



City Council Chamber  
735 Eighth Street South  
Naples, Florida 34102

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**City Council Workshop Meeting – December 1, 2003 - 8:30 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

**Council Members:**

Joseph Herms  
William MacIlvaine  
Clark Russell  
Penny Taylor  
Tamela Wiseman

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**Also Present:**

Robert Lee, City Manager  
Robert Pritt, City Attorney  
Jon Staiger, Natural Resources Manager  
David Lykins, Community Services Director  
Ron Lee, Community Development Director  
Dan Mercer, Public Works Director  
George Archibald, Traffic Engineer  
Jessica Rosenberg, Deputy City Clerk  
Karen Kateley, Administrative Specialist

Gene Van Gemert

**Petitioners:**

John Passidomo  
Terry Lenick

Other interested citizens and visitors

**Media:**

Dianna Smith, Naples Daily News

**SET AGENDA.....ITEM 2**

No changes.

**PUBLIC COMMENT.....**

(8:30 a.m.) **Gene Van Gemert**, 1450 Nottingham Drive, requested City Council consider installing the 12 shuffleboard courts promised when they had been removed to install additional tennis courts at Cambier Park.

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**Recess: 8:34 a.m. – 9:16 a.m. It is noted for the record that all Council Members were present when the meeting reconvened. Council Member Wiseman entered the meeting during the recess.**

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**BRIEFING BY CITY MANAGER.....ITEM 3**

City Manager Robert Lee provided his written report (copies of which, along with other pertinent documents are contained in the file for this meeting in the City Clerk's Office). He indicated that the following topics had been included: responses to questions posed on 09/30/03 by City Council regarding the monthly budget report; schedule for visit by Fifth Avenue consultant

Andres Duany, City Dock waiting list, boat speeds on Naples Bay, Australian pines along North Road, beach renourishment, sidewalk repair, Naples Airport Authority police service billing, diesel fuel spill at Naples Boat Club, upcoming meeting with Collier County Transportation Officials, traffic modeling of downtown, temporary relocation of Norris Center staff, River Park Community Center punch list, beach clean-up, and commercial and residential square footage data for the Heart of Naples and the Capital Improvement Program (CIP) schedule.

City Manager Lee acknowledged the efforts of Community Development Director Ron Lee, Community Services Director Dave Lykins, Public Works Director Dan Mercer and Finance Director Anne Marie Ricardi in creating the CIP summary (a copy of which is contained in the file for this meeting in the City Clerk's Office). He advised that this report would be updated monthly and placed on the City's website.

City Manager Lee requested Council guidance regarding use of the City Council Chamber by groups for candidate forums and debates in conjunction with the upcoming election, as well as homeowner associations and other political action committees; he said that he could create a policy but nevertheless requested some direction regarding Council's desires. Another item, he said, was direction regarding requests from Council Members pertaining to the upcoming election wherein the creation of information becomes necessary to meet the request.

Mayor MacKenzie indicated that she supports granting requests for use of the Council Chamber if they do not involve broadcasting on the City's TV channel, and if the users provide for clean-up and security. Council Member Taylor indicated her concurrence but inquired as to the status of The League of Women Voters' request to re-broadcast their candidate forum. City Manager Lee said that the City Attorney would present his opinion regarding this matter on Wednesday, December 3. Noting that certain standards exist for use of a public facility like the Council Chamber, it is nevertheless important to hold a discussion regarding broadcasting.

With reference to Council Member requests for public information, Council Member Russell said that while legitimate, those requests that necessitate staff creation of information should require consensus from Council and be assigned by the City Manager. City Manager Lee said he was nevertheless requesting further clarification regarding those requests for information that pertain to the upcoming election and the creation of information by staff. Mr. Russell said that he strongly feels that only Council as a whole can direct the City Manager to develop or create additional information; not individual Council Members.

Council Member Herms said he feels there should be consensus regarding the broadcasting of events occurring in Council Chambers and regarding requests for information by individual Council Members, Mr. Herms indicated that those requiring staff to create information are different from strictly public records requests.

Vice Mayor Galleberg said that the City Attorney's opinion would dictate procedure regarding all requests for use of Council Chamber and the re-broadcasting of events held there. He then said he feels strongly that public documents are available to anyone and staff should facilitate locating those documents, however, staff should not be employed as professionals or experts on any side of any political question.

Council Member MacIlvaine said that requests for information that differ from public information, which is readily available, should not be made by individual Council Members nor should the creation of information be undertaken by staff; Council as a whole can make those requests, he said. Also, he added, any information that comes from staff should be made available, in complete form, to all Council Members.

Council Member Taylor said that through her tenure on Council she has requested staff to compile and analyze information. Although Council Members should not overburden staff, for a majority of Council to decide what each Council Member can request from staff is not something she could support.

City Manager Lee said that he understands there are differences of opinion and that he would use his discretion to the best of his ability.

.....**ITEM 7**  
**DISCUSSION REGARDING CREATING A NEW ZONING DISTRICT FOR THE**  
**MOORINGS SUBDIVISION AND PREPARING A TEXT AMENDMENT FOR THE**  
**NEW ZONING DISTRICT.**

**Public Comment:** (9:34 a.m.) **Dan Castaldini**, 3396 Crayton Road, explained that the Moorings Property Owners Association is requesting amendment of development standards in an effort to control the proliferation of mega-houses in their neighborhood. He requested that Council therefore support a request for a separate zoning district, which he said preliminary neighborhood canvassing indicates, would be supported.

Council Member Russell praised the citizen-based initiative but asked for more information as to the content of the canvassing documents. Mr. Castaldini explained the initial survey to neighbors was to seek permission to move forward with the proposals; the telephone canvassing would include all the issues.

Council Member MacIlvaine also expressed the need for City Council to understand the manner in which the canvassing would occur and requested a copy of the information provided to the residents as well as copies of their responses. Mr. Castaldini indicated that the results of the telephone canvassing would be forthcoming, adding that the Association would not proceed further with this request if the majority of the residents do not favor the proposal.

Vice Mayor Galleberg concurred that a citizen and association-based initiative is the most favorable approach and further agreed that if there is broad support by the residents of the Moorings, establishment of a specific zoning ordinance would then be favorable. However, Mr. Galleberg requested more information on a proposal that would be presented to Council on December 3 regarding the subdivision of two lots into three. Mr. Castaldini characterized this as a separate issue, the Association's initiatives being more related to setback issues, total lot coverage, building envelope issues and building height; nothing overly restrictive is being considered and there is no intention of interfering with individual property rights, he added. He added, however, that there have been several specific proposals, which he would be willing to share with Council. In summary, Mr. Castaldini said the residents of the Moorings are merely requesting the ability to construct reasonable homes that would not impose a negative impact on the neighborhood.

In response to Mayor MacKenzie, Mr. Castaldini said that if it becomes an issue in the future, mechanical equipment noise would be another item addressed. Council Member Taylor however urged the Association to discuss this noise issue further, noting that she feels strongly that the City's noise ordinance should be revised. Mr. Castaldini however said that the Association determined it best to limit the content of the initiatives to avoid complexity and delay. If the ordinances are enforced, it is uncertain how this issue will effectively be resolved, he added.

Vice Mayor Galleberg then made the motion to direct the City Manager to assist representatives of the Moorings Property Owners Association with the proposed zoning amendments or modifications that would apply strictly to their neighborhood. The motion was seconded by MacIlvaine, however, further discussion ensued.

Council Member Wiseman expressed a lack of support for the motion absent telephone survey results expressing the concern that it would otherwise be a non-productive use of staff time if the residents do not support the proposal. She echoed Council Member MacIlvaine's request to review the content of the telephone canvassing. In response to Council Member Herms, Mr. Castaldini also indicated that the preliminary results of the telephone canvassing indicate overwhelming support (approximately 97%) of the proposal, noting that more than half of the residents have been contacted.

Vice Mayor Galleberg concurred with Council Member Wiseman and further suggested that the motion be clarified to direct the City Manager to proceed with less labor-intensive activities (i.e., a preliminary dialog with the Association regarding their plans) over the next nine days, but delay more detailed and time-consuming activities until the canvassing results are completed on December 10.

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**It is noted for the record that Council Member Herms left the meeting at 9:53 a.m.**

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Council Member Russell expressed the importance of City Council affording residents who oppose the proposal an opportunity to voice their opinions before Council.

**MOTION made and clarified by Galleberg, DIRECTING THE CITY MANAGER TO ASSIST THE MOORINGS PROPERTY OWNERS ASSOCIATION AND OTHER INTERESTED PARTIES OF THE MOORINGS WITH ESTABLISHING A NEW ZONING DISTRICT FOR THE MOORINGS WITH THE UNDERSTANDING THAT THE ASSISTANCE WILL BE AT THE LEVEL OF DISCUSSION UNTIL THE RESULTS OF THE CANVASSING ARE COMPLETED AT WHICH TIME DETAILED ASSISTANCE WITH PROPOSED AMENDMENTS TO THE ORDINANCES CAN COMMENCE. This motion was seconded by MacIlvaine and carried 6-0 (Galleberg-yes, Herms-absent, MacIlvaine-yes, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes.)**

It was agreed that an update of the canvassing results will be reviewed at the Council Workshop, scheduled on December 15, 2003.

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**It is noted for the record that Council Member Herms returned to the meeting at 9:56 a.m.**

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**REVIEW OF ITEMS ON 12/05/03 REGULAR MEETING AGENDA.....ITEM 4**  
**Item 6** (alley vacation) Council Member Russell requested clarification regarding the necessity of the request; Council Member Herms requested clarification regarding whether the adjacent properties will share the vacated area. **Item 7** (Boat Haven redevelopment) Council Member

Taylor requested the following: the October 22, 2003 Design Review Board meeting minutes; clarification of the public parking allocation and what constitutes the public; an analysis of the number of transient lodging rooms compared to those in approval process; a legal opinion on the potential conflict regarding the urban design review and the urban designer developing plans for this area; and clarification on cooperation with Southwest Florida Water Management. Council Member MacIlvaine requested clarification of the slips for charter boat captains. Council Member Herms requested clarification of the total square footage of the original PD as opposed to the existing PD for all buildings and parking garages; clarification of the square footage for the various hotel rooms and efficiencies; and clarification of the number of parking garages and location. Mayor MacKenzie requested information regarding the height of the existing building that is scheduled for demolition. **Item 8** (Ruffina annexation) Mayor MacKenzie stated that this item is to be continued; Vice Mayor Galleberg requested clarification regarding the petition's relationship to the County's Community Redevelopment Agency (CRA) district. **Item 9-e** (Norris Center utilities) Council Member Herms requested an overview of the stormwater drainage system placement and expenditure. **Item 9-f** (Norris Center retaining walls) Council Member Russell requested clarification regarding the walls in relationship to the design. **Item 9-h** (water main at I-75/Golden Gate Parkway interchange) Council Member Russell requested an estimate of the funding source. **Item 9-a** (minutes) Council Member Taylor referenced page 3, second paragraph, of the November 3, 2003 Workshop minutes and requested amplification of the statements regarding reference to displays at the Hedges Visitor Center; and Council Member Wiseman corrected a statement on page 10 of the November 5, 2003 Regular Council meeting to reflect that her office is located in a building owned by the landlord rather than a building owned by the petitioner. **Item 9-b** (Urban Forestry Plan) Council Member Herms requested that Item 9-b be removed from the Consent Agenda for a separate vote; Mayor MacKenzie requested the inclusion of trees planted in 1996-97 to the plan. **Item 9-d** (Perimeter lighting in Cambier Park) In an effort to reduce costs, Mayor MacKenzie asked whether the Cambier Park project could be correlated with lighting improvements that are needed at the pedestrian crossings on Fifth Avenue South. **Item 9-I** (raw water main protection-Golden Gate Parkway at Livingston Road) Mayor MacKenzie requested that the agreement define the party responsible for potential road repairs. **Item 10** (Celebration Community Church) Council Member Wiseman requested that Mary Margaret Grusska, Recreation Supervisor of the Norris Center attend the regular Council meeting to address factual inaccuracies and also to provide an explanation of the Planning Advisory Board's (PAB) ~~recommended~~ recommendation to use the grassed area next to the bandshell as opposed to the bandshell itself. Council Member Russell requested an update of the Church's search for property. Vice Mayor Galleberg requested a brief annual history of activity since 1998 and explanation of church-acquired land nevertheless used for purposes other than worship services. Council Member Taylor requested clarification relative to a commitment to eventually discontinue use of the Park. **Item 12** (Beau's Paradise Grill entertainment) Mayor MacKenzie requested that the page from the Special Needs For Exhibits document that is missing from the packet be provided. **Item 13** (Chops City Grill and Gallery outdoor seating) Mayor MacKenzie stated that Item 13 will be continued. **Item 14** (guesthouse – 481 8<sup>th</sup> Street South) Council Member Wiseman requested clarification regarding whether the guesthouse was grandfathered in terms of rentals and the reason it is not an expansion of a nonconformity. **Item 15** (subdivisions) Mayor MacKenzie requested clarification of language utilized in the standards. **Item 16** (guest house-445 Galleon Drive) Council Member Russell requested clarification regarding correspondence from the Port Royal Property Owners Association. **Item 18** (urban

Revised

design study) Mayor MacKenzie stated that Item 18 will be continued. **Item 19** (re-establish Beach Renourishment/ Maintenance Committee) Council Member Wiseman requested clarification regarding the funding source; Vice Mayor Galleberg suggested possible continuation of this item.

**Recess: 10:20 a.m. to 10:26 a.m. It is noted for the record that all members were present when the meeting convened.**

**OVERLAP OF FIFTH AVENUE SOUTH AND 41-10 OVERLAY DISTRICTS.....ITEM 5**  
***(Requested by Council Member Herms)***

Ron Lee, Community Development Director, provided a map, depicting four underlying zoning districts within the subject area. In response to Council Member Russell, Mr. Lee explained that an overlay district is a standard planning practice to establish uniform setbacks in multiple underlying zoning districts. For this project, there are four underlying zoning districts, but there is an overlay that has controlled the development standards since its initiation in approximately 1994.

Council Member Herms however reviewed what he characterized as conflicting maps of US 41 between Fourth Avenue and Fifth Avenue South in terms of setbacks, one with a zero setback with no landscaping while the other is a 20 foot minimum and 30 foot maximum setback with certain guidelines for landscaping. He further pointed out conflicting standards in the zoning codes, suggesting that if the setbacks of the downtown district in this particular area are to be zero, the map should be modified and a different zone reflected.

Vice Mayor Galleberg expressed a differing view, indicating that the Fifth Avenue overlay is a product of existing zoning. Underlying zoning in this particular district, i.e., C-1A, C-2 and R-1E, varies, and the “D” Downtown overlay portion supercedes the actual zoning. Although different standards apply, he said, it was nevertheless appropriate to maintain a unified impression at the entrance of Four Corners (US 41 and Fifth Avenue South) from the north.

Director Lee added that the majority of the area is C-1A, which has a ten-foot setback, but all the new buildings on Fifth Avenue have a zero setback in accordance with the overlay. Therefore, it is interpreted that the overlay supercedes any other underlying zoning standards. To remedy this, the boundaries of the Fifth Avenue South Special Overlay District would be changed to exclude the area to which Mr. Herms referred, allowing the “D” Downtown District to prevail or, alternatively, if a more cohesive appearance consistent with the remainder of Fifth Avenue is preferable, then it should remain unchanged.

Vice Mayor Galleberg concurred, indicating that although different, the structures of the zoning standards are compatible and that he believes a decision to allot the corner off the Fifth Avenue Special Overlay District is not an alternative he supports.

Council Member Herms reiterated his concern regarding incompatibility of setbacks, but Council Member Russell said that he felt that the overlay district takes precedence over the underlying zoning; within Fifth Avenue, there is a significant amount of underlying zoning, suggesting that the entire Fifth Avenue area should be rezoned, he said. Instead, a cohesive blending where the “D” Downtown and Fifth Avenue areas intersect would be preferable, as accomplished by the petitioner’s proposal.

Council Member MacIlvaine concurred.

Mayor MacKenzie agreed with Council Member Herms that there are numerous regulations that apply to one area, although the reasoning behind the differentiation was valid. She also concurred with Council Member Russell that a transition area from one zoning district to another is the more appropriate approach but further would not recommend a change in the regulations, which she said she believes to be straightforward.

Council Member Herms however said that whichever imposes the more stringent regulation must apply. In response to Mayor MacKenzie, City Manager Lee said that he would consult the City Attorney to clearly interpret and provide a written statement regarding this particular provision. Vice Mayor Galleberg, however noted that when in conflict, the Fifth Avenue Special Overlay District regulations are to take precedence over the Comprehensive Development Code. He, therefore, requested input from the City Manager and staff on whether they concur that there is no conflict. The City Manager and staff expressed concurrence with Vice Mayor Galleberg's statement.

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Council Member Russell concurred with the staff's interpretation and further disagreed with the implication that any portion of the law was being disregarded. Stating that overlay district codes must be considered in their entirety, Mr. Russell said that the overlay district has never been challenged and has been interpreted consistently by the City Attorney and Planning Department. Council Member MacIlvaine agreed that there is no purposeful or errant ignorance of the law and that he instead felt that the terms overlapping districts and overlay had been confused. The law is not misinterpreted, he said; the Fifth Avenue Special Overlay takes precedence over the overlapping districts.

Council Member Wiseman concurred with Council Member MacIlvaine's comments and noted that she further felt that if the issue requires research on the part of the City Attorney, the cost of acquiring a legal opinion is not warranted. Mayor MacKenzie agreed.

**FUNDING TO PLANT TREES .....ITEM 6**  
***(Requested by Council Member Herms)***

City Manager Robert Lee reported that the Planning Department provided backup information regarding this item (a copy of which is contained in the file for this meeting in the City Clerk's Office.).

David Lykins, Community Services Director, related a brief history of the tree initiative, explaining a one-time authorized expenditure of \$250,000 was allocated in 1998-1999 for a street tree vacancy and infill program, followed by a supplemental \$54,000 allocation in 1999-2000, for a total of approximately \$300,000. Since that time, 1,076 trees have been planted and currently \$75,000 is allocated annually in the utility tax fund for Capital Improvement Program (CIP) projects over the next five years with the hope that it will be expanded to ten years, allowing the placement of 250 new trees on City rights-of-way annually. An attrition rate of approximately 100 trees per year has been experienced, Mr. Lykins continued, allowing an annual net gain of approximately 150 trees to the tree inventory. Some 523 known vacancy locations Citywide have been identified and species for replacement have been identified through meetings with various property owner associations and plantings are anticipated to take place on

five streets in the Moorings neighborhood in March, he explained, with bids to be received in December and presented to Council for award in February. In conclusion Mr. Lykins noted the existence of both underground and overhead wires present challenges to tree placement.

Council Member Russell expressed disagreement with allocating funding on an annual basis in view of the potential for limited space and said he strongly encouraged that a goal be established with respect to the tree plantings and once achieved, funding be limited to maintenance.

Council Member Herms however, said that there had been a significant reduction over the past four years ranging from 1,350 in 1999 to 202 in 2003 and that in recent years, many of the trees had been planted in new medians or as enhancements in park areas. He requested that Council therefore consider a commitment of \$100,000 currently on hold to plant in 340 of the 523 non-conflicting locations identified by staff, contingent upon the approval of property owners. Mr. Herms added that the \$75,000 annual allocation is restricted to new tree plantings and is not however a new initiative. Although costly, the trees are a unique feature that drastically improves the appearance of the streets, he added.

Vice Mayor Galleberg agreed that the City's green canopy is a distinguishing characteristic but also agreed with Council Member Russell regarding the need for an overall goal, distinguishing between new medians and landscaping needs. Mayor MacKenzie however confirmed the existence of a Master Plan, entitled the Urban Tree Program, which identifies a street-by-street plan. However problems had arisen in 1998 with respect to availability of space in view of underground and overhead wiring, the high cost associated with planting the trees by hand, and citizen concerns regarding conflicts with individual landscaping. While generally supported, Mayor MacKenzie said citizens want the most appropriate trees planted in the most appropriate locations and in a cost-effective manner. She indicated her willingness to share the Master Plan with Community Services Director Lykins for distribution to other Council Members.

Council Member Herms said that he agreed with Mayor MacKenzie's analysis, adding that the staff had performed an analysis, which reflected 1,600 trees that could potentially be planted. However, upon completion of the tree survey, 523 trees were identified for planting in non-conflicting sites at a cost of approximately \$275 to \$300 per tree.

In response to Mayor MacKenzie, Mr. Lykins advised that the 900 trees were planted before the 1998 capital budget through use of internal staff coupled with stock available from a tree nursery operated by the City which had eventually involved too much staff time, thus the decision to retain a contractor to install trees.

Mr. Lykins confirmed Mayor MacKenzie's comments that proceeds of \$100,000 from the parks bond issue had been placed on hold in view of the shortfall in conjunction with renovating Fleischmann Park and that a report regarding continuing shortfalls in this project would be presented to Council at a later time.

Council Member Herms clarified that although staff is recommending postponement of the Fleishmann Park expansion in view of the negative budget variances, other surplus sources are nevertheless available in the general fund for the tree initiative if it is considered a priority.



Council Member Russell however maintained that at some point there would be diminishing returns and efforts would become too costly. In an effort to better assess the issue, he expressed interest in the possibility of an updated Master Plan that would clearly outline costs and benefits.

In response to Council Member Herms' request, Mr. Lykins indicated that he would determine the cost per tree, and Council Member Taylor recommended that this issue be reviewed in conjunction with the staff's recommendation regarding Fleischmann Park. City Manager Lee pointed out that one of staff's roles is to review the tree ordinance, and upon completion of this review, any recommendations would be conveyed to Council.

**REVIEW OF WATERSIDE SHOP PROPOSAL AND IMPACT ON CITY .....ITEM 8**

City Manager Robert Lee announced that Public Works Director Dan Mercer and Traffic Engineer George Archibald have been asked to provide a status report with respect to the content of supporting documents provided to Council regarding the impact of the Waterside Shop proposal on the City. In response to Mayor MacKenzie, Mr. Archibald acknowledged that the original planed development submission and exhibits had not been reviewed, although a meeting with the County would soon take place for this purpose. Mr. Mercer provided a brief overview of the proposed amendment to the PUD (Planned Unit Development) for Pelican Bay, which includes an expansion of the Waterside Shops. On November 20, he said, the Collier County Planning Commission continued this item until December 18 in view of several issues that needed clarification.

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**Recess: 11:09 a.m. to 11:15 a.m. It is noted for the record that the entire Council was present when the meeting convened.**

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Mr. Mercer stated that 33% of the traffic from the Pelican Bay/Waterside Shops PUD is generated from the expansion of Waterside Shops while just 1%, or 2,100 acres of the Pelican Bay PUD is represented by the shopping center. The anticipated flow of traffic will not only negatively impact the City's nearby neighborhoods, but also will affect Pelican Bay.

Mr. Mercer then reviewed the details of the Pelican Bay PUD. It had been initially approved in 1977 and amended in both 1981 and 1989 and contained two additional access roads off US 41 with two potential connections to Seagate Drive at West Boulevard and Crayton Road. A study performed in 1981 reflected that traffic would increase by approximately 53,000 vehicle trips while a 1991 study showed that by opening West Blvd., traffic would increase 13 to 15% overall throughout Crayton Road, the Moorings and Park Shore area. By opening Crayton Road, a 50% increase in traffic (over 25,000 trips per day) would result. At that time, City Council had submitted the PUD study to the Collier County Planning Commission along with a policy position urging them to consider alternatives to opening Crayton Road and expanding Seagate to four lanes, Mr. Mercer noted. Instead, it was determined that the PUD would control the connections through a public hearing process with a final decision by the County Commission.

As a result of the 1989 Amendment, the number of dwelling units was reduced from 9,600 to 8,600; 445,000 square feet of commercial space was added for a total of 1,000,095 square feet, and US 41 was expanded to six lanes, Mr. Mercer continued. In the north, there is currently 150,000 square feet of retail/commercial space. In terms of the current proposal, however, 134,343 square feet of commercial space, 161,000 square feet of office space and 8,300 square feet of retail space are to be relocated from the north to the Waterside Shops. The number of

multi-family residences will be reduced from 8,600 to 7,800. Public Works Director Mercer then referred to three studies, including one by David Plummer and Associates in 2002, which reflect the peak total (between 4:00 and 5:00 p.m.) at 6,800 and 75,000 daily trips. Proposed trip build-out reflects a modest increase of 228 trips. However, the Waterside Shops trip generation study reflects 1,344 trips with an increase of 386 (1,730) during peak times although Mr. Mercer said that his estimations are higher (2,293), pointing out that there is a substantial south retail and office increase of 39% in the traffic flow around the Waterside Shops. He also noted that Traffic Engineer George Archibald had relayed his concerns via letter to the Collier County Traffic Engineer to the effect that West Boulevard is nearing design capacity and the plans for expansion do not address the additional flow. In response, the Collier County Traffic Engineer had indicated that although an impact is evident, the model did not take into consideration the additional traffic flow. Mr. Mercer added that the 1981 study will most likely be updated since the issues are identical to the current situation. Furthermore, a policy position should be forwarded to Collier County, opposing the opening of Crayton Road, he concluded.

In response to Mayor MacKenzie, Traffic Engineer Archibald referenced an unconfirmed report that the Board of County Commissioners had modified the County's growth management plan. As part of their comprehensive plan amendment, he said, the level of service was lowered on US 41, thereby enabling them to remove the building moratorium there.

In response to Council Member Taylor, Public Works Director Mercer said that according to the petitioners and traffic engineer, the opening of Crayton Road to Seagate is not essential for the expansion of the Waterside Shops and that the directional traffic on West Boulevard will also be a concern as it will be similar to the limitations imposed for directional flow at Tenth Street where it intersects with Coastland Center Mall. Miss Taylor further questioned whether the Collier County Commissioners are legally bound to consider the traffic implications; Mr. Archibald indicated that this matter is being investigated. Council Member Taylor also expressed dismay that the Collier County Commissioners do not perform traffic counts during the peak periods of February and March. Mr. Archibald advised that the method of measuring level of service was determined during the developmental process for the comprehensive amendment plan. Council Member Taylor expressed appreciation to Messrs. Mercer and Archibald for their efforts in preparing what she characterized as a thorough and comprehensive report.

Council Member Russell also expressed his appreciation and further supported the recommendation that a formal link be established for items of this nature between County and City staff members in order to ensure that the issues of all parties are addressed. Mr. Russell however requested clarification relative to what he described as significant discrepancies in the traffic count projections between the County and City for the intersection of US 41 and Seagate, questioning whether the traffic volume in the original approval that developer WCI possessed are new traffic counts determined by David Plummer & Associates or rearranged projected from the original DRI (Development of Regional Impact) and the PUD. Mr. Archibald responded that the consultant figures were provided through Collier County and the Florida Department of Transportation. Count data, which is considerably high for a six-lane roadway, he said, was secured through a continuous count station on US 41 in the immediate area. However, the City's count station, located immediately to the south, reflects significantly higher counts. Although the City is seeking authentication of the count stations, the issue remains unresolved, Mr.

Archibald said, and further noted that the discrepancy may be due to the distinction of the two intersections. However, the primary issue of the City remains that once the traffic flow increases during the peak months, alternative routes are sought, most likely via Crayton Road and West Boulevard.

Council Member Russell agreed that the differentiation between the traffic counts must be reconciled. Mr. Archibald said that relative to the major shift from residential and office to retail use, Collier County had made its determination of a 1% net reduction based on review of the Pelican Bay PUD in its entirety, a shift of residential and office from north to south and a reduction in residential, as opposed to focusing on specific areas, such as the Waterside Shops, where the shift to a higher level of retail will generate a dramatic increase in trips and exceed the designated level of service to the surrounding area.

In response to Council Member Russell, Mr. Archibald stated that the size of a shopping complex is the primary factor used for determination of traffic counts as opposed to types of retail businesses located within the complex. Mr. Archibald also indicated that background traffic relative to additional development currently planned for the immediate area had not been analyzed in depth. However, the timeline for development and the area demographics are also of concern; as retail becomes more intense, the traffic count will increase, Mr. Archibald added, an issue, which Collier must address. The City, on the other hand, is continuing in its efforts to gain background knowledge of the sophisticated traffic modeling used by the County, and it is hoped that the County will update its traffic model based on the data provided by Naples regarding Crayton Road. Mr. Russell encouraged the assistance of the consultant in updating the model as soon as possible and said that the plans for the inclusion of two major department stores in the complex will attract a greater audience and should be addressed in the traffic planning analysis.

Vice Mayor Galleberg added his congratulations on the presentation. He expressed the opinion that since there no longer appears to be any support for opening Crayton Road by any party, this issue can be resolved satisfactorily and no longer be a factor regarding the Waterside Shops expansion. The primary issue relates more to the north/south corridor, he added, and further suggested that the other recommendations be adopted or that Council reach consensus directing staff to obtain the data to ensure a cohesive and sensible decision.

Mr. Archibald then introduced Terry Lenick, who represented the property owners in Pine Ridge, located on the east side of US 41 north of Pine Ridge Road. Mr. Archibald pointed out that as a result of Mr. Lenick's comments at a Collier County Planning Commission meeting regarding developmental and legal issues, the Planning Commission discussion regarding this project was tabled at that time.

Mr. Lenick indicated that he as well as Gary Price, Traffic Engineer, and Bill Okoozie, Head Planner of the Southwest Florida Regional Planning Council (SWFRPC) in Tampa, were retained by a resident who lives across from the Pelican Bay intersection. He presented a map of the Waterside Shops proposal, illustrating two, two-story parking garages and department stores which will abbreviate the roadway entrance and create greater intensity of traffic. He noted that the shops were originally designed as boutiques. Mr. Lenick stated that the Collier County Commission had not considered the legal implications of the project in terms of property

ownership; the property to the north is owned by neither Waterside Shops nor WCI, although an application for rezoning requires the authorization of an owner or the owner's agent, neither of which have been secured. Therefore, if the shift of residential and office to the Waterside Shops cannot be accomplished; the traffic analysis must be based solely on the Waterside Shops, thereby disputing the 1% reduction.

Mr. Lenick further disputed the US 41 traffic count performed by the County, pointing out that US 41 is governed by the State, which requires a 12-month analysis. According to State standards, he said, US 41 would not meet service levels. In terms of the variation of traffic counts for the City and County, Mr. Lenick said that devices which are placed too near the intersection are inaccurate from the standpoint of calculating all traffic counts. Relative to Crayton Road, he speculated that the increase in traffic may eventually impose its opening and further expressed the opinion that the Collier County Commission breached a provision of its Comprehensive Plan which requires that when a jurisdiction undertakes a project that affects another jurisdiction, it has an affirmative duty to contact that other jurisdiction. As a final note, Mr. Lenick pointed out the existence of a school in the immediate area which will compound the traffic issues.

In response to Council Member Herms, Mr. Lenick stated that the two parking garages are two stories but would clarify whether the two stories are over parking. In response to Council Member Taylor, he stated that substantive due process with regard to exclusion of peak month traffic counts is difficult to defend. Conversely, the County did not base its findings on the State's 12-month standard for road design, which would have resulted in below service level F, he added.

Mayor MacKenzie noted that according to the Barr Dunlop traffic study, the County possesses the right to open Crayton Road on the north side of Seagate. Mr. Lenick countered that the County has such a legal right however after a public hearing has been held. Mayor MacKenzie added that the City has the right to reassign the last block of traffic on Crayton Road as one-way northbound, thereby eliminating the ability of traffic to flow southbound across Seagate Drive, although such a concept could also have a negative effect. In response to Mayor MacKenzie, Mr. Lenick confirmed that he had reviewed the PUD exhibits, which he said he would share with Mr. Archibald who could then confirm the presence of the interlocal agreement in Exhibit H of the PUD. Mayor MacKenzie expressed appreciation to Mr. Lenick for his presentation.

In response to Council Member Herms, Traffic Engineer Archibald advised that a shopping center rate based on approximately 300,000 square feet was used to determine the proposed and existing traffic data which reflects the net increase of 6,871 cars per day. Mr. Herms further questioned whether the total projected increases in square footage for retail and office retail (net effect of approximately 134,000 square feet and 36,000 square feet respectively), which could potentially take place over a 15 to 20 year period, had been taken into account in the traffic study. Although the information was not readily available, Mr. Archibald said that he felt the projections had, in fact, been considered. In order to gain a better understanding of the possible implications to Crayton Road and West Boulevard, Council Member Herms requested that the traffic modeling numbers be reviewed to possibly determine the amount of traffic anticipated during peak periods and, thereby, the point at which alternative routes will be sought.

Additionally, the opening of Crayton Road could potentially be triggered by traffic congestion in the intersection during the construction process and/or the inability of Pelican Bay residents to gain southbound access, Mr. Herms noted. In view of the significance this project has to the residents, he said he felt strongly that Council should take a strong stance and gain a thorough understanding of the traffic flow based on appropriate modeling, which can then be presented to the residents for their awareness.

Council Member Russell commented that, upon initial review by the SWFRPC and staff, it was felt that the deviation was not significant. He requested staff to contact the SWFRPC representatives to confirm that organization's position in view of new circumstances that may have occurred during the planning process which may in turn necessitate further review by Council. Council Member Russell also requested clarification from staff or the City Attorney regarding the legalities of transferring development rights. Further, in terms of protecting the residents of Crayton Road, he suggested that Council meet with the property owners of Pelican Bay as well as representatives of Collier County in an attempt to gain a concrete solution to this matter. Finally, he suggested a complete analysis of the proposal's impact on City roads and US 41 to enable a valid comparison while meeting with the County. He acknowledged his support of an additional independent study, if necessary. Although Mr. Russell also indicated his support of Waterside Shops development, it should not exceed the appropriate levels of service nor degrade the residential areas.

In response to Mayor MacKenzie's question of whether Mr. Russell's suggestions were achievable, Mr. Archibald confirmed that additional modeling could be pursued. He said that he further felt that the Pelican Bay residents who live on the south end of Crayton Road would most likely support Crayton continuing to be closed. Council Member Wiseman suggested that Council move forward with the recommendation of staff. Mayor MacKenzie agreed.

In order to avoid potential conflicts similar to the Golden Gate Parkway/Airport Road overpass controversy, Mayor MacKenzie questioned any past involvement of Kimberly Horn with WCI or Collier County relative to this particular area. (It is staff's recommendation to retain Kimberly Horn to update the 1981 Barr, Dunlop & Associates traffic impact study.) Mr. Archibald advised that Kimberly Horn is a large firm that purchased Barr Dunlop, the firm that performed work for the City in excess of 20 years and also performed roadway design studies for Collier County. Mr. Mercer agreed to research the level of involvement of Kimberly Horn with this particular area. In terms of the update, Mr. Archibald stated that the first level of analysis would be a review of the report performed by Plummer and Associates, followed by use of the county model to prepare a model for North Naples (Pelican Bay and City of Naples), adding the City streets. He added that Kimberly Horn is the most appropriate firm and could further complete the update quickly. The approximate cost of the update is \$30,000-\$40,000, depending on the hours involved.

In response to Mayor MacKenzie's request, Mr. Archibald indicated that he and Mr. Mercer will prepare for Council's consideration a draft resolution that would ultimately be forwarded to the Collier County Commission regarding the City's policy position on this matter. In terms of requesting Collier County's cooperation in the assignment of a City staff member to assist

Collier County staff on development of regional impact issues, Mr. Mercer suggested that the City Manager coordinate this effort with the county.

Council Member Russell made a motion directing the City Manager to (1) implement the staff recommendations; (2) contact the Pelican Bay property owners to determine their willingness to cooperate with the City's position of opposing the opening of Crayton Road to Seagate; (3) request an opinion from the City Attorney as to the legality of transfer of development rights; and (4) request the Regional Planning Council confirm its recommendations in view of the legal ownership issue. The motion was seconded by Vice Mayor Galleberg. However, additional discussion ensued.

In reference to the aforementioned motion, Council Member Taylor commented that if the information represented by Mr. Lenick is accurate, the responsibility of Collier County to contact the City in accordance with its comprehensive plan should also be incorporated in the motion.

Because the project will be presented to the County Planning and Advisory Board on December 18, 2003, Council Member Herms requested Council Member Russell and Vice Mayor Galleberg also include in the motion the Council's opposition to this level of intense development in view of its negative impact on the intersection.

In response, Council Member Russell suggested that depending on the outcome of the final data, a separate motion could possibly be made to adopt a resolution opposing the opening of Crayton Road. He further recommended a separate motion, requesting Collier County Planning Commission postpone their hearing to allow sufficient time to update the study.

Prior to the regular meeting of City Council on December 3, 2003, Council Member Taylor requested that the City Attorney research the Collier County Comprehensive Plan provision that reportedly infers the City should have been consulted earlier in the development process.

Council Member MacIlvaine agreed that one of the key issues for Naples is Crayton Road; the resolution that will be submitted to the Planning Commission needs to strongly reflect the opposition of the residents to opening Crayton Road and further include the updated traffic counts (including 12-month analysis for US 41 at Seagate and Pine Ridge Road) that will most assuredly support this opposition further.

For purposes of clarifying the motion, Vice Mayor Galleberg stated that reference was made to a separate motion opposing the opening of Crayton Road. He pointed out that this particular item is included in the staff recommendations, which is a portion of the original motion (to be included in the resolution). Conversely, the recommendation by Council Member Herms with respect to the City's opposition to the increased density of the shopping complex and its impact on traffic is a separate issue.

Council Member Russell expressed his acceptance of such a motion if Council adopts a resolution at its December 3, 2003 meeting regarding the opposition of the opening to Crayton Road.

Council Member Herms expressed his desire to see a resolution adopted by Council regarding the aforementioned recommendations and to further state a clear position to the Collier County Planning and Advisory Board and the Planning Commission that the City opposes this level of development in view of its adverse effect on the residents of the City from the standpoint of traffic flow. Preferably, minor expansion of the Waterside Shops that would not significantly impact the traffic flow negatively could be considered. Council Member Herms added that the City needs to state for the record and through its representatives at the county meetings that it is opposed to this level of development.

Mayor MacKenzie added that overall, possibly three million square feet of retail space (i.e., Waterside Shops and Coastland Mall) could exist in a relatively confined area, creating a very problematic area in terms of traffic.

The aforementioned motion was amended and voted upon as follows:

**MOTION by Russell DIRECTING STAFF TO PREPARE A DRAFT RESOLUTION TO (1) IMPLEMENT STAFF RECOMMENDATIONS; (2) CONTACT THE PELICAN BAY PROPERTY OWNERS TO DETERMINE THEIR WILLINGNESS TO COOPERATE WITH THE CITY'S POSITION OF OPPOSING THE OPENING OF CRAYTON ROAD TO SEAGATE; (3) REQUEST AN OPINION FROM CITY ATTORNEY AS TO LEGALITY OF TRANSFER DEVELOPMENT RIGHTS; (4) REQUEST REGIONAL PLANNING COUNCIL TO CONFIRM ITS RECOMMENDATIONS IN VIEW OF LEGAL OWNERSHIP ISSUE AND (5) CONFIRM COMPREHENSIVE PLAN REQUIREMENTS HAVE BEEN SATISFIED FOR REGIONAL IMPACT AND COMMUNICATION, seconded by Galleberg and unanimously carried, all members present and voting (Galleberg-yes; Herms-yes; MacIlvaine-yes; Russell-yes; Taylor-yes; Wiseman-yes; MacKenzie-yes)**

Although he supports the motion, Council Member Herms added that it should be worded more strongly.

Council Member Russell questioned whether there is sufficient time to gather the necessary information prior to the Planning Commission meeting. Mr. Mercer responded that the resolution should be completed by the December 3, 2003 Council meeting, but additional data must be gathered prior to the Planning Commission meeting on December 18, 2003. Mr. Russell expressed some degree of concern regarding taking a stronger position before the data is collected in its entirety, but stated his willingness to consider a resolution at the Council meeting on December 17, 2003 if additional information that supports a resolution is available.

In response to Council Member MacIlvaine, the content of the aforementioned motion was confirmed.

As further clarification, Vice Mayor Galleberg stated that the proposed resolution addresses Council's uniform policy decision regarding Crayton Road. A policy decision regarding the overall expansion of the Waterside Shops requires further discussion.

**CORRESPONDENCE/COMMUNICATION .....**

Council Member Taylor referenced a property owner's survey with an unsigned handwritten note attached, saying she believed it was inappropriate for Council to consider unsigned correspondence. Secondly, as an update to the Tenth Street South improvement process, she reported that staff had met with Gail Boorman to finalize the scope of the landscape improvement plans. Council Member Taylor noted that there were substantial controversies and impacts of the plans on area businesses in terms of reduced parking. Following a meeting with Construction Management Director Ron Wallace and Mrs. Boorman, Council Member Taylor suggested that the landscaping would perhaps be performed on a block-by-block basis, contingent upon the consent of the business owners affected by the landscape plan. Council Member Taylor requested that Council review this matter closely prior to its presentation and further requested staff prepare a status report prior to that time.

Council Member Herms referenced a presentation by Southwest Florida Water Management District several weeks prior and requested consensus that Council hold a workshop to discuss how the City can potentially plan and/or begin construction of basins to capture the City's storm water before it enters into the bay as well as specific designs and/or proposals for an expanded re-use system.

Council Member Russell said that he felt that direction regarding a re-use program was provided by Council previously along with a termination schedule. Council Member Herms responded that there is no reference to the program in the Manager's proposal for the capital improvement program. Although the final design had not been presented, Mr. Russell referenced previous discussion and direction to move forward with the program. In response to Mr. Herms, City Manager Lee said he was unaware that a re-use system expansion was to be implemented. Mr. Russell reaffirmed his support of the re-use system expansion and further expressed his support of exploring all options for addressing the discharges in Naples Bay. Mr. Herms explained that expansion of a parcel on the Pulling park property is potentially being considered for settling purposes before the water enters the bay. From the standpoint of water quality, the property could perhaps be considered as a retention area instead. He noted, however, that the purpose of the property should be determined prior to completion of the park design. Council Member Herms also posed the possibility of purchasing or using another parcel of available land for retention purposes. Dr. Lee said he would investigate this matter further and report his findings to Council.

With respect to the Pulling property, Vice Mayor Galleberg referenced discussion by the Community Services Advisory Board in which several questions arose regarding the previously approved south end (deeded by Mr. Pulling). He suggested that, when addressing the north end issue, Council revisit its decision regarding the south end through further review of the terms of the agreement from Mr. Pulling to the City. While not a proponent of debating previous Council decisions, Vice Mayor Galleberg said that he felt that Council should reconsider this matter to avoid unnecessary flaws before development begins.

Revised

Vice Mayor Galleberg further referenced a Category A beach preservation policy, to be presented by county staff to the Board of Collier County ~~Planning Commission~~ Commissioners (BCC) for consideration on December 2, 2003. Reportedly, through discussions with the County Manager and other interested parties, Mr. Galleberg stated that the proposal accepts the Coastal



Revised

Advisory Committee policy that Council previously endorsed for possible enactment. The policy specifies annual allocation of funds, a portion of which would be allocated to beach park facilities in an amount equal to the average amount allocated historically. Therefore, sufficient funds should be available for proper beach re-nourishment and maintenance; funds historically allocated to access could further be allocated to beach park facilities. Mr. Galleberg announced his plans to speak before the ~~Commission~~ BCC as either an individual or on behalf of Council. He urged Council's support of the policy, noting that Marco Island City Council is scheduled to take a supportive position at its upcoming meeting.

Revised

In response to Mayor MacKenzie, Vice Mayor Galleberg confirmed that the proposed policy will afford the City the ability to re-nourish its beaches to the same extent as in the past, using TDC Category A monies. He added that the allocation of monies in paragraph 3 of the proposal will take effect from that point forward; funds required for the present re-nourishment plan already exist. Mr. Galleberg commented on several changes that he intends to propose to the ~~Planning Commission~~ BCC including (1) paragraph 3a – reduce the \$2 million of catastrophic reserves in 2004 to \$1 million to allow for (2) paragraph 3c –\$2 million annually for major re-nourishment; and (3) revision of \$2 million for beach park facilities to an average of \$2 million per year.

Revised

Mayor MacKenzie confirmed Vice Mayor Galleberg's representing the City at the ~~Planning Commission~~ BCC meeting on December 2, 2003. Mayor MacKenzie further suggested that Mr. Galleberg propose the establishment of a long-term interlocal agreement that would ensure the proper allocation of TDC funds. She noted that Marco Island supports this concept. Vice Mayor Galleberg agreed to negotiate this with the county, noting the TDC discussions may be delayed by two weeks. As suggested by Mayor MacKenzie, Vice Mayor Galleberg will extend the Council's appreciation to the County for their cooperation and express its support of the proposal.

Council Member Taylor expressed her inability to endorse the proposal based on the absence of adequate time for review. Although Vice Mayor Galleberg appreciated her concerns, he said he wanted to ensure that the fundamental concern regarding acquisition of access vs. beach re-nourishment is addressed; the \$2 million for beach park facilities memorializes what was included in the 10-year plan in which sufficient funds were allotted for re-nourishment and maintenance.

Revised

Council Member Herms also expressed concern regarding endorsement of the policy as the financial implications are unclear in the absence of a detailed spreadsheet, outlining the delineation of funds available for beach re-nourishment and beach park facilities. Furthermore, he questioned whether the City's beach re-nourishment committee should continue to exist and how this matter will be addressed with the ~~Planning Commission~~ BCC.

Council Member MacIlvaine characterized this as a judgment issue and said Council cannot possibly examine the policy and reach a definitive solution or thorough understanding in a short period of time. However, he strongly voiced his support of delegating Vice Mayor Galleberg as Council's representative in this matter based on his research of the matter and personal judgment. He added that although Council has not reviewed the document in detail, there is a reasonable understanding of its content.

Revised

Council Member Russell concurred with the concerns expressed by Council. However, he supported authorizing Vice Mayor Galleberg to represent the Council's interest for a policy that, in his opinion, accomplishes the Council's objectives. Unless the item is delayed, the ~~Planning Commission~~ BCC will ultimately make a decision regarding the policy on December 2, 2003, which may or may not be acceptable to the City.

Revised

Council Member Wiseman agreed with Council Member MacIlvaine that a representative of Council who had researched the issues, should be present at the ~~Planning Commission~~ BCC meeting. She added that the City's actions and policy could potentially be misconstrued unless a representative is present to explain it; Council Member Wiseman, therefore, expressed strong support of Vice Mayor Galleberg's representation at the meeting.

Mayor MacKenzie concurred.

At a recent Regional Planning Council meeting, Council Member Russell said he had referenced two news media articles on the agenda; namely, the Heart of Naples comprehensive plan modifications and the overpass modifications, noting that that item had been pulled from the agenda and continued until a final meeting in January. Council Member Russell stated that although he did not vote for the comprehensive plan amendment, he did his best to represent the majority of Council's interests. Council Member Russell expressed discomfort defending the City's views as a minority of this particular issue and further encouraged that Council continue objection to the overpass, but remove the comprehensive plan amendment. If, however, the amendment moves forward, he requested Council appoint a representative in favor of the amendment to the Regional Planning Council.

Council Member Wiseman reported that the Wilkinson House closing took place a week prior; she requested Council consider a more appropriate designation of the net proceeds than the general fund to reflect a positive outcome from the transaction. Council Member Taylor reinforced her previous suggestion that the proceeds be allocated to parks and recreation. Council Member Wiseman countered that perhaps the funds should be allocated to the Fleischmann Park shortfall. Mayor MacKenzie expressed appreciation for both options. She added that the Florida Communities Trust is another area that needs to be addressed. Vice Mayor Galleberg noted, however, that the monies are more than sufficient to cover the shortfall for the Florida Communities Trust. He added that although a full discussion regarding this issue is valid, dedicating it to a specific area is also important, and concurred with Council Members Taylor and Wiseman that parks and recreation is the most appropriate designation, particularly Fleischmann Park.

**ADJOURN** .....  
1:03 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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Pamela M. Koepke, Recording Specialist

Minutes Approved: 1/7/04