TO COUNCIL INSTRUCTIONS; seconded by Taylor and unanimously carried, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).**

**RESOLUTION 03-9948.....ITEM 14**  
**A RESOLUTION ADOPTING THE 2003 COMPREHENSIVE PLAN AMENDMENT SCHEDULE; AND PROVIDING AN EFFECTIVE DATE.** Title read by City Manager Kevin Rambosk (11:47 a.m.). In response to Council, Planning Director Ron Lee said that the City had applied to become a State certified community which would allow it to perform comprehensive plan amendments without State review, making future such schedules unnecessary.

**MOTION by Wiseman to APPROVE RESOLUTION 03-9948 AS SUBMITTED; seconded by MacIlvaine and unanimously carried, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).**

**RESOLUTION (Continued – See Item 4) .....ITEM 15**  
**CONSIDER APPROVAL OF A CONSTRUCTION MANAGEMENT CONTRACT FOR THE CONSTRUCTION OF THE LOWDERMILK PARK CONCESSION / RESTROOM PAVILION \ VENDOR: O-A-K / FLORIDA, INC., NAPLES, FL \ COST: \$325,000.00 (NOT TO EXCEED) \ FUNDING: TDC FUNDS AND UTILITY TAX.** (Editor's note: No draft resolution was provided for this item.)

**Recess: 11:48 a.m. to 1:28 p.m.** It is noted for the record that the entire Council was present when the meeting reconvened. It is further noted that Items 9-b, 9-c, and 9-d will be considered at second reading of Item 9-a.

**ORDINANCE (First Reading).....ITEM 9-a**  
**AN ORDINANCE DETERMINING REZONE PETITION 03-R2 FOR PROPERTY LOCATED AT 309 9<sup>TH</sup> STREET SOUTH, MORE PARTICULARLY DESCRIBED**

**HEREIN, IN ORDER TO PERMIT REZONING FROM PD, PLANNED DEVELOPMENT AND D DOWNTOWN TO PD, PLANNED DEVELOPMENT; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.** Title read by City Manager Kevin Rambosk (1:28 p.m.).

**RESOLUTION ..... ITEM 9-b**  
**A RESOLUTION DETERMINING PETITION 03-AV1 FOR THE VACATION OF TWO ALLEYS AT 309 9<sup>TH</sup> STREET SOUTH IN ORDER TO DEVELOP A 2.3 ACRE MIXED USE PROJECT, MORE PARTICULARLY DESCRIBED HEREIN, AND PROVIDING AN EFFECTIVE DATE.** Title not read.

**RESOLUTION ..... ITEM 9-c**  
**A RESOLUTION DETERMINING PETITION 03-PC1 TO IMPROVE THE PUBLIC RIGHT-OF-WAY AND OBTAIN CREDIT FOR PARKING SPACES IN THE D DOWNTOWN DISTRICT ADJACENT TO PROPERTY AT 309 9<sup>TH</sup> STREET SOUTH, LEGALLY DESCRIBED HEREIN, AS PROVIDED IN SECTION 102-856 OF THE CODE OF ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.** Title not read.

**RESOLUTION..... ITEM 9-d**  
**A RESOLUTION DETERMINING A RESIDENTIAL IMPACT STATEMENT FOR PETITION 03-RIS2 FOR PROPERTY LOCATED AT 309 9<sup>TH</sup> STREET SOUTH, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.**  
Title not read. This being a quasi-judicial proceeding, Council made the following ex parte disclosures: MacKenzie/spoke briefly with petitioner Mark Weakley regarding the proposed density, viewed the Planning Advisory Board (PAB) meeting, and spoke briefly to petitioner attorney John Passidomo; Wiseman and Galleberg/spoke briefly to Attorney Passidomo and relayed to him that they were awaiting a supplemental packet; Russell/spoke to architect David Corban regarding the Heart of Naples Committee's (HONC) work, and Attorney Passidomo regarding the history of the planned development (PD); MacIlvaine/noted that the issue had been briefly discussed at a HONC meeting, spoke to the architect and Attorney Passidomo, who explained the location of the parking and the project layout; Herms/received a telephone message from Attorney Passidomo which he had been unable to return; Taylor/received a telephone message from Attorney Passidomo which she had been unable to return, as well as conversations with James Kessler and Charles Kessler regarding the petition. City Clerk Tara Norman then administered an oath to those intending to give testimony; all responded in the affirmative.

Attorney Passidomo explained that the Weakley family had owned the subject property for almost 20 years, the last 15 of which as owners and operators of the Trails End Motel on the site. As the value of the property increased, the petitioners observed the City's efforts to revitalize downtown and had monitored the deliberations of the HONC, developing a plan which is consistent with both the existing and proposed regulations for the "D" Downtown district. He added that the petitioners chose a PD which affords Council and the public the opportunity to see how the proposal comports with the Comprehensive Plan.

Attorney Passidomo then said that architect David Corban would describe landscaping, open space and public space, cite other buildings with similar lot coverage and floor area ratios, and provide a traffic impact analysis showing substantially lower impact than other commercial oriented developments. Attorney Passidomo also noted that the two alleys requested to be vacated had been determined by staff to serve no functional purpose. Finally, he addressed the

request for 12 percent of the parking requirements to be derived from adjacent right-of-way spaces which, Mr. Passidomo asserted, is lower than those granted by Council throughout the district, the project proposing to provide 55 spaces for the 40 units, or a standard of 1.375 spaces per unit. He added that staff and the PAB recommends approval and requested Council approval for all four petitions.

Architect David Corban of Architectural Network said that the Weakley family had preferred that their property be developed as an integral part of the City's downtown rather than a single-use business and serve as a model for redevelopment in the neighborhood. (A copy of the illustrations used by Mr. Corban are contained in the file for this meeting in the City Clerk's Office.) Mr. Corban said that to that end, he had developed a mixed-use project with a 3 to 1 ratio of residential area to commercial. He then explained that there would be two floors of commercial along U.S. 41 with the first floor likely to become retail and/or restaurant use and the second floor general office and medical uses. There would also be one floor of commercial along the corner of Third Avenue South and Tenth Street which he predicted would become smaller scale shops. This area would also contain townhouse units with front doors that open onto the street with the first floor containing usable space, the second floor containing the primary living area, and the third floor containing single-story flats. Along Fourth Avenue South and above the commercial on U.S. 41 would also be residential flats. To best serve the pedestrian, Mr. Corban said he had placed the structures at the build-to line as prescribed by Code. This places the building entrances out at the sidewalk and near 27 on-street parking spaces surrounding the block. With the additional on-street parking proposed for this project as well as for others in the vicinity, he however predicted almost 60 parking spaces around the property. He also detailed the parking structure noting that it would be covered with a deck containing landscaping and other features which, he noted, significantly increases the green space. He also pointed out that the 10,000 square foot pedestrian plaza, which would be heavily landscaped, would separate the parking and residential areas from the heavy commercial area and provide a connection to the pedestrian traffic along U.S. 41, Fifth Avenue South, as well as the municipal parking garage.

Mr. Corban then asserted that the project conforms to the following Code objectives: promote orderly downtown redevelopment; improve downtown aesthetics; provide downtown viability; encourage full-time residential uses; recognize and promote the role of the medical community; retain and promote consumer and service businesses; reinforce the downtown as a community center; encourage mixed-use development; and promote pedestrian-friendly streets. He also provided comparisons with other similar projects in terms of residential and commercial square footage, lot coverage, and floor-area ratios and noted that a trip generation comparison indicates the project would reduce overall traffic impact by providing opportunities for multiple trip purposes. (A copy of this material is contained in the file for this meeting in the City Clerk's Office.)

In response to Council, Mr. Corban affirmed that the project, including the parking garage, would contain approximately 164,000 square feet of building space and 13,000 square feet of green space. Council Member MacIlvaine commended the landscape covered parking area and recommended against counting the deck as additional lot coverage. Council Member Wiseman expressed concern regarding a potential future lack of parking in the area. Planning Director Lee

however said that staff anticipates creating a parking pool in the revised “D” Downtown requirements from which any allocated spaces would be subtracted. In further discussion, Mr. Lee said that a portion of the property had previously been zoned PD, but because a building permit had not been issued within two years, it reverted to “C2” Commercial. This change was however not appropriately reflected on the zoning maps, and the parcel was therefore not included when the district was rezoned from various zoning districts to “D” Downtown.

While commending the project, Vice Mayor Galleberg said he nevertheless believed the petitioner to be selecting specific components of the current and proposed “D” Downtown regulations which would result in a project that exceeds capacity and does not comport with the City’s objectives. He also questioned the effort expended in reestablishing the “D” Downtown area while allocating large sections to various PD’s. Council Member Wiseman asserted that the plan under review in fact represents an improvement over the current zoning, and urged that Council proceed to enact the new ordinance being proposed. Council Member Herms questioned the advisability of the petitioners proposing a project dependent upon alley vacations without first approaching the City. Although several Council Members contended that an alley has no market value of its own, Mr. Herms said that relinquishing from 92,000 to 100,000 square feet would ultimately result in increased density and intensity. Council Member Russell nevertheless commended the project, saying it fulfills his vision for the downtown.

In response to Council comments, Attorney Passidomo disputed that the petitioners had selected the most advantageous components but are in fact following the letter and intent of the existing downtown Code and the proposed regulations being contemplated by the HONC. He further asserted that petitioners generally do not seek alley vacations before proceeding with a development proposal, but that staff had in fact found that the project meets all required alley vacation criteria. Moreover, Mr. Passidomo explained that the City is precluded from requesting compensation for alleys. He then took the position that lot coverage and floor area ratios are irrelevant since neither the existing nor proposed Code requires adherence to such standards, but that this project is actually very similar to others on Fifth Avenue. He further noted that the traffic impacts generated by this project are projected to be 30 percent less than with an entirely commercial development as well as the existing motel. Attorney Passidomo further said that this proposal validates Council’s decision to base redevelopment in the downtown district on the pedestrian mixed-use urban orientation, and that it provides substantial open space, public space, and landscaped areas.

Council Member Wiseman suggested adding another level of parking to eliminate the need for on-street spaces, but Attorney Passidomo however characterized the petitioners’ request as modest, noting that there are almost 600 public parking spaces in the district. Further, he pointed out that the only users of the designated spaces would be those who reside or do business on site. In response to Council, Planning Director Lee said the project could be developed within the current “D” Downtown standards; however, Attorney Passidomo said the petitioners had sought a plan that would reflect and fulfill the City’s redevelopment goals. City Attorney Robert Pritt said he would research the alley vacation matter, and recommended the amendments embodied in the motion below.

**Public Comment:** None. (3:31 p.m.)

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**MOTION by Russell to APPROVE ITEM 9-a AT FIRST READING AMENDING THE PD DOCUMENT TO CHANGE REFERENCES TO STANDARDS CONTAINED IN ORDINANCE 98-8427 TO CITE “ON THE DATE OF ADOPTION OF THIS ORDINANCE” RATHER THAN DECEMBER 16, 2002, AND (IN TITLE, FIRST WHEREAS CLAUSE AND SECTION 1) “...TO PERMIT REZONING FROM C-2 COMMERCIAL DEVELOPMENT AND “D” DOWNTOWN TO PD...” This motion was seconded by MacIlvaine and carried 5-2, all members present and voting (Taylor-no, Wiseman-yes, Galleberg-yes, Herms-no, MacIlvaine-yes, Russell-yes, MacKenzie-yes).**

Council Member Taylor expressed concern regarding the on-street parking allocation, noting that the parking requirements of a future Grand Central Station redevelopment are unknown. Council Member Wiseman requested that staff research the possibility of additional on-site parking by adding another level to the parking garage, noting that Council may in fact not decide to establish a parking pool. Although noting some dissatisfaction regarding the plan, Vice Mayor Galleberg said he believed that Council must ultimately reach a conclusion with regard to the “D” Downtown regulations. Council Member Herms said he believed the project exceeds the established standards for density and lot coverage, and that it would create a very urban environment that would resemble a more intense version of Bayfront Marketplace. Council Member MacIlvaine however disagreed with this comparison and said he believed the project to be well-landscaped and attractive. Council Member Russell said he believed the project to be of a high quality design that would camouflage the parking structure and provide a superior pedestrian environment. Mayor MacKenzie said the project represents a clear improvement over the existing site, and she expressed support of its residential emphasis.

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**Recess: 3:39 p.m. to 3:53 p.m. It is noted for the record that the entire Council was present when the meeting reconvened.**

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**ORDINANCE (amended from second to first reading) .....ITEM 10 AN ORDINANCE REVISING SECTIONS 66-2, “DEFINITIONS” AND 66-140(1), “RECLAIMED WATER RATES” OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES FOR THE PURPOSE OF SETTING A RECLAIMED WATER RATE STRUCTURE AND FEE SCHEDULE; AMENDING APPENDIX A – FEE SCHEDULE, CODE SECTION 66-26, WATER SERVICE RATES – RATE SCHEDULE FOR THE PURPOSE OF MODIFYING THE WATER RATES AND THE WATER RATE STRUCTURE; ADDING SECTION 66-140, RECLAIMED WATER RATE FEES TO APPENDIX A - FEE SCHEDULE; REPEALING THE DEFINITION OF RECLAIMED WATER IN SECTION 66-61; REPEALING SECTION 66-132, “DEFINITIONS”; AND PROVIDING FOR A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.** Title read by City Manager Kevin Rambosk (3:53 p.m.) who said that since the last Council meeting, staff had met with some of the bulk reuse water users and the City Attorney to review the questions raised. He said that it had been determined that the bulk users with current agreements would be exempt from the rates proposed in the ordinance, and would continue operations as before until expiration in 2009 when they could renegotiate with the City. Mayor MacKenzie therefore recommended inserting a clear definition of “agreement” in the ordinance. City Manager Rambosk then detailed the section pertaining to the annual index adjustment, noting amended language proposed by the City Attorney. In response to Council, City Attorney Robert Pritt asserted that these changes would necessitate another first reading.

**Public Comment:** (4:06 p.m.) **James Rideoutte, representing Bear's Paw Country Club, address not given,** expressed approval of the proposed revised ordinance.

In response in Council, Public Works Director Dan Mercer said the proposed bulk rates would produce an additional \$270,000 in revenue and the proposed water rates \$1,261,200. Council Member Herms observed that this would fund a substantial portion of a new re-use system; however, Mr. Mercer noted that funds would also be directed to education, water conservation changes, and water system improvements. Mr. Mercer further affirmed that staff would study the purported necessity for bulk users to add chemicals to reuse water and would make appropriate changes if necessary.

Utilities Director Robert Middleton then enumerated revisions made to the proposed water rates by the staff in response to previous Council discussion. (A copy of this material is contained in the file for this meeting in the City Clerk's office.) Mr. Mercer explained that concern had been raised with regard to giving the customer an allowance for some irrigation water, and upon research determined an allocation of 300 gallons per unit per day. Mr. Mercer further clarified that residential units could use up to 9,000 gallons per month under the Block 1 pricing of \$1.14 per 1,000 gallons. Council Member Herms observed this would prove difficult for larger families. Council Member Russell noted that the permitting agencies and the County have declared the City's residential allocation to be excessive, and expressed doubt this would actually encourage conservation. Council Member MacIlvaine however pointed out that the projected minimum cost increase is 19 percent, and Mr. Mercer asserted that the actual effect on consumption rates could be determined after one year. Mr. Mercer also explained that all residential single family units would be charged the base rate according to their actual installed meter size. Mr. Middleton further presented examples of condominium bills under the proposed rates, some of which indicate either no increase or modest increases (Attachment 4). City Manager Rambosk said this information would give condominiums the opportunity to reduce their projected increase. Vice Mayor Galleberg said he believed the proposed rates offer little inducement to conserve water. Mr. Mercer however said that with the number of customers, the City would receive over \$1 million dollars of conservation funds. He nevertheless said he believed allowing up to 9,000 gallons per month under Block 1 pricing to be excessive, and that using the previous 7,500 gallon figure would provide more incentive; Council expressed support for using the lower figure.

**Public Comment:** None. (4:45 p.m.)

**MOTION by Wiseman to APPROVE ITEM 10 AT FIRST READING AS AMENDED AS FOLLOWS: SECTION 1. SECTION 66-2 DEFINITIONS. BULK RECLAIMED WATER CUSTOMER AGREEMENT MEANS AN AGREEMENT BETWEEN THE CITY AND A BULK RATE RECLAIMED WATER CUSTOMER FOR THE PURCHASE AND SALE OF RECLAIMED WATER THAT HAS BEEN OR MAY BE APPROVED BY THE COUNCIL. SECTION 2. SECTION 66-140 (2) "...THE ADJUSTMENT SHALL BE EQUAL TO THE THEN CURRENT INDEX PURSUANT TO THE FLORIDA PUBLIC SERVICE COMMISSION ORDER ESTABLISHING THE PRICE INDEX FOR WATER AND WASTEWATER UTILITIES, BASED ON THE GROSS DOMESTIC PRODUCT IMPLICIT PRICE DEFLATOR INDEX TO**

**A MAXIMUM OF 3 PERCENT.” SECTION 4. “THE ABOVE RATES DO NOT APPLY TO ANY BULK CUSTOMERS THAT HAVE A BULK RECLAIMED WATER CUSTOMER AGREEMENT.” SECTION 3. WATER RATE STRUCTURE, RESTORE TO RATES INITIALLY DISCUSSED (7,500 MINIMUMS).** *This motion was seconded by MacIlvaine and unanimously carried, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).*

**RESOLUTION 03-9949.....ITEM 18**

**A RESOLUTION APPROVING A FIRST AMENDMENT TO AGREEMENT FOR TRAFFIC SIGNALS AND STREET LIGHT INSTALLATIONS AND REPAIRS WITH E.B. SIMMONDS, INC. FOR ADDITIONAL TRAFFIC SIGNAL AND STREET LIGHTING REPAIR; AUTHORIZING THE CITY MANAGER TO EXECUTE THE FIRST AMENDMENT; AND PROVIDING AN EFFECTIVE DATE.** Title read by City Manager Kevin Rambosk (4:46 p.m.) who stated that staff is considering implementing a new annual work contract for the remainder of the fiscal year in the amount of \$110,000, \$78,000 of which would be used for emergency repairs. The remainder would be used for upgrades on Mooring Line Drive, Crayton Road, Gulf Shore Boulevard, Park Shore Drive, Fleischmann Boulevard, and Tenth Street. He added that the light at Gulf Shore Boulevard and Park Shore Drive is currently in serious need of attention, and that E.B. Simmonds could take remedial action within 7-10 days upon approval of the agreement.

**Public Comment:** None. (4:48 p.m.)

**MOTION by Herms to APPROVE RESOLUTION 03-9949 AS SUBMITTED;**  
*seconded by Russell and unanimously carried, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).*

**PUBLIC COMMENT (4:48 p.m.).....**  
None.

**CORRESPONDENCE AND COMMUNICATIONS (4:48 p.m.).....**

Council Member Russell stated that Collier County had recently approved a development on Goodlette-Frank Road near the Post Office where a traffic signal had been installed approximately 100 meters from another signal at a street leading into Lake Park. He therefore questioned the validity of the concern which had been expressed about a similar situation at the entrance to Royal Poinciana Golf Club. City Manager Kevin Rambosk said he believed the Post Office traffic light was intended due to the number of accidents that had occurred at that location; nevertheless, he said he would research this matter further.

Citing a recent meeting with the County Commissioners regarding the Golden Gate Parkway and Goodlette-Frank Road overpass issue, Council Member Herms recommended obtaining estimates of the peak traffic periods. City Manager Rambosk stated that the City’s consultant is researching this and other information and would provide a report when completed.

Council Member Taylor noted recent correspondence regarding improvements to Macedonia Baptist Church parking lot; City Manager Rambosk said that staff would in fact perform this restoration in conjunction with the Tenth Street overlay and that he would relay that information to the citizen. Miss Taylor also noted a letter expressing concern regarding the delay involved in

establishing fishing charters at the City Dock; City Manager Rambosk said that staff is addressing that issue as well.

Mayor MacKenzie said that pursuant to Council discussion, the Planning Advisory Board (PAB) had begun to address the historic preservation issue. It was the consensus of Council to request that the PAB draft a historic preservation ordinance working with various interested parties, said draft to be presented to Council when completed. Council Member Herms requested that the City Manager provide a copy and analysis of the deed restriction, and Mayor MacKenzie recommended delivering this information along with the Council minutes to the PAB. Council Member Russell expressed dismay that he had not yet received requested board and committee minutes.

Council Member Taylor noted that several citizens had sent correspondence complaining about noise emanating from an air conditioning unit at the Sprint building. She recommended amending the City's noise ordinance noting that it does not properly address such mechanical equipment.

**ADJOURN** .....  
5:02 p.m.

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Bonnie R. MacKenzie, Mayor

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Tara A. Norman, City Clerk

Minutes prepared by:

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Jessica R. Rosenberg, Recording Specialist

Minutes Approved: 3/19/03