



City Council Chamber
735 Eighth Street South
Naples, Florida 34102

City Council Workshop Meeting – December 15, 2003 – 8:36 a.m.

Mayor MacKenzie called the meeting to order and presided.

ROLL CALLITEM 1

Present:

Bonnie R. MacKenzie, Mayor
Gary Galleberg, Vice Mayor

Council Members:

Joseph Herms
William MacIlvaine
Clark Russell – arrived 8:37 a.m.
Penny Taylor
Tamela Wiseman – arrived 9:27 a.m.

Also Present:

Robert Lee, City Manager
Robert Pritt, City Attorney
Jon Staiger, Natural Resources Manager
David Lykins, Community Service Director
Kimberly Kelley, Comm. Services Adv. Board
Ron Lee, Community Development Director
Tara Norman, City Clerk
Pamela Koepke, Recording Specialist
Karen Kateley, Administrative Specialist

Arlene Guckenberger
Henry Kennedy
Joseph Biasella

Other interested citizens and visitors

Media:

Dianna Smith, Naples Daily News

SET AGENDA.....ITEM 2

City Manager Robert Lee requested that Item 7 be continued to allow staff an opportunity to create a more comprehensive review, which would include park bonds and grant requirements.

It is noted for the record that Council Member Russell entered the meeting at 8:37 a.m.

City Attorney Robert Pritt requested that an executive session be held on Wednesday, December 17, regarding the litigation of Sally Lynch versus the City of Naples.

MOTION by Galleberg to ADD AN EXECUTIVE SESSION TO THE WEDNESDAY, DECEMBER 17 REGULAR MEETING AT 9:45 A.M.; seconded by Taylor and carried 6-0 (Galleberg-yes, Herms-yes, MacIlvaine-yes, Russell-yes, Taylor-yes, Wiseman-absent, MacKenzie-yes).

DISCUSSIONS WITH COLLIER COUNTY COMMISSIONER FRED COYLEITEM 3

Collier County Commissioner Fred Coyle advised that Norm Feder, Collier County Transportation Coordinator, had recently presented additional information regarding the proposed Golden Gate Parkway/Airport Road overpass, and suggested therefore that the Council bring forth any other ideas regarding solutions to traffic problems during the joint City/County workshop to be held January 5, 2004.

Mayor MacKenzie pointed out that planned shopping center expansions plans at Grey Oaks and Waterside Shops, along with the existing Coastland Mall, would significantly increase traffic into the City, as well as alter the existing traffic patterns. However, should planning for these additional impacts move forward, joint City/County efforts would be beneficial; she said she nevertheless questioned the necessity of this degree of retail concentration. Commissioner Coyle concurred that these various plans appeared to be counter to the overall County goal to move development eastward. He nevertheless stressed the importance of accurate traffic analysis in this process.

With reference to City/County zoning compatibility at the Davis Triangle, Mr. Coyle reported that the Collier County's Community Redevelopment Agency (CRA) had recently recommended a contract for design of a zoning overlay and that the contract would be considered by the Board of County Commissioners (BCC) within the week. Commissioner Coyle further said that he believes such an overlay would assist in development of reasonable zoning standards compatible with the adjacent entrance to the City of Naples. Development of the overlay would involve several public meetings as well as meetings with the City, he said, and opinions and recommendations would be considered.

Commissioner Coyle however indicated that he was unaware that any further meetings that had been scheduled regarding the various airport authorities, but nevertheless reiterated his position that there should be no loss of City control of the Naples Municipal Airport. Furthermore, in order to create more viable operations at the Immokalee Airport, the BCC was proposing advertising on a national scale for an anchor business, he said, and pointed out that it was unlikely management of this airport would be contracted out.

Commissioner Coyle also informed the Council that the Waterside Shops expansion plans had not yet been presented to the BCC. He also offered assurance that any action on the expansion would be totally independent of the County's settlement with WCI Communities for a parking garage at Vanderbilt Beach since the parking garage had been approved on its own merits and would provide more parking for those wishing to access Vanderbilt Beach. Commissioner Coyle then assured City Council that County staff would not be recommending the opening of Crayton Road at Seagate Drive with reference to the Waterside Shops.

Commissioner Coyle also noted the County's impending offer to acquire the northeast quadrant of Fleischmann property at the Golden Gate Parkway/Airport Road intersection. Funding would be derived from Parks & Recreation, Conservation Collier, the Transportation Department and possibly sales tax and general fund revenues as well, he said.

Mayor MacKenzie referred to a letter from County Commission Chairman Tom Henning (a copy of which is contained in the file for this meeting in the City Clerk's Office) regarding the possibility of future County meetings involving the Naples Airport Authority (NAA). Mayor MacKenzie indicated that she would be seeking the opinions of Council Members relative to conditions under which City participation should occur. Commissioner Coyle expressed concern that County meetings with the NAA not occur without City Council involvement.

Discussion then continued regarding the Waterside Shops expansion with Council Member Russell indicating the City's willingness to work with both the residents of Pelican Bay and the County in an effort to prohibit in perpetuity the opening of Crayton Road. Commissioner Coyle requested that he be provided with any documentation the City has or receives concerning either the Waterside Shops expansion or Crayton Road issues.

Council Member MacIlvaine also expressed concern regarding the potential traffic burden from expansion at Waterside and concurred that there would be no benefit to opening Crayton Road. Commissioner Coyle assured Mr. MacIlvaine that the BCC had yet to be presented with the plans for the Waterside Shops and therefore extension of Crayton Road to the north was in no way an accomplished fact. He however suggested that the County Manager advise, when known, the timeframe that WCI Communities is estimating regarding presentation of the Waterside Shops plans.

Vice Mayor Galleberg expressed the hope that the BCC would the next day adopt the beach funding policy approach advocated by both the Coastal Advisory Committee (CAC) and the Tourist Development Council (TDC). This policy explicitly denotes anticipation of funding availability for beach parking facilities. Mr. Galleberg further pointed out that City Council had recently discussed the Waterside Shops expansion at length, including the Crayton Road issue, and had elected to forego voicing an opinion until further information had been provided.

Council Member Herms cited traffic capacity of the Pine Ridge Road/US 41 intersection as being the key issue relative to the proposed Waterside Shops expansion, stressing the importance of a clear understanding of impacts. He predicted that this location would fail to handle the increased traffic volume. Mr. Herms therefore inquired as to when development would in fact be restricted due to failure to meet concurrency standards. Commissioner Coyle stressed that this issue was indeed the reason for carefully examining traffic studies in order to adhere to State requirements to provide the infrastructure at the time of impact and thus prevent potential intersection failures. He further explained that on two occasions the Department of Community Affairs (DCA) had denied a County request to utilize the first year of its Capital Improvement Plan (CIP) as a key factor in determining concurrency. However a compromise offered by Collier County Planning Commission to use the second year CIP will most likely be approved by the DCA in the near future, he said, but he also noted that the BCC already reviews development plans under this new policy.

Council Member Herms then asked whether Commissioner Coyle had reviewed what he referred to as the unconventional intersection designs (a copy of which is contained in the file for this meeting in the City Clerk's Office) relative to the alternative to an overpass at Golden Gate Parkway and Airport Road. Confirming that he had in fact reviewed this information,

Commissioner Coyle expressed the belief that the County is closer to finding alternatives and indicated his desire for a mutually agreed-upon resolution to this issue.

In response to Mayor MacKenzie, Council Member Herms said that he had written to County Clerk Dwight Brock when Mr. Brock contacted him regarding the proximity to the City's wells to a planned County stormwater retention lake at the corner of Pine Ridge Road and Goodlette Roads. (A copy of this correspondence is contained in the file for this meeting in the City Clerk's Office.) There was some concern, Mr. Herms said, that the lake was within the 300 foot perimeter dictated by State law. The City staff had performed preliminary studies indicating requirements had been met because merely overflow was designated for the area nearest the City wells. While he said that there appears to be no reason for concern in this instance, Mr. Herms cautioned that future retention area development be carefully reviewed in relation to water supply sources. City Manager Robert Lee also confirmed that City staff had been in contact with the Southwest Florida Water Management District (SWFMD) regarding permitting for the lake and that the aforementioned determination should be confirmed in the near future. Commissioner Coyle said that close coordination between the City and County would be helpful in future water retention plans.

Council Member Taylor commended the County's consideration of alternatives to the proposed Golden Gate Parkway/Airport Road overpass. Miss Taylor proposed that Waterside expansion be limited pursuant to the traffic impact that would occur without opening Crayton Road or West Boulevard in the future. Commissioner Coyle indicated that he would do what he could do in this regard. Also in response to Miss Taylor, Commissioner Coyle said that while such restrictions might be considered for inclusion in the County's Comprehensive Plan, this could represent a more lengthy process than incorporating such a concept into a Planned Unit Development (PUD). Commissioner Coyle said that he would in fact propose this to the BCC although it was uncertain whether it would occur.

Council Member Taylor then asked whether the County might consider issuing an RFP (Request for Proposal) for airport management before appointing the Naples Airport Authority (NAA), and therefore the NAA's executive director, to administer County airports. Commissioner Coyle said that any contractual arrangement that might be negotiated should have some level of competitiveness and also be subject to review in accordance with normal procurement processes. Regardless of the approach, however, he stressed that City Council be kept informed.

Regarding concurrency management, Council Member Taylor expressed concern that the County's checkbook concurrency method is based on statistics for ten months only, with February and March not considered. Commissioner Coyle however explained that it would be fiscally irresponsible for the County to fund roads to meet a short-term peak service that often occurs only in February and March. Commissioner Coyle further noted that levels of service nevertheless vary from year to year and also pointed out that right-of-way acquisition in Collier County is the costliest in Florida.

Mayor MacKenzie indicated that she would provide Commissioner Coyle with a copy of a City traffic analysis of Crayton Road, Gulf Shore Boulevard North, and West Boulevard that the City could consider in relation to WCI's proposal for development in Pelican Bay.

Council Member Russell requested a staff analysis to date regarding the Golden Gate Parkway/Airport Road overpass and available alternatives.

.....**ITEM 4**
PRESENTATION OF THE COMMUNITY SERVICES ADVISORY BOARD'S (CSAB)
2003 ANNUAL REPORT AND 2004 ANNUAL WORK PLAN

Community Services Director David Lykins and Community Services Advisory Board (CSAB) Chairman Kimberly Kelley presented the 2003 annual report and the 2004 annual work plan (contained in the file for this meeting in the City Clerk's Office). Ms. Kelley cited the role of the CSAB in providing a park system which is an asset to the community, offering appreciation to Council for guidance and direction. She also complimented Director Lykins and his staff.

Ms. Kelley suggested that proceeds from the Wilkinson House sale be allocated for further development of Fleischmann Park. Mayor MacKenzie however said that when an accounting of the Naples Preserve and various bond-funded park projects has been accomplished, Council would determine how the Wilkinson House proceeds could best be utilized. Mayor MacKenzie also suggested that with the removal of the horticultural trash facility from the City's land along the Gordon River, the CSAB should consider how the site (also referred to as the Pulling property) could alleviate traffic concerns on Tenth Street South (Naples Landing Park) if it were designated as boat launching for both motorized and non-motorized craft; the purpose for which it was originally dedicated.

Ms. Kelley however expressed concern that the addition of motorized craft to the Pulling site would cause overcrowding and traffic congestion there as well. She therefore suggested that it be restricted to City resident use, although recommending a complete usage study of Naples Landing. She also questioned the City's obligation to provide boat launching for County residents in light of what she characterized as a lack of cooperation from County government. Nevertheless, Mayor MacKenzie maintained that the Pulling property could better accommodate launching by County residents since it is located on a six-lane roadway and would better balance the burden now experienced by residents near Naples Landing.

In response to Council Member Taylor, Ms. Kelley said she believed that retiree volunteers could indeed be utilized at the City Dock as long as liability issues are addressed.

Expressing disappointment that no areas had been designated for non-motorized watercraft, Council Member Russell nevertheless said that he perceived how the original agreement for acquisition of the Pulling property had anticipated some parking for motorized uses even though Council had in the past designated it otherwise. However, he suggested performing another needs and interest survey, and noted that allowing motorized uses may be necessary to build consensus among Council Members. In conclusion, Mr. Russell said that creating just green space on waterfront sites is not fully realizing its vision.

Regarding the Fleischmann Park, Council Member Russell said that despite some unforeseen engineering complications and legitimate cost overruns, Fleischmann Park should be a priority, including using Wilkinson House proceeds. Mr. Russell added that the long-standing master plan for Fleischmann Park must be accomplished, noting that this community center plays an integral part in the City's overall park system and recreational programming.

Council Member Russell however said that he could not support additional building or parking construction or expansion of functions at the Naples Preserve Visitor and Educational Center due to his concern for protection of the land, which had been the issue presented to the voters in conjunction with the acquisition. Ms. Kelley said that while she appreciates the efforts of volunteers at Naples Preserve, she concurred that the vision for the property should be maintained.

Ms. Kelley said that although the Pulling property is a pristine site which could be adversely affected by motorized vehicles, the Pulling interests had already constructed boat docks for development nearby which could also represent a concern for future preservation. Community Services Director David Lykins pointed out that the Pulling agreement indicates that 75% of the parking area must be for vehicles with boat trailers.

Council Member Russell also said that he believed there to be a conception on the part of the County regarding involvement in development of the Pulling property stemming from past meetings between the City and County Parks Boards and some type of verbal agreement as well. Ms. Kelley said she disagreed with accepting County funding for parks because of the corollary obligation to provide County resident access. Mr. Russell said however that over and above funding opportunities, meeting with the County presents an opportunity to encourage its development of more resident access areas.

Vice Mayor Galleberg said he agrees that the Fleischmann Park should receive primary focus on the use of Wilkinson House proceeds. Regarding the Pulling property, Mr. Galleberg said that it and the former horticultural facility should be considered as a unified parcel. Although it might not be necessary to revisit the entire plan for the Pulling site, he said, the type of vessels allowed there should be discussed if it becomes evident that there is concern about its effectiveness in providing relief to Naples Landing. Ms. Kelley agreed that further review is necessary but also asserted that more stringent enforcement for illegal on-street parking could alleviate problems as well as generate additional revenue.

Council Member Herms expressed concern for the water quality of Naples Bay and stressed the importance of considering inclusion of stormwater run-off, retention and pumping facilities in adjacent areas to park facilities on the Pulling site. Ms. Kelley concurred. At this point Ms. Kelley also stressed that, in general, events held in the city limits are rarely attended by residents because of the large participation of County residents, which contribute to traffic, parking and other growth-related issues.

It is noted for the record that Council Member MacIlvaine left the meeting at 9:42 a.m.

Council Member Taylor said that while she supports Wilkinson House proceeds being applied to the park system, some should be designated to support educational displays at the Naples Preserve. Ms. Kelley said that her personal preference resides first with park completion and secondarily with Naples Preserve due to the extent of funding already devoted to that location.

In conclusion, CSAB Chairman Kelley said that other items considered by the Board to be of importance include a recycling program in the parks and a bike path system connection throughout the City; however, she stressed that completing the parks continues to be the priority.

Mayor MacKenzie also noted that CSAB Board Member Richard Housh attends County Pathways Advisory Committee meetings, where funding for sidewalks and bike trails is studied. Mayor MacKenzie also conveyed her understanding that Collier County Alternative Transportation Director Dianne Flagg is proposing a county-wide bike path plan that would connect Collier with Lee County and in which there could be some City participation. She expressed her appreciation for those who serve on the CSAB and other boards and committees that have a direct bearing on life in the City. Ms. Kelley said that she is honored to serve on the Community Services Advisory Board and cited the resources provided by the diverse backgrounds of its members which contribute to its success. Community Services Director David Lykins said that he, in turn, appreciates the dedication and support of the CSAB.

While commenting on the 2004 CSAB work plan, Mayor MacKenzie questioned its continued reference to enhancement and development of full service retail operations and inquired as to whether this actually indicates expansion of current retail operations at various parks. Director Lykins said that the retail operations would not change at the Cambier Park Tennis Center or at the City Dock, however there are opportunities to expand at the Fleischmann skate park, he said, although not to a level of the local department stores which stock items related to this activity; emergency repair items and a small selection of retail was his intent, he said.

Council Member Herms inquired as to the anticipated schedule for resurfacing the skate park with concrete to enhance safety, and Director Lykins said that the Fleischmann Park Master Plan would contain surface options when presented to Council, although concrete is seen as a safer choice. Responding to Council Member Herms, Mayor MacKenzie agreed that the park could be improved upon, nevertheless this was not indicative of the City having no commitment to safety. Director Lykins confirmed that the facility is consistently reviewed by a City safety inspector and the skate ramps and elements are maintained.

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

In further response to Council Member Herms, Director Lykins explained that staff would be sensitive to the fact that the skate park is a priority and that emphasis is being placed on performing the drainage improvements at the same time as the renovations. In further discussion, City Manager Lee assured Council that interim measures would be investigated to address the safety of the skate park surface while awaiting presentation of the master plan.

..... ITEM 5 (a)
INTERVIEWS WITH CANDIDATES FOR THE COMMUNITY REDEVELOPMENT
AGENCY ADVISORY BOARD (CRAAB)

10:02 a.m. Fred Hirschovits

10:14 a.m. Alan Ryker

.....ITEM 5 (b)
**DISCUSSION OF CITY RESIDENCY, POWERS, RESPONSIBILITIES AND
FUNCTIONS OF THE COMMUNITY REDEVELOPMENT AGENCY ADVISORY
BOARD (CRAAB)**

Council Member Russell asked whether, in addition to the issue of a residency requirement, functions and responsibilities of the Community Redevelopment Agency Advisory Board (CRAAB) would be discussed. Mayor MacKenzie said that not only had there not been a significant number of applicants for this board, but that there had been a concern regarding residency and guidelines are needed. She therefore suggested that instead of developing a new board, members of the Staff Action Committee (SAC) and the Downtown Improvement Redevelopment Committee (DIRC) be utilized, as these groups are most familiar with the issues in the redevelopment district.

Council Member Taylor said that she could not support non-residents being appointed to any City committee or board, however, she expressed interest in Mayor Mackenzie's suggestion relative to SAC and DIRC.

Council Member MacIlvaine said the CRAAB was however established to expedite communication between residents and businesses in the redevelopment area and to assist the CRA by reviewing and making recommendations on petitions for redevelopment. He also said that DIRC would serve the 41-10/Heart of Naples area in a manner similar to SAC's service to the Fifth Avenue South Special Overlay District. He also cautioned both against restructuring and excluding non-residents due to the vital interest of district business and property owners who may not in fact live there. Mr. MacIlvaine further suggested re-advertising the positions with more specific duties outlined.

Vice Mayor Galleberg said it was important to give consideration to the fact of owning a business or a commercial interest in the redevelopment district, although there is an apparent overlap of responsibilities within the CRAAB, DIRC and SAC that too, should also be examined.

Council Member Russell said the CRAAB is advisory to the CRA, which is an entity unique from City Council, but that there is no established requirement for CRAAB to consist of City residents only. Stressing its function to communicate with interests in the redevelopment district, Mr. Russell however said that some operational overlapping could be seen and combining of functions could occur in an effort to bring more clarity and efficiency. Mayor MacKenzie also noted that another advantage of combining redevelopment boards and committees is they share the same funding source and funding allocations could be incorporated into recommendations to City Council.

Council Member Herms also said that the concept of consolidating these boards has merit, particularly since there are insufficient volunteer applicants to fill them. Mr. Herms said he however does not support membership for non-residents. Council Member Taylor concurred, but also expressed dismay that enough City residents could not be located to fill the positions.

Council Member Wiseman said that she perceived little difference between CRAAB and the former Heart of Naples Committee (HONC) which contained business owners and other stakeholders of the area who were not City residents. She also noted that those business and property owners pay City taxes and have legitimate interests in its development; nevertheless, she said, non-residents should not hold a majority position over residents. She also expressed support for the possibility of consolidation.

Council Member Russell cited the increased opportunity for public input afforded by groups such as CRAAB but expressed empathy with frustration experienced by pending applicants who await decisions in order for their group to be activated. He said he could also support some manner of consolidation, but stressed the importance of expediting a decision.

Vice Mayor Galleberg pointed out that allowing non-resident property owners is merely giving them the opportunity to apply since City Council makes the final decision on appointments.

In further discussion of residency, City Attorney Robert Pritt quoted Section 2-266 of the Code of Ordinances: "...any person appointed to a board of the City must be a resident or a property owner of the City or the principle owner or partner of a firm or business located within the corporate limits....all applicants must show permanent residency extending over a six month period within the County." Mr. Pritt further said that the resolution before Council (a copy of which is contained in the file for this meeting in the City Clerk's Office) would not amend or supercede the ordinance, therefore, the resolution should be read in conjunction with the applicable code section.

Mayor MacKenzie said she believed there to be a majority on Council who would support consolidation of the redevelopment boards as well as following Section 2-266 regarding appointments. Council Member Russell pointed out that not membership, but duties, define the professional needs of the boards. He further said that he approves of the current structure of CRAAB and would not support a committee that would be as large as the previous HONC. He also said that there are two task-specific boards (SAC and DIRC), with CRAAB being a more long-term visioning committee. Council Member MacIlvaine supported staying with the original concept of separate boards and committees.

Mayor MacKenzie suggested appointments for CRAAB come from SAC and DIRC in order to provide continuity.

Vice Mayor Galleberg stated the belief that two separate matters, those relating to the CRA and those relating to design, are to be addressed. He said that major design scrutiny should go through the Design Review Board (DRB) because of its specific expertise and that less intense design concepts could be addressed by the CRA. One of the main functions of the CRAAB would be long-term planning, he said, but it could also serve the district on those decisions reviewed by SAC and eventually by DIRC, such as sign compliance and building color, and would not unduly burden the CRAAB. Council Member Taylor pointed out therefore that the only board based in the CRA would be CRAAB.

Council Member Russell maintained that he would support a staff analysis and recommendation regarding the board interactions and potential streamlining but that further delay on appointments would be inappropriate. Council Member MacIlvaine said that while he was not opposed to an analysis regarding the interaction between the various boards and committees, any recommendation for changes would have to be compelling to achieve his support. Vice Mayor Galleberg said that he also supports a staff analysis regarding the possible restructuring of the various boards.

Consensus to appoint candidates to CRAAB at the next regular meeting and staff direction to analyze potential realignment of SAC, DIRC, DRB and CRAAB.

Recess: 11:06 a.m. – 11:15 a.m. It is noted for the record that Vice Mayor Galleberg was not present when the meeting reconvened.

.....**ITEM 6**
DISCUSSION OF BROADCASTS ON THE CITY'S GOVERNMENT ACCESS CABLE TELEVISION CHANNEL

City Attorney Robert Pritt, referring to his memorandum on this topic (a copy of which is contained in the file for this meeting in the City Clerk's Office), said he had included review of Council discussions in December of 2000 and December of 2002.

It is noted for the record that Vice Mayor Galleberg entered the meeting at 11:17 a.m.

Mr. Pritt stated that the issue is whether or not an outside provider of a political event qualifies under the government access provisions of the franchise agreement and the law. Although this area of the law had not been fully adjudicated in the federal system, there had been several lower court decisions that enumerated some of the limitations on government broadcasts, he said. Mr. Pritt also pointed out that a municipality producing and broadcasting its own programming is much more clear cut than when non-government entities are allowed to use an access channel for matters or events that are not city sponsored productions.

Mr. Pritt further said that the League of Women Voters (LWV) candidate forums have been allowed on the City's television channel in the past, could be construed as traditional, and would not cause the government access channel to be perceived as a public access channel. However, he cautioned against allowing the practice to continue in order to avoid a proliferation of requests and possible litigation by those whose use had been denied.

Mr. Pritt further explained that among government, public and educational channels, the City has a government access only channel which, unlike a public access channel, is not required to be made available for anyone on a non-discriminatory basis with a non-commercial purpose. Regarding the City's television channel, Mr. Pritt confirmed that there is a policy in place.

Mayor MacKenzie said that she does not want the City to find itself in a position where it appears to be supporting certain ideologies not connected with government. She, therefore indicated support for the suggestions contained in Mr. Pritt's memo.

Council Member Russell noted that the City's television broadcast of meetings maintain citizen's the ability to observe the interactions of government but do not cross the line into propaganda; in fact, he said, there is currently insufficient time to broadcast all the City's meetings. While candidate forums must have strict format limitations, Mr. Russell said that he supports the use of

the City's television channel by the LWV as a form of interaction of government and the people running for election to that government. Mr. Russell clarified that this support however does not extend to broadcast of other types of events such as homeowner association meetings.

Council Member Taylor requested confirmation from City Attorney Pritt that an event is acceptable as a government function on the City's channel as long as the City co-sponsors it. Mr. Pritt replied that his opinion is that the City should not allow any type of event to be broadcast except City governmental business, however, allowing the LWV's candidate forum would not transform the City's government access channel into a public access channel, although when the broadcast event goes beyond obvious governmental purposes there is the potential for perceptions of public versus government access to occur.

Council Member Taylor asked Mr. Pritt for his opinion of Collier County's broadcast policy which had been provided along with his memorandum. Mr. Pritt said that the County's policy is sufficient, however, he reiterated that the line should be delineated between actual governmental functions and other events. Miss Taylor then asked whether Mr. Pritt recommended the City adopt a policy based upon the County's. Mr. Pritt said that the City currently has a policy that is ad hoc, but because the City does not experience a volume of activity as extensive as the County's, reviewing requests on a case-by-case basis may be the procedure to follow unless there was a desire for actual guidelines.

Council Member MacIlvaine said that he supports the opinion that only government activities be allowed and that approving the LWV candidate forum could bring about potential problems. Citing what she characterized as a valuable service provided by LWV candidate forums, Council Member Wiseman said that she wholeheartedly supports the use of the Council Chamber but does not support televising or re-broadcasting the event as it interjects the City into a potential for affecting the outcome of the election, which she said she believed to be inappropriate. Council Member Russell indicated his support for City Attorney Pritt's opinion as well.

Vice Mayor Galleberg received confirmation from City Attorney Pritt that his running for Mayor did not represent a conflict in participation in the current decision. Mr. Galleberg said that in the past, candidate forums had been televised and that he could not discern how allowing the LWV candidate forum to be televised would be inappropriate when common sense and established guidelines are followed. He further said that he did not believe that a candidate forum was even remotely connected to public access television as it relates directly to government.

Council Member Taylor said that the LWV performs a valuable function by informing the public about the candidates and expressed concern that the policy of the City Council does not support the televising and re-broadcasting of the candidate forum. Council Member MacIlvaine however maintained that if the City allows the broadcast of the LWV event it would result in a proliferation of requests. He reiterated his support for denial of the request to televise the event.

Council Member Wiseman proffered a motion to allow the use of the City Council Chamber by LWV, but to deny the request to televise and re-broadcast the event on the City's television channel, to which Council Member Russell seconded; however, further discussion ensued.

Mayor MacKenzie noted that the City Manager controls the City's television channel and, in May 2002, former City Manager Kevin Rambosk had denied the LWV's rebroadcast of its candidate forum because he had not been confident of the right to do so.

While Vice Mayor Galleberg said candidates currently on Council should abstain from voting because there was potential for a negative perception regarding their interest in the outcome of the action. As a candidate, Council Member MacIlvaine requested that City Attorney Pritt reiterate his opinion in this regard. City Attorney Pritt responded that he does not see a conflict of interest, however, if a Council Member feels there is the appearance of conflict regarding financial loss or gain, then an abstention would be acceptable. Vice Mayor Galleberg however suggested continuing a decision until the regular meeting of December 17 to allow the City Attorney to further review any potential for conflict. City Attorney Pritt said that it would also be more appropriate for Council to vote at the regular meeting because the decision does effect a third party indirectly.

Council Member Wiseman withdrew the previously stated motion (which had been seconded by Council Member Russell) but also commented that if campaign contributions are going to be considered as financial gain to candidates, then when a candidate has received contributions from someone who appears before Council on a separate issue, the candidate must abstain at that point also. She concurred with the City Attorney's analysis that there is no conflict that requires an abstention. Council Member Taylor also observed that contributors to a campaign would then have to be identified as lobbyists when appearing before Council.

Council Members Russell and Herms supported the decision to continue this item until the 17th and Mr. Herms requested that the League of Women Voters be given the opportunity to comment at that time. City Attorney Pritt agreed. (During Correspondence and Communication, Council Member Herms spoke in favor of allowing the LWV to use the Council Chamber for a televised candidate forum and for rebroadcast.

**(Continued; see Item 2)ITEM 7
COUNCIL DIRECTION REGARDING USE OF PROCEEDS FROM THE WILKINSON
HOUSE SALE**

**.....ITEM 8
DISCUSSION OF PROPOSED TREE CANOPY ORDINANCE (*Requested by Council
Member Wiseman*)**

***Consensus to forward this item to the Planning Advisory Board for review and
recommendations.***

BRIEFING BY CITY MANAGERITEM 9

City Manager Robert Lee provided his written report and supplement (a copy of each is contained in the file for this meeting in the City Clerk's Office). He said however that he had not included a copy of the proposed new utility bill because additional work was necessary. He advised that this would be presented at the next City Council Workshop.

City Manager Lee then acknowledged department directors and his staff publicly for their continued diligence.

City Manager Lee then informed Council that boat speeds in Naples Bay are still being reviewed and analyzed. He acknowledged receipt of previous staff recommendations and reports (also contained in the file for this meeting) and said that the current plan is to follow up with all of the interested parties and discern the issues in relation to current legal constraints, although there appears to be some misunderstanding regarding what can in fact be accomplished in this regard. Additionally, he said he would inspect the area by boat and review staff recommendations regarding travel time in Naples Bay before returning to City Council with this issue.

City Manager Lee indicated that the City's marina siting criteria (a copy of which is contained in the file for this meeting in the City Clerk's Office) had been assumed to be acceptable to the Department of Community Affairs (DCA), although the DCA had recently indicated that the Comprehensive Plan is not in compliance with Florida Statutes. City Manager Lee said that a meeting is scheduled with the secretary for DCA for Friday, December 19.

Council Member Taylor inquired as to the responsible party for maintenance of North Road and its rights-of-way. City Manager Lee said that he would obtain that information.

REVIEW OF ITEMS ON 12/17/03 REGULAR MEETING AGENDA.....ITEM 10
Item 7 (445 Galleon Drive-guest unit addition) Mayor MacKenzie requested an explanation relative to differing opinions of staff and the Port Royal Association. **Item 9** (voluntary annexation) Council Member Herms requested clarification regarding a request for Council review of this matter absent a development agreement, and also requested a report on potential conflicts with the City Charter; and Mayor MacKenzie requested clarification on existing zoning, rights and uses, impacts to tax revenues, and a legal opinion relative to the annexation and tax revenues. **Item 10** (Bayfront – live entertainment request) Council Member Russell requested further information on impacts identified by PESD, identification of the permit owner and procedure for permit applications by landlords; and Council Member Herms requested clarification on whether the permit applies to the entire location. **Item 12-a** (minutes) Vice Mayor Galleberg requested the deletion of the mayoral candidate comment on November 17 Workshop, page 9, by Council Member Herms, and the deletion of “although” on November 19 Regular meeting, page 16. **Item 12-f** (fire training tower) Mayor MacKenzie requested this item be removed from Consent Agenda for separate action. **Item 14** (Chops City Grill-entertainment permit) Mayor MacKenzie noted the petitioner's request that this item be continued to January 7. **Item 15** (amendment to subdivision requirements) Vice Mayor Galleberg requested clarification of changes made at First Reading. **Item 18** (SFWMD-rain sensors) Mayor MacKenzie requested clarification on possible reimbursements for customers who had funded installation of rain sensors. **Item 19** (Fleischmann Park fencing) Council Member Russell requested clarification of funding from the original bond project; Council Member Herms inquired as to fencing being repaired along eastern border of the property; and Mayor MacKenzie requested a review of funds expended to date. **Item 21** (canopy tree ordinance) Council Member Wiseman requested this item be withdrawn and forwarded to Planning Advisory Board (PAB); and Council Member Herms requested the number of trees in inventory that would be covered by the ordinance. **Item 22** (Blue Ribbon Committee) Mayor MacKenzie reminded Council that appointees are needed; and Vice Mayor Galleberg requested a history of ordinance provisions regarding this committee and the relationship of this section to State law.

PUBLIC COMMENT.....
(12:33 p.m.) **Henry Kennedy**, Tarpon Road, advised that the public information meeting packet for the regular meeting on Wednesday, December 17 was lacking backup material.

CORRESPONDENCE/COMMUNICATION
Council Member MacIlvaine requested a review regarding application to the City debt of the excess funds from Wilkinson House proceeds. Vice Mayor Galleberg distributed a draft letter regarding beach renourishment (a copy of which is contained in the file for this meeting in the City Clerk's Office).

*Consensus supporting beach renourishment letter being sent to the
Board or County Commissioners.*

Mayor MacKenzie indicated receipt of a letter from the Board of County Commissioners (BCC) regarding the Naples Airport Authority (NAA) working with County Airport Authorities. She said that a response would be generated agreeing to do so. Council Member Taylor requested that Naples High School football team and the Naples Queens (girls' softball) be made Grand Marshals of the Christmas parade.

ADJOURN.....
1:07 p.m.

Bonnie R. MacKenzie, Mayor

Tara A. Norman, City Clerk

Minutes prepared by:

Pamela M. Koepke, Recording Specialist

Minutes Approved: 1/4/04