



City Council Chamber  
735 Eighth Street South  
Naples, Florida 34102

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**City Council Regular Meeting – October 15, 2003 – 9:00 a.m.**

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Mayor MacKenzie called the meeting to order and presided.

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

**Present:**

Bonnie R. MacKenzie, Mayor  
Gary Galleberg, Vice Mayor

**Absent:**

William MacIlvaine

**Council Members:**

Joseph Herms  
Clark Russell  
Penny Taylor  
Tamela Wiseman

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**Also Present:**

Robert Lee, City Manager  
Robert Pritt, City Attorney  
Ron Lee, Community Development Director  
Tara Norman, City Clerk  
David Lykins, Community Services Director  
Steven Moore, Chief of Police  
Susan Golden, Planner  
Bonnie McNeill, Recording Specialist  
Karen Kateley, Administrative Specialist  
Jeanette Kessler  
Lea Smith  
Dennis Cronin  
Henry Kennedy

John Nocera  
Anthony Wood  
Tom Schulten  
Doug Finlay  
Douglas Smith  
John Cox  
Matt Joyner  
Peter Schoenauer  
B. M. Elliott

**Media:**

Dianna Smith, Naples Daily News  
Annette Hugues, ABC-Channel 7

Other interested citizens and visitors.

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

Reverend Kirt Anderson, First Presbyterian Church.

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

Proclamation for Red Ribbon Week, October 23-31, 2003, Drug Abuse Resistance Education (DARE), presented by Mayor MacKenzie.

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

Add Item 8-b(5) – Lake Park neighborhood outdoor Halloween event with amplified music, October 31, 2003.

**MOTION by Herms to ADD ITEM 8-b(5); seconded by Taylor and carried 6-0 (Galleberg-yes, Herms-yes, MacIlvaine-absent, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).**

Add Items 16-a and 16-b – Waiver for expedited review of small-scale comprehensive plan amendment rezone petition and repeal of conditional use for the Wilkinson House and resolution establishing public hearing procedures for the Wilkinson House.

***MOTION by Galleberg to ADD ITEMS 16-a AND 16-b; 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 ADDING ITEMS 8-b(5), 16-a AND 16-b, AND CONTINUING ITEMS 11, 13, AND 14 TO NOVEMBER 5, 2003.***

***This motion was seconded by Taylor and carried 6-0 (Galleberg-yes, Herms-yes, MacIlvaine-absent, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).***

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

**Doug Finlay, 3430 Gulf Shore Boulevard North**, complained about debris and sand in the streets adjacent to construction sites stating that it presents a danger to cyclists. He also said that a lack of sidewalks, on Gulf Shore Boulevard in particular, present another safety issue for cyclists and pedestrians. City Manager Robert Lee advised that notices of violations had been issued for the sites enumerated. (Photographs provided by Mr. Finlay are contained in the file for this meeting in the City Clerk's Office.) **Tom Schulten, of Schulten Construction, 705 Starboard Drive**, reviewed his difficulties in dealing with runoff from his construction sites and urged that the City develop a drainage plan to deal with excessive rainfall, FEMA regulations, and other matters which contribute to drainage problems. Ron Lee, Community Development Director, reported that such a plan was in fact under development, which will be required in conjunction with the issuance of building permits for single-family homes. Additionally, he said that the City hired an engineer to review the building permit process. **John Nocera, 2260 Kingfish Road**, sought Council support for expansion of auto sales onto his property at 390 Fourth Avenue North formerly occupied by ~~Duncan~~ Dunkin Doughnuts, requiring a zoning amendment so that it would revert to a prior permitted use. Current regulations allow only an office to occupy the site. Mr. Nocera provided a letter (Attachment #1) from former City Manager Richard Woodruff indicating that auto sales spaces then in use could continue to be used for this purpose. Enterprise Rent-A-Car would also occupy half of the site, he added. Community Development Director Ron Lee explained that he had referred Mr. Nocera to City Council since Council is the only entity which can direct a text change in this matter. He also confirmed for Council Member Herms that only offices for boat or auto sales are allowed in that district and that now lots for display of these products are permitted. Mr. Herms noted other sites in the same nonconforming situation in the "D" Downtown district and said that Mr. Nocera's request is reasonable and should be considered. Vice Mayor Galleberg urged that a staff summary be provided prior to any direction on the text amendment being conveyed. City Manager Lee indicated that he would meet with Mr. Nocera and staff in order to provide City Council with this information for their review for the next Council meeting. **Anthony Wood, 450 Palm Circle West, owner of the Café** expressed opposition to sandwich boards, indicating directional signs in such areas as planters as more aesthetically pleasing. He also requested the City improve the lighting on side streets.

Revised

Mayor MacKenzie then announced implementation of a new system for presenting agenda items: the City Attorney would be reading the legal title, and the City Manager would give a brief

introduction of the agenda item, allowing the public to more easily understand the topic under discussion.

**RESOLUTION 03-10214.....ITEM 6**  
**A RESOLUTION APPROVING THE FUNDRAISING PROJECT GATORS GALORE**  
**2004 BENEFITTING THE BOYS AND GIRLS CLUB OF COLLIER COUNTY AND**  
**THE VON LIEBIG ART CENTER; AND PROVIDING AN EFFECTIVE DATE.** Title  
read by City Attorney Robert Pritt (9:51 a.m.). City Manager Robert Lee explained that the Boys & Girls Club of Collier County and the Naples Art Association were requesting placement of gator sculptures on public and private property in the pedestrian areas of Venetian Village, Coastland Center, Fifth Avenue South, and Third Street South shopping areas, as well as Waterside Shops, Tin City, and Bayfront Marketplace. He further noted that, pursuant to Council's request, organizers had shortened the duration of the event from six to four months, and had also changed the name from "Gators Galore...Once More" to "Gators Galore 2004."

Event chair Lea Smith noted a map depicting the proposed locations for the 50 sculptures and confirmed shortened display time from December 1, 2003 to April 1, 2004. (The various documentation noted during this discussion is contained in the file for this meeting in the City Clerk's Office)

While three locations in Collier County had been proposed, Ms. Smith pointed out that the City had been the focus due to pedestrian accessibility, safety, and visibility. She further advised, however, that three County locations had also been proposed. The sculptures would be the same form as the 2001 event but with new styles of decoration features.

Both Council Member Russell and Vice Mayor Galleberg also expressed reservations regarding the permanence of the sculptures. Council Member Wiseman stated she would be unable to support this proposal based on the proliferation of gator sculptures throughout the City, the vandalism possibilities, and traffic safety concerns; nevertheless, she commended the committee for its efforts to raise funds for a worthwhile cause.

Chair Smith then indicated her agreement with Mayor MacKenzie's request that no more than six pieces occupy public property and that host properties not place them in front of competitors. Council Member Herms however pointed out that gator sculptures on private property would be viewed the same as other privately owned sculptures throughout the City. He also received clarification that the sculpture at Fire Station #1 had been placed for permanent display after completion of the required approval process.

Council Member Taylor moved for approval of the resolution as written, allowing six gators on public property but not on a competitor's property, and Mayor Mackenzie seconded the motion. Vice Mayor Galleberg then suggested a one-year time limit for gator sculptures placed on public property. City Attorney Robert Pritt summarized changes in that no more than six gator sculptures be allowed on public property and not without the approval of a property or business owner and displayed for one year only with a deadline for removal of April 1, 2005. Vice Mayor Galleberg also requested that the displays be limited to commercial areas with exterior placements, and pointed out that the resolution under consideration referred to the new sculptures only and not those remaining from the 2001 event. Motion maker and seconder indicated

concurrence with the changes proposed, and Council Member Wiseman said she would now be able to support this event.

**Public Comment:** None. (10:35 a.m.)

***MOTION by Taylor to APPROVE RESOLUTION 03-10214 as amended as follows: 1) No more than six gator sculptures will be permitted on public property and none are to be placed without approval of the property or business owner; 2) gator sculptures must be removed no later than April 1, 2005, and on public display only during that time; and 3) gator sculptures will be limited to exterior placements in commercial areas only. This motion was seconded by MacKenzie carried 6-0 (Galleberg-yes, Herms-yes, MacIlvaine-absent, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).***

**Recess: 10:35 a.m. to 10:45 a.m.** It is noted for the record that Vice Mayor Galleberg and Council Member Taylor were not present when the meeting reconvened, returning during ex parte disclosures in reference to Item 7 below.

**RESOLUTION 03-10215.....ITEM 7**

**A RESOLUTION APPROVING SUBDIVISION PLAT PETITION 03-SD2 FOR PRELIMINARY AND FINAL PLAT APPROVAL TO SUBDIVIDE 77,649 SQUARE FEET INTO SEVEN RESIDENTIAL LOTS LOCATED AT 4880 WEST BOULEVARD, 4884 WEST BOULEVARD COURT, AND 4888 WEST BOULEVARD COURT, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.**

Title read by City Attorney Robert Pritt (10:45 a.m.) City Manager Robert Lee noted that the petitioner proposed to subdivide three existing lots into seven single-family dwellings with the following conditions: 1) Each lot must have its own sewer lateral and water meter to be located on the front corner of the lot. 2) The subdivision shall be subject to a site development planning process and shall comply with all City roadway, utility, and storm water standards. 3) The sidewalks shall be a width of five feet and located adjacent to the proposed setback line. Additionally, Dr. Lee referenced a memorandum from the City Attorney that provided further information regarding Council's authority (Attachment #2).

Council members disclosed the following ex parte communications: MacKenzie/letter from a neighbor and a telephone call from the petitioner's agent in response to questions posed at the last Council meeting and faxed Attorney Dennis Cronin copies of the neighbor's letters; Wiseman/received copy of the neighbor's letters and had a brief conversation that morning with Attorney Cronin relative to production of the easement; Russell/received the aforementioned letters, visited the site, but had no other contact; Galleberg/received correspondence and engaged in a brief discussion with Attorney Cronin prior to meeting that day in which he clarified that an unfavorable remark made relative to the petitioner at the last Council meeting reflected prior complaint letters from neighbors regarding petitioner's performance on another project; Herms/visited the site, received the correspondence, but had no other contact; and Taylor/visited the site prior to the last meeting and had a brief, non-substantive conversation with Attorney Cronin that morning. Notary Public Bonnie McNeill then administered an oath to those intending to offer testimony; all responded affirmatively.

Attorney Dennis Cronin referred to his letter of October 9 (See Attachment #3) to City Attorney Robert Pritt which included a list of items requested by the Council at the last meeting: 1) The 1949 plat; 2) consolidated grant of easement; 3) tax parcel map; 4) September 15 memorandum

of City Engineer George Archibald stating the City's position regarding utilities, drainage, and the existing street remaining a private roadway; and 5) the petitioner's revised plan providing a drainage easement along the rear of each of the subdivided properties, a sidewalk easement along the front of the properties, and clarification regarding setback distances along the front of the proposed lots. Attorney Cronin indicated his client had complied with all issues previously raised.

Regarding the request for an alternative access to this property, Attorney Cronin indicated that Lot 2 would be designated for construction staging as opposed to Lot 1 which provided the most model visibility.

Attorney Cronin also cited Section 86-204(2) of the Code of Ordinances dealing with nonconformities, which he said related to the private roadway. He said that the property when annexed in 1995 had been incorporated for the purpose of aligning boundaries and not motivated by development interests. However, contrary to assertions by neighbors, Attorney Cronin said that no rezoning was being sought nor was there a proposal for a cul-de-sac. He characterized the petitioner as being responsive to the requests of the Council and sensitive to neighborhood concerns.

In response to Council Member Herms, Community Development Director Ron Lee clarified that the setback is typically measured from the property line although in this situation an easement was also measured from the edge of the pavement. He said that the petitioner had increased the setback from the prior drawings presented to Council. Mr. Herms received further clarification that the property line extended to the center of the private road for a total of 41 feet from the centerline, although a multi-family complex across the street, constructed by the same developer, contained a 55-foot setback. Subsequently, Attorney Cronin distinguished the multi-family subdivision from the single-family subdivision which is the subject of the petition under review.

Although Vice Mayor Galleberg received clarification from City Attorney Robert Pritt that setbacks are relevant to the position of the proposed building envelope in relation to the street, Council Member Herms indicated that not only do subdivision development standards prohibit private streets, the project should dedicate 60 feet to the City, 30 feet on each side of the street. Then, he said, an additional 25 feet would be measured from this 30 feet to reach the 55-foot single-family setback. While Council may allow a proposed development equal to or better than that required in Section 98-74, Mr. Herms said, the setback requirements are not so, which he characterized as the key issue. Since he said development would be similar on both sides of the road, he was of the opinion the setbacks should be similar also.

Council Member Russell however said that despite nonconforming issues, both the City and the neighborhood would benefit from seven single-family dwellings as opposed to the 11 multi-family units allowed.

In response to Council Member Herms, Community Development Director Lee explained that staff believed that Section 98.74 relative to innovative land development did not apply since the parcel is a legal nonconformity under Chapter 86.205. The property was annexed, he further

noted, and the Code recognizes legal nonconforming situations, which may be improved if all development standards are met and the legal nonconforming situation is not perpetuated. In addition, Mr. Lee answered Mr. Herms that replatting standards (Section 98.61) were applied to the extent possible, notwithstanding the legal nonconforming situations such as the private roads. Mr. Herms however contended that private streets were prohibited unless specifically approved as the land development innovation, pursuant to Section 98.74.

Mayor MacKenzie then requested City Manager Robert Lee ascertain the status of legislation previously proposed dealing with monetary penalties for delays in street construction projects.

City Attorney Robert Pritt said that the petition could be approved either via Section 98-74 as an innovative subdivision, which he had suggested (see Pritt October 13 memorandum, Attachment #2) or under Section 86.204(2), depending upon Council's wishes.

Council Member Russell then moved approval; however, he subsequently agreed to inclusion of reference to the following items as requested by Mayor MacKenzie: staff conditions as outlined in Section 2 of the resolution; recognition of the petitioner's representations regarding drainage; the use of Lot 2 for construction; private roadway maintenance issues; and inclusion on the face of the plat that the subdivision is limited to seven single-family units.

Council Member Wiseman indicated she would support the motion if the findings were based on City Attorney Pritt's recommendation on Section 98-74 relative to innovative land development and so stated on the plat. Council Member Russell agreed.

**Public Comment:** None. (11:18 a.m.)

**MOTION by Russell to APPROVE RESOLUTION 03-10215 as amended:**

- 1) with staff conditions as outlined in Section 2 of the resolution;***
- 2) with the petitioner's representations regarding drainage, the use of Lot 2 as construction staging area, and the petitioner's representations relative to private roadway maintenance.***
- 3) 7-unit single-family limitation, placed on the face of the plat.***
- 4) finding based on Land Development Innovation, which allows for a unique land development project, with this statement placed on the face of the plat.***

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

Council Member Herms reiterated that he could not support the petition since it did not comply with applicable standards, especially regarding setbacks. He stressed the importance of citing City Attorney Pritt's legal opinion as to the Code section which should apply, but pointed out that such guidance should however be provided from the onset.

Council Member Wiseman requested Item 8-b(3) be removed from the Consent Agenda so that she could abstain since she had provided legal services to the owner. Mayor MacKenzie noted that she also wished to consider Item 8-d separately.

**CONSENT AGENDA**

**APPROVAL OF MINUTES .....ITEM 8-a**  
September 15, 2003 Workshop and September 17, 2003 Regular Meeting

**SPECIAL EVENTS ..... ITEM 8-b**

8-b(1) Christmas Boat Parade – Village on Venetian Bay – December 4, 2003

8-b(2) Evening Events – Village on Venetian Bay – February 12, March 6, March 17, and April 23, 2004

8-b(3) Golf tournament benefit dinner (Considered separately; see below)

8-b(4) Third Street South Merchant Association evening street entertainment, October 16, and November 20, 2003

8-b(5) Outdoor private party with amplified music within Lake Park Neighborhood, October 31, 2003

**RESOLUTION 03-10216.....ITEM 8-c**

**A RESOLUTION APPROVING AN ANNUAL AGREEMENT, WITH THE OPTION OF TWO ONE-YEAR RENEWALS, WITH AQUATIC PLANT MANAGEMENT, INC.; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. Title not read.**

**RESOLUTION 03-10217.....ITEM 8-e**

**A RESOLUTION APPROVING THE MEDIATED SETTLEMENT OF ROBERT LOPEZ'S WORKERS' COMPENSATION CLAIM IN THE AMOUNT OF \$20,500; WAIVING THE CITY'S SUBROGATION LIEN; AND PROVIDING AN EFFECTIVE DATE. Title not read.**

**RESOLUTION 03-10218..... ITEM 8-f**

**RESOLUTION APPROVING A USER AGREEMENT FOR NON-CRIMINAL JUSTICE PURPOSES BETWEEN THE CITY OF NAPLES AND THE FLORIDA DEPARTMENT OF LAW ENFORCEMENT, FOR THE PURPOSE OF CONDUCTING CRIMINAL HISTORY RECORD CHECKS AS A COMPONENT OF PREEMPLOYMENT SCREENING OF EMPLOYEE APPLICANTS; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. Title not read.**

***MOTION by Russell to APPROVE CONSENT AGENDA except Items 8-b(3) and 8-d; seconded by Herms and carried 6-0 (Galleberg-yes, Herms-yes, MacIlvaine-absent, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).***

**END CONSENT AGENDA**

**SPECIAL EVENT .....ITEM 8-b(3)**

23<sup>rd</sup> Annual Harold's Place Golf Tournament benefit dinner – Harold's Place, 2555 North Tamiami Trail, October 15, 2003.

***MOTION by Russell to APPROVE ITEM 8-b(3) as submitted; seconded by Herms and carried 5-0-1 (Galleberg-yes, Herms-yes, MacIlvaine-absent, Russell-yes, Taylor-yes, Wiseman-abstain, MacKenzie-yes) (See Attachment #4 Form 8-B Memorandum of Voting Conflict for County, Municipal, and Other Local Public Officers)***

**RESOLUTION 03-10220 (See also Page #6)..... ITEM 8-d**

**A RESOLUTION SUPPORTING THE ONGOING COLLIER COUNTY BEACH RENOURISHMENT PROJECT; ENDORSING THE BEACH RENOURISHMENT PROJECT AS A PART OF THE COLLIER COUNTY COMPREHENSIVE BEACH RESTORATION PROGRAM; REQUESTING THE DEPARTMENT OF ENVIRONMENTAL PROTECTION INCLUDE THE FUNDING REQUEST FOR THE PROJECT IN THE DEPARTMENT'S FISCAL YEAR 2004/2005 FIXED CAPITAL**

**OUTLAY LEGISLATIVE BUDGET REQUEST; AND PROVIDING AN EFFECTIVE DATE.** Title read by City Attorney Robert Pritt (11:26 a.m.). City Manager Robert Lee explained that the Collier County coastal project staff had been working with Coastal Planning and Engineering since 2002 to develop a renourishment project for Naples, Park Shore, and Vanderbilt Beaches, initially restored in 1995 and 1996. He further indicated that the County staff had prepared and submitted an application for erosion control funding to the Department of Environmental Protection, and the joint coastal permit for the application had been presented to the Board of County Commissioners.

Vice Mayor Galleberg, however, noted the significance of a County Commission action the day before regarding beach renourishment and requested a continuance of this matter until the next Council meeting. City Manager Lee, however, pointed out that Natural Resources Manager Jon Staiger had indicated the need for expeditious review, although he said he would consult with Dr. Staiger during the noon recess. Council Member Herms also asked City Manager Lee to determine from Dr. Staiger the specifics of the proposed sand screening process planned so as to avoid the rock problems of the previous beach renourishment project. Vice Mayor Galleberg stated that an entirely different process of dredging and screening would in fact be used; he however suggested that Dr. Staiger update the Council on the technical details.

Mayor MacKenzie then advised that Item 8-d would be considered later that day.

**FIRST READING OF ORDINANCE (Tabled).....ITEM 9  
AN ORDINANCE AMENDING SECTION 102-854 (8), AMENDING SECTION 102-1073(b)(1), DELETING SECTION 102-1073(b)(2), AMENDING SECTION 102-1095 (f)(9), ADDING SUBSECTION (f) TO SECTION 106-35, AND DELETING SECTION 106-37(2), OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES TO PROVIDE REGULATIONS FOR THE USE OF PORTABLE SANDWICH BOARD AND A-FRAME SIGNS IN ALL COMMERCIAL ZONING DISTRICTS; PROVIDING FOR CODIFICATION; A REPEALER PROVISION AND AN EFFECTIVE DATE.** Title read by City Attorney Robert Pritt (11:31 a.m.). City Manager Robert Lee explained that while the current Code allows portable sandwich boards and A-framed signs for restaurants and valet parking in the Third Street South and Fifth Avenue South Special Overlay Districts, businesses elsewhere in the City had also displayed them. In March City Council had therefore directed staff to prepare language allowing sandwich board signs in other commercial zoning districts.

Community Development Director Ron Lee said that sandwich board signs would be allowed in the Third Street South and Fifth Avenue South districts as well as on private property elsewhere in the City. Additionally, he summarized the following changes: 1) in the “D” Downtown, a notation has been made that sandwich board signs would be allowed on private property; 2) Section 106-35 indicated that sandwich board signs would be allowed in the Third Street South and Fifth Avenue South Special Overlay Districts, excluding all other commercial zoning districts; 3) Section 106-35(f) indicated a 2 x 3 sign includes the stand; 4) the sign may not be lighted in any manner; 5) a location waiver is provided if a sign cannot be placed in front of a business; and 6) outside Fifth Avenue South and Third Street South commercial district, sandwich board signs would be allowed on private property only consistent with standards outlined in the table, Section 106-35.

Community Development Director Lee then clarified that under Section 106-35 “within 30 feet of the business” would be deleted, leaving “in front of.”

Due to an error in the title advertised for second reading, City Attorney Pritt said that the current consideration should be first reading, however, additional changes made by staff would also have necessitated another reading. Mr. Pritt however said he believed that the phrases “...in front of...” and “...within 30 feet of the business...” should nevertheless be included within the language cited above by Community Development Director Lee. Council Member Wiseman said she had recommended retention of both standards.

Council Member Herms recommended refinement in Section 106-35(f)(1) to make it clear that sandwich boards were permitted in other districts on private property, specifically the “D” Downtown District. City Attorney Pritt agreed and suggested the following: “In districts where permitted, portable sandwich board signs or A-frame signs shall meet the requirements of the district and also the following standards:” Mr. Herms agreed with that revision as it did not define two districts only, he said.

Vice Mayor Galleberg then suggested renumbering Subsection (f)(4) as (g) in Section 106-35 to provide paragraphs dealing with two separate areas. He also suggested that “allow” be amended to “require” in Subsection (f)(3) so that signs would be placed as close to the advertised property as possible. In Subsection (f) Mayor MacKenzie recommended reinstatement of the original language “...in all commercial zoning districts...” which she said was in fact clearer. Council Member Russell, however, suggested clarity was needed indicating sandwich board sign placement would only be permitted on private property in commercial zoning districts.

Mayor MacKenzie then displayed a hand-made sandwich board sign asserting that up to 39 such signs would be allowed at one location under the proposed ordinance language. She took the position that the ordinance would not protect the City’s interests and that both regulation and enforcement would be difficult.

**Public Comment:** **Douglas Smith, Bramble’s Tea Room**, stated that the proposed ordinance would exclude him from placing his sandwich board in its current location approximately 40 feet from the front of his business. Mayor MacKenzie explained that a waiver process would however address such situations.

Vice Mayor Galleberg said that since there was not community support for a ban, an alternative would be to allow sandwich board signs among the options that businesses could choose within the overall signage allowed.

Community Development Director Lee however pointed out that there had not been a proliferation of sandwich board signs to date, but Council Member Taylor cautioned that if this occurred in the future, Council could then ban them altogether, therefore urging prudence among users. Council Member Russell said he remained unconvinced that sandwich-board signs are a business necessity although he said he was not concerned about their proliferation

Council Member Herms recommended a continuance. This motion was later seconded by Council Member Taylor but subsequently withdrawn in favor of a motion by Council Member

Hermes to approve language in Section 106-35(f), which had been recommended by City Attorney Pritt; this motion was then seconded by Miss Taylor. Council Member Wiseman said she too did not believe sandwich board signs represented a major problem but also expressed frustration with the length of the deliberative process.

Prior to the vote, City Attorney Pritt restated the following changes: 1) 106-35(f) would revert to the original language "...in all commercial zoning districts;" 2) the language "signs to be in front of and within 30 feet of the business" would remain; 3) Subsection (f)(3) Location Waiver would state "in front of the business or within 30 feet of the business;" 4) the next sentence in that subsection would substitute "require" for "allow" relative to placement of signs within proximity to the business; and 4) renumber Subsection (f)(4) as (g) which would require relettering elsewhere within the ordinance, but would be a scrivener's matter to be handled later.

In further discussion of how the ordinance language would be refined, Council Member Wiseman predicted that the amendment would ultimately fail because Council Member MacIlvaine, absent that day, did not support the concept. Therefore, she recommended proceeding with the vote. Council Member Wiseman made a motion to table the item and Council Member Taylor seconded that motion. Mayor MacKenzie then pointed out that work on this item would therefore stop and sandwich boards existing on Third Street South and Fifth Avenue South could lawfully remain; however, they would be prohibited in the remainder of the City and 41-10/Heart of Naples district. In addition, Council Member Hermes reminded Council Members that the prior City Manager had been instructed not to enforce sandwich board regulations; therefore, City Manager Lee would also be under that direction until further advised by Council.

**Public Comment:** None. (12:10 p.m.)

**MOTION by Wiseman to TABLE ITEM 9; this motion was seconded by Taylor and carried 4-2 (Galleberg-yes, Hermes-yes, MacIlvaine-absent, Russell-no, Taylor-yes, Wiseman-yes, MacKenzie-no)**

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**Recess: 12:10 p.m. to 1:31 p.m. It is noted for the record that Council Members Hermes was not present when the meeting reconvened.**

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**ORDINANCE 03-10219.....ITEM 10**  
**AN ORDINANCE WAIVING THE IMPLEMENTATION OF THE AUTOMATIC ANNUAL RATE ADJUSTMENT FOR TYPE I AND TYPE II REFUSE FEES REFERRED TO IN SECTION 54-71(d) OF THE CODE OF ORDINANCES FOR THE PURPOSE OF KEEPING THE RATES AT THE SAME LEVEL FOR FISCAL YEAR 2003-2004; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (1:31 p.m.).**

**Public Comment:** None. (1:32 p.m.)

**MOTION by Russell to ADOPT ORDINANCE 03-10219 as submitted; seconded by Galleberg and carried 5-0 (Galleberg-yes, Hermes-absent, MacIlvaine-absent, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).**

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**RESOLUTION 03-10220.....ITEM 8-d**  
**A RESOLUTION SUPPORTING THE ONGOING COLLIER COUNTY BEACH RENOURISHMENT PROJECT; ENDORSING THE BEACH RENOURISHMENT PROJECT AS A PART OF THE COLLIER COUNTY COMPREHENSIVE BEACH RESTORATION PROGRAM; REQUESTING THE DEPARTMENT OF**

**ENVIRONMENTAL PROTECTION INCLUDE THE FUNDING REQUEST FOR THE PROJECT IN THE DEPARTMENT'S FISCAL YEAR 2004/2005 FIXED CAPITAL OUTLAY LEGISLATIVE BUDGET REQUEST; AND PROVIDING AN EFFECTIVE DATE.** Title read by City Attorney Robert Pritt (1:32 p.m.). Natural Resources Manager Jon Staiger explained that Collier County had requested endorsement for the state-supported project with the assumption of a \$6 million reimbursement from the \$17 million project. He also indicted the County was expecting funds from the Federal Emergency Management Agency (FEMA) to repair damage that occurred from a recent tropical storm.

**It is noted for the record that Council Member Herms entered the meeting at 1:36 p.m.**

Instead of the method used in 1995-96, Dr. Staiger said, a more refined filtering mechanism would more effectively screen rock and harvest a better quality of sand. In the 1995-96 beach renourishment project, rocks were not detected until the sand had been placed on the beach.

Council Member Russell expressed support of the grant application and moved for approval; however, the motion died due to lack of a second.

Council Member Herms said he would be unable to support a project that had a 3/4-inch screening standard for rocks, suggesting 3/8-inch as a minimum standard. Dr. Staiger said that in his opinion the company would be able to meet a specific screening standard requested.

As noted on Page 8, Vice Mayor Galleberg referred to Collier County Commission action as being detrimental to beach renourishment in favor of acquiring additional beach access. He said the County Commission requested the Collier County Coastal Advisory Committee create a policy allocating renourishment funds from the Tourist Development Council (TDC), which had been established by referendum. He noted that the executive summary indicated that without funding participation from the Florida Department of Environmental Protection (FDEP), the project must be scaled back, counter to interests and policies established. Mr. Galleberg therefore questioned supporting this project indicating it had put the City in a difficult position.

Vice Mayor Galleberg also expressed the belief that the County Commission's decision had been based on inaccurate and false information as if State and Federal funds would be made available for beach restoration. He said he was of the opinion that the County's action would be contested and that it violated voter intent and would generate strong opposition from citizens.

Acknowledging these concerns, Council Member Russell nevertheless stressed the importance of supporting the grant application in order to comply with the deadlines in order to secure funding to further benefit the community. City Manager Robert Lee encouraged expediting the application process and advised that the due date had already been extended to comply with the Council's meeting date. He said that the issue of beach renourishment tied to land acquisition for beach access could be handled separately. However, Council Member Wiseman then suggested an alternative approach of including a statement within the resolution voicing the City's support of renourishment rather than access as the first priority, and City Attorney Robert Pritt concurred. Mr. Pritt also encouraged Council to move forward, availing the City of the proposed dredging opportunity.

Expressing concerns similar to those evidenced by Vice Mayor Galleberg, Natural Resources Manager Staiger said that the TDC tax had been passed for beach renourishment and inlet management purposes rather than acquisition of upland property and agreed it would be an issue drawing major contention.

Vice Mayor Galleberg acknowledged two separate issues were at stake, noting the importance of state and federal funding for beach renourishment. He said that the TDC Category A funds had been established strictly for beach renourishment but the Collier County Commission had suggested the renourishment funds be redirected and defrayed for a land acquisition/beach access project, which he opposed. However, he stated agreement to Council Member Wiseman's suggested language. Subsequently, Mrs. Wiseman moved for approval and Council Member Russell seconded the motion.

**Public Comment:** None. (1:58 p.m.)

***MOTION by Wiseman to APPROVE RESOLUTION 03-10220, as amended, adding the following whereas clause: "Whereas the Naples City Council supports the recommendations of the Collier County Coastal Advisory Committee and that renourishment should be considered the first priority for the expenditure of available funds." This motion was seconded by Russell and carried 6-0 (Galleberg-yes, Herms-yes, MacIlvaine-absent, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).***

(Continued to November 5, 2003; see Item 4) ..... **ITEM 11**  
**AN ORDINANCE AMENDING SECTIONS 2-157, 2-171, 2-172, 2-187, 2-226, 2-227, 2-228, 2-229, AND 2-462 OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES TO REVISE THE DEPARTMENTAL STRUCTURE AND RESPONSIBILITIES; ADDING DIVISIONS 8 AND 9 TO ARTICLE IV, DEPARTMENTS, TO CHAPTER 2 OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES ESTABLISHING THE DEPARTMENTS OF INFORMATION SERVICES AND HUMAN RESOURCES; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title not read.**

**It is noted for the record that Items 12-a and 12-b were considered concurrently.**

.....**ITEM 12-a**  
**CONSIDER APPROVAL OF THE FOLLOWING AS IT RELATES TO THE USE OF COUNTY SCHOOL BUSES TO TRANSPORT SCHOOL-AGED CHILDREN ON FIELD TRIPS. SCHOOL BOARD TRANSPORTATION CONTRACT AND RESOLUTION – REQUEST FOR WAIVER OF CONFLICT ON INTEREST.** City Attorney Robert Pritt explained that Item 12-a is a request on behalf of Roetzel & Andress for a conflict waiver on a School Board matter as his firm represents both the School Board and the City. City Manager Robert Lee explained that the Community Services Department conducts annual field trips and camp programs and that an agreement is normally executed between the School Board of Collier County and the City of Naples for the use of buses to transport school-aged children on these trips. He further indicated that insurance requirements had been met and that the terms and conditions of this agreement are the same as prior years; budgeted amount is \$30,000.

**Public Comment:** None. (2:02 p.m.)

***MOTION by Taylor to APPROVE, Request for Conflict Waiver-School Board (Item 12-a); seconded by MacKenzie and carried 5-1 (Galleberg-yes, Herms-no, MacIlvaine-absent, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes)***

**RESOLUTION 03-10222..... ITEM 12-b**  
**A RESOLUTION APPROVING A TRANSPORTATION AGREEMENT FOR NON PROFIT ORGANIZATIONS TRANSPORTING SCHOOL-AGE CHILDREN, BETWEEN THE DISTRICT SCHOOL BOARD OF COLLIER COUNTY AND THE CITY OF NAPLES, FOR THE USE OF COUNTY SCHOOL BUSES TO TRANSPORT CHILDREN ON FIELD TRIPS; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.** Title read by City Attorney Robert Pritt (2:02 p.m.).

**Public Comment:** None. (2:02 p.m.)

**MOTION by Galleberg to APPROVE RESOLUTION 03-10222 as submitted; seconded by Russell and carried 6-0 (Galleberg-yes, Herms-yes, MacIlvaine-absent, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes)**

**(Continued to November 5, 2003; see Item 4) ..... ITEM 13**  
**A RESOLUTION APPROVING A TWO-YEAR AGREEMENT, WITH THE OPTION OF TWO ONE-YEAR RENEWALS, WITH PROLINE CORPORATION; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.**

**(Continued to November 5, 2003; see Item 4) ..... ITEM 14**  
**A RESOLUTION APPROVING A CONTINUING CONTRACT WITH SUBOCEANIC CONSULTANTS, INC. TO PROVIDE MARINE ENGINEERING SERVICES ON AN AS-NEEDED BASIS; AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT; AND PROVIDING AN EFFECTIVE DATE.**

**RESOLUTION 03-10223..... ITEM 15-a**  
**A RESOLUTION DESIGNATING TARA A. NORMAN, CITY CLERK, AS CHIEF ELECTION OFFICIAL FOR THE CITY OF NAPLES GENERAL ELECTION OF FEBRUARY 3, 2004; AND PROVIDING AN EFFECTIVE DATE.** Title read by City Attorney Robert Pritt (2:02 p.m.). City Clerk Tara Norman explained that this is an item considered prior to each election, which would also necessitate another subsequent resolution for an appointment to the Canvassing Board, if the City Clerk in fact serves as the Chief Election Official.

**Public Comment:** None. (2:03 p.m.)

**MOTION by Wiseman to APPROVE RESOLUTION 03-10223 as submitted; seconded by Russell and carried 6-0 (Galleberg-yes, Herms-yes, MacIlvaine-absent, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).**

**RESOLUTION 03-10224..... ITEM 15-b**  
**A RESOLUTION AUTHORIZING THE USE OF THE COLLIER COUNTY VOTING AND BALLOT TABULATION SYSTEM FOR THE CITY OF NAPLES GENERAL ELECTION TO BE HELD FEBRUARY 3, 2004; AND PROVIDING AN EFFECTIVE DATE.** Title read by City Attorney Robert Pritt (2:04 p.m.). City Clerk Tara Norman advised this was part of the annual process preliminary to the execution of an interlocal agreement for election services for the Supervisor of Elections.

**Public Comment:** None. (2:05 p.m.)

**MOTION by Russell to APPROVE RESOLUTION 03-10224 as submitted; seconded by Wiseman and carried 6-0 (Galleberg-yes, Herms-yes, MacIlvaine-absent, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).**

**RESOLUTION 03-10225.....ITEM 15-c**

**A RESOLUTION APPROVING AN INTERLOCAL AGREEMENT FOR ELECTION SERVICES WITH THE BOARD OF COLLIER COUNTY COMMISSIONERS AND THE COLLIER COUNTY SUPERVISOR OF ELECTIONS FOR SERVICES AND THE USE OF VOTING AND BALLOT TABULATING EQUIPMENT IN CONJUNCTION WITH THE CITY OF NAPLES GENERAL ELECTION ON FEBRUARY 3, 2004; AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.** Title read by City Attorney Robert Pritt (2:05 p.m.). City Clerk Tara Norman explained that additional services would be provided by the Supervisor of Elections, such as poll worker training that is now mandated by the State.

**Public Comment:** None. (2:06 p.m.)

**MOTION by Wiseman to APPROVE RESOLUTION 03-10225 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 to November 5, 2003) .....ITEM 15-d**

**A RESOLUTION APPOINTING A CITY ELECTOR TO THE CANVASSING BOARD FOR THE CITY OF NAPLES GENERAL ELECTION OF FEBRUARY 3, 2004; AND PROVIDING AN EFFECTIVE DATE.** Title read by City Attorney Robert Pritt (2:06 p.m.). City Clerk Tara Norman indicated that since the City Clerk is the Chief Election Official, another individual would be needed on the Canvassing Board. Council Member Russell said that since he was not up for reelection, he would be willing to hold that position, unless an objection was stated by Council. City Attorney Pritt said that in his opinion this would not violate the Sunshine Law (Chapter 286, Florida Statutes) as the Canvassing Board must comply with the same requirements as other bodies governed by this chapter. City Clerk Norman further indicated that the standard posting procedures would be followed. The nomination of Council Member Russell however failed 3-3 (Galleberg-yes, Herms-no, MacIlvaine-absent, Russell-yes, Taylor-no, Wiseman-no, MacKenzie-yes).

Council Member Wiseman explained she had voted against Mr. Russell's nomination to avoid the perception of Council involvement in the election. Council Member Taylor said she shared Mrs. Wiseman's concern. Therefore, Vice Mayor Galleberg moved for continuance of Item 15-d until the November 5 Council meeting.

**Public Comment:** None. (2:06 p.m.)

**MOTION by Galleberg to CONTINUE ITEM 15-d until November 5, 2003; seconded by Taylor and carried 6-0 (Galleberg-yes, Herms-yes, MacIlvaine-absent, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes)**

**RESOLUTION.....ITEM 15-e**

**A RESOLUTION APPROVING THE FORM AND CONTENT OF THE REFERENDUM PORTION OF BALLOT FOR THE CITY OF NAPLES GENERAL ELECTION TO BE HELD FEBRUARY 3, 2004; AUTHORIZING THE CHIEF ELECTION OFFICIAL TO SUBMIT TO THE COLLIER COUNTY SUPERVISOR OF ELECTIONS SAID REFERENDUM LANGUAGE WITH THE SUBSEQUENT ADDITION OF THE NAMES OF LEGALLY QUALIFIED CANDIDATES; DIRECTING THE CHIEF ELECTION OFFICIAL TO SUBMIT TO THE CITY COUNCIL FOR APPROVAL ANY OTHER REFERENDUM QUESTIONS RECEIVED VIA PETITION BY NOVEMBER 7, 2003, AND FOR WHICH SIGNATURES HAVE CERTIFIED PRIOR TO NOVEMBER 14,**

**2003; DIRECTING THE CHIEF ELECTION OFFICIAL TO, FOLLOWING THE LAST DAY OF CANDIDATE QUALIFYING, PLACE THE COMPLETED BALLOT INTO THE PUBLIC RECORD; AND PROVIDING AN EFFECTIVE DATE.** Title read by City Attorney Robert Pritt (2:10 p.m.). Mayor MacKenzie noted receipt of a letter from Chuck Mohlke dated October 14 (Attachment #5) regarding implications of the ballot language submitted by the petitioners' committee as it pertains to the George Washington Carver, Jasmine Cay and River Park apartment complexes. Mayor MacKenzie said that she was of the opinion that those who drafted the proposed language for the referendum had not intended to include these affordable housing developments in the geographical area defined. Therefore, she suggested that the Honesty In Government political action committee (PAC) be given an opportunity to review Mr. Mohlke's letter and proposed a two-week continuance.

Although Council Member Russell expressed concern that the full text charter amendment is not what is being placed on the ballot, he indicated that Council's function should be to ascertain whether the criteria of the law had been followed as opposed to making a determination of unintended consequences. Since the PAC members had deliberated and drafted their own language, he urged Council to move forward.

Council Member Taylor however supported the proposed continuance to allow Council Members an opportunity to review Mr. Mohlke's comments; therefore she moved for continuance.

In response to Council Member Russell, City Clerk Norman indicated that PAC representative James Kessler had been notified when the wording would be considered, but he had not indicated that he would be attending the Council meeting. Mrs. Norman also noted that if the Council in fact wished to continue approval of the ballot language, an alternate resolution had been drafted splitting out action on the final date for receipt of additional referendum petitions.

**Public Comment:** (2:18 p.m.) **Matt Joyner, 2625 – 13<sup>th</sup> Street North**, expressed dismay that individuals are allowed to distribute a petition without the language being analyzed for validity. He said he was also of the opinion that the language should not have been allowed to be changed for placement on the ballot. He concluded by reiterating his dissatisfaction with what he considered misleading information being presented to the public. In response to Mayor MacKenzie, City Attorney Pritt indicated that Council has the final determination to ensure incorrect ballot language is not placed on the ballot, even if it is a petition.

Council Member Taylor responded to Mr. Joyner by indicating that the City did respond to the petition's claims, which she said had been requested in a town hall meeting and provided by Community Development Director Ron Lee.

Council Member Herms stated that the language submitted by the citizens in their petition is in fact the actual language of the Charter Amendment. However, he said the State Statute requires ballot language to have no more than 75 words (with 15 words or less in the title); therefore, he said the wording had been revised. City Attorney Pritt clarified that the language contained in the petition would in fact be placed into the Charter if the referendum is approved and stated it as customary to have a copy of this actual language available at each precinct for voters to review.

City Attorney Pritt further indicated that the 75-word limit, 15 words in the title, had been imposed by State statute to avoid lengthy ballot language, and must be drafted so that a question could be answered by a yes or no, with yes meaning the voter is in favor of the amendment and no against it. Council Member Herms then seconded the motion for continuance.

City Attorney Pritt noted that City Clerk Norman had prepared an alternative resolution allowing Council to adopt the major portion of the resolution and continue only the portion referring to the ballot language, and the alternative resolution was distributed to Council Members. The motion for continuance was subsequently withdrawn.

**RESOLUTION 03-10226..... ITEM 15-e(1)**  
**A RESOLUTION DIRECTING THE CHIEF ELECTION OFFICIAL TO SUBMIT TO THE CITY COUNCIL FOR APPROVAL FOR INCLUSION ON THE BALLOT OF THE FEBRUARY 3, 2004, GENERAL ELECTION ANY REFERENDUM QUESTIONS RECEIVED VIA PETITION BY NOVEMBER 7, 2003, AND FOR WHICH SIGNATURES HAVE CERTIFIED PRIOR TO NOVEMBER 14, 2003; DIRECTING THAT ANY PETITIONS RECEIVED AFTER NOVEMBER 7, 2003, BE SCHEDULED FOR A SUBSEQUENT ELECTION; AND PROVIDING AN EFFECTIVE DATE.** Title read by City Attorney Robert Pritt (2:33 p.m.). Mayor MacKenzie explained that this was the alternate resolution drafted by City Clerk Tara Norman, which separated the ballot section from the remaining language. (After further discussion, this resolution as well as another separate resolution relative to ballot language were approved.)

Council Member Wiseman said that while she understood the reservations expressed by Mr. Mohlke, Council should not become involved with revising the language drafted by the PAC. Mr. Russell noted that ultimately the voters would make individual decisions and said he also disapproved of Council becoming involved.

Council Member Taylor, however, reiterated that Mr. Mohlke's letter had been received only the day before and that she assumed that James Kessler (Chairman of the PAC) had not been informed of its existence. She said she was of the opinion that a two-week continuance would be more appropriate for all parties to meet to discuss the Mohlke letter.

Council Member Herms made a motion to approve the alternate resolution Item 15-e(1) submitted by City Clerk Norman regarding the petition deadline and Council Member Taylor seconded the motion. Mrs. Norman then advised Council that another alternate resolution had been prepared in advance, anticipating a backup resolution might be needed if Council did not approve the ballot language at this meeting.

Vice Mayor Galleberg said he believed that the PAC should be held accountable to remain as close as possible to the original petition wording. However he said he would support adopting Mr. Mohlke's language stated in Point #3 of his letter (Attachment #5). He said he also understood the need for more deliberation expressed by Council Member Taylor.

**Henry Kennedy, Tarpon Road**, received clarification from City Attorney Robert Pritt that the City Council is responsible to ensure that the wording on the ballot does not violate the requirements of the law.

**MOTION by Herms to APPROVE RESOLUTION 03-10226, (Item 15-e(1)) as submitted; seconded by Taylor and carried 6-0 (Galleberg-yes, Herms-yes, MacIlvaine-absent, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).**

Council Member Wiseman said that Council's only obligation was to ensure compliance with the number of words in the text and the title of the referendum question but did not have the right to interfere with the public's right to petition their government. However, Vice Mayor Galleberg contended that the PAC could specifically be advised that a geographic error had been noted and language reflecting the correct area could then be drafted. Mrs. Wiseman however questioned whether the PAC declined to change its recommended language and whether Council would then be placed in the position of correcting the PAC's geographical error. Notwithstanding the Mohlke letter, Council Member Russell indicated that the Council should remain apart from the ballot language and therefore move forward. He said there could also be other unintended consequences of which Council had not yet been advised. Mr. Russell therefore moved approval of the language as submitted by PAC Chairman James Kessler, [reference Item 15-e(2)] and the motion was seconded by Council Member Herms.

**RESOLUTION 03-10227.....ITEM 15-e(2)**  
**A RESOLUTION APPROVING THE FORM AND CONTENT OF THE REFERENDUM PORTION OF BALLOT FOR THE CITY OF NAPLES GENERAL ELECTION TO BE HELD FEBRUARY 3, 2004; AUTHORIZING THE CHIEF ELECTION OFFICIAL TO SUBMIT TO THE COLLIER COUNTY SUPERVISOR OF ELECTIONS SAID REFERENDUM LANGUAGE WITH THE SUBSEQUENT ADDITION OF THE NAMES OF LEGALLY QUALIFIED CANDIDATES; DIRECTING THE CHIEF ELECTION OFFICIAL TO, FOLLOWING THE LAST DAY OF CANDIDATE QUALIFYING, PLACE THE COMPLETED BALLOT INTO THE PUBLIC RECORD; AND PROVIDING AN EFFECTIVE DATE.** Title read by City Attorney Robert Pritt (2:47 p.m.).

**Public Comment:** None. (2:48 p.m.)

**MOTION by Russell to APPROVE RESOLUTION 03-10227, (Item 15-e(2)) as submitted; seconded by Herms and carried 5-1 (Galleberg-yes, Herms-yes, MacIlvaine-absent, Russell-yes, Taylor-no, Wiseman-yes, MacKenzie-yes)**

City Clerk Tara Norman pointed out inconsistencies in capitalization and requested guidance in correcting the errors. City Attorney Pritt recommended approval of the corrections as the document would be a reflection of Council's work product. Mayor MacKenzie received consensus from the Council Members, and Mrs. Norman advised she would supply a revised copy after corrections had been made.

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**It is noted for the record that Items 16-a and 16-b were considered concurrently.**

**RESOLUTION 03-10228.....ITEM 16-a**  
**A RESOLUTION GRANTING A WAIVER FROM RESOLUTION 02-9689 TO ALLOW FOR THE EXPEDITED REVIEW OF A SMALL-SCALE COMPREHENSIVE PLAN AMENDMENT REZONE PETITION AND REPEAL OF CONDITIONAL USE FOR THE WILKINSON HOUSE AT 40 NINTH AVENUE SOUTH; AND PROVIDING AN EFFECTIVE DATE.** The titles for Items 16-a and 16-b were read consecutively by City Attorney Robert Pritt (2:51 p.m.).

**RESOLUTION 03-10229.....ITEM 16-b**  
**A RESOLUTION ESTABLISHING PUBLIC HEARING PROCEDURES FOR AN ORDINANCE PERTAINING TO A SMALL SCALE COMPREHENSIVE PLAN AMENDMENT, A REZONE PETITION AND REPEAL OF CONDITIONAL USE FOR**

**THE WILKINSON HOUSE LOCATED AT 40 NINTH AVENUE SOUTH; AND PROVIDING AN EFFECTIVE DATE.** City Manager Robert Lee advised that in order to implement the settlement agreement on the Wilkinson House and allow the City to sell the property, a waiver from the deadlines established in Resolution 02-9689 would be necessary. Additionally, he indicated, at least one public hearing must be held on a weekday after 5:00 p.m. unless the local governing body elects to conduct the meeting at another time of day. Therefore, he requested that a public hearing be held at a regularly scheduled Council meeting and proposed a schedule for hearing the Wilkinson House petitions so that a small-scale comprehensive plan amendment could become effective in late December.

Council Member Wiseman moved for approval, which was seconded by Council Member Taylor. Prior to the vote, Vice Mayor Galleberg reminded Council the intention would be to finalize the Wilkinson House transaction by the end of 2003. Community Development Director Lee further informed Council that small-scale comprehensive plan amendments become effective 31 days after second reading, thus necessitating completion of this item by the end of November to meet the end-of-December deadline.

**Public Comment:** None. (2:51 p.m.)

**MOTION by Wiseman to APPROVE RESOLUTION 03-10228, (Item 16-a) as submitted; seconded by Taylor and carried 5-1 (Galleberg-yes, Herms-no, MacIlvaine-absent, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).**

**MOTION by Wiseman to APPROVE RESOLUTION 03-10229, (Item 16-b) as submitted; seconded by Russell and carried 5-1 (Galleberg-yes, Herms-no, MacIlvaine-absent, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes)**

**CORRESPONDENCE & COMMUNICATIONS ( 2:55 p.m.) .....**

Vice Mayor Galleberg said that he had received an inquiry regarding the status of outstanding parking tickets and asked City Manager Robert Lee to provide this information.

Mayor MacKenzie clarified for Council Member Herms that tree planting had been placed on the City Manager's list of upcoming discussion topics for a workshop agenda. In addition, Mr. Herms noted he had requested correction and modification of any setbacks required on U.S. 41 on the "D" Downtown zoning district maps to accurately reflect setbacks.

Council Member Taylor distributed copies of documents received at the Naples Airport Authority meeting held the day before in which NAA indicated a positive financial standing; however, she said, the report dated October 10, 2003 (a copy is contained in the file for this meeting in the City Clerk's office) listed a \$1 million loss. In addition, Miss Taylor said that NAA advised of the loss of a Federal Department of Transportation (FDOT) grant but failed to disclose that they were commencing the year with debt totaling \$750,000. However, Mayor MacKenzie commented that the report indicated losses incurred by NAA were approximately \$414,000 less than had been predicted.

Miss Taylor further advised that she had requested City Manager Lee to investigate information she had received that Collier County may be proceeding with the overpass commitment as early as January 2004. (Location of the proposed overpass is the intersection of Airport Road and Golden Gate Parkway.) Dr. Lee advised that he anticipated an answer the following week to his

**City Council Regular Meeting – October 15, 2003 – 9:00 a.m.**

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follow-up letter sent on behalf of the City Council regarding the request for additional information and an analysis from the County of the alternatives and the process they followed in making the overpass decision. In response to Council Member Herms, Mayor MacKenzie said that she would be willing to contact County Commission Chairman Henning to schedule a meeting with the County Manager.

Mayor MacKenzie requested Council Members to submit any topics they wished to have presented at the Collier County Legislative Delegation meeting which was scheduled for November.

**ADJOURN** .....  
3:02 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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Bonnie, McNeill Recording Specialist

Minutes Approved: \_\_\_\_\_