



City Council Chamber
735 Eighth Street South
Naples, Florida 34102

City Council Workshop Meeting – March 15, 2004 - 8:30 a.m.

Mayor Barnett called the meeting to order and presided.

ROLL CALLITEM 1

Present:

Bill Barnett, Mayor
Tamela Wiseman, Vice Mayor

Council Members:

William MacIlvaine
Johnny Nocera
Clark Russell
John Sorey III
Penny Taylor (arrived at 8:31 a.m.)

Also Present:

Robert Lee, City Manager
Anne Marie Ricardi, Finance Director
Chief Steven Moore, PESD
Steve Weeks, Information Services Director
Bob Pritt, City Attorney
Bob Devlin, FEMA/Support Services Manager
Ron Lee, Community Development Director
David Lykins, Community Services Director
Dan Mercer, Public Works Director
Pamela M. Koepke, Recording Specialist
Karen Kateley, Administrative Specialist
Naples Airport Authority:
Alice Carlson, Chairman
Eric West, Commissioner
Ted Soliday, Executive Director

Ron Pennington
Bill Kroeschell
Jim Boula

Interviewees:

Willie Anthony	Lloyd Donnelly
Daniel Fontella	Ibrahim Ghorayeb
Eugene Greener	William Haines
James Jessee	Paul Lindabury
Austin Lynch	Bill Kennedy
Paul Lindabury	Gary Price
Harriet Coleman	Gene Scanlan
Carol Olsen	James Siedel

Carl Erickson

Media:

Ilene Stackel, Naples Daily News
John Henderson, Naples Daily News
Denes Husty, Ft. Myers News-Press

Henry Kennedy

James Dean

Arlene Guckenberger

Other interested citizens and visitors

It is noted for the record that Council Member Taylor was not present for roll call, but entered the meeting at 8:31 a.m.

SET AGENDA.....ITEM 2

MOTION by Sorey to SET AGENDA, withdrawing Item 10. This motion seconded by Nocera and unanimously carried, all members present and voting

(MacIlvaine-yes, Nocera-yes, Russell-yes, Sorey-yes, Taylor-yes, Wiseman-yes, Barnett-yes).

DISCUSSION WITH COUNTY COMMISSIONER FRED COYLE.....ITEM 3

Regarding the City's proposed Comprehensive Plan Amendment relative to overpasses, Commissioner Fred Coyle encouraged the Council to commit that the County had evaluated all feasible alternatives to a structure proposed at Golden Gate Parkway and Airport Road and that legal proceedings would therefore be counterproductive. He also advised that he had recently conducted discussions of this matter with City Manager Robert Lee and County Manager Jim Mudd. He said therefore that if City Council will support this overpass and commit that the County has satisfied all alternatives, he believes the County will not pursue a legal challenge to the Comprehensive Plan Amendment.

Revised

Commissioner Coyle also proposed an agreement whereby the County could become an irrigation customer of the City's reclaimed water system. He said that this would help improve water quality in Naples Bay since, apart from irrigation, the City has no other option but to discharge treated reuse water into the Bay. Mr. Coyle further suggested that the respective elected officials direct their staffs to cooperatively identify beneficial connection points, long term benefits, and funding sources, also pointing out that over time revenue generated would offset the initial costs.

Commissioner Coyle also advised that local lobbying efforts would continue to be directed to the projected significant loss of transportation funding, mandated by the State, over the next five years. This is due, he said, to Collier County becoming a donor of gasoline tax revenues to other areas of the State.

Commissioner Coyle then noted an agreement whereby the Federal Emergency Management Agency (FEMA) granted the County a time extension to complete data collection and analysis. He expressed concern that coastal communities have not been sufficiently represented and that, in fact, it had been the City of Naples, which had brought to light the severe financial implications of proposed flood map revisions, especially along the coast. Mr. Coyle expressed the view that FEMA is, in fact, involved in social engineering to encourage development to move away from the coastal areas because of potential high insurance losses. He confirmed for Council Member Russell that bringing the FEMA issue before the Regional Planning Council could be beneficial.

Council Member Sorey expressed caution about entering into commitments to dispense reclaimed water outside the city limits and noted that treated water discharged into the Bay creates more of a salinity than a pollution issue. He also pointed out that discussions would soon commence regarding implementation of a reuse irrigation system for the residents of the City, which would nevertheless not alleviate Bay pollution. Because of what he described as the costly and challenging nature of installing a municipal water reuse system, Commissioner Coyle however urged the Council to consider allowing the County to connect to its reuse water system and take advantage of the County's extensive rainy season storage capacity. Revenues would be generated and the service could be discontinued at the City's discretion, he added.

Council Member Taylor encouraged both the City and County to financially support a strong public relations effort to raise awareness regarding the FEMA flood map issues and to garner

support. Council Member Sorey said that providing information on insurance costs, both under current and proposed rates, would also be effective in this regard. Commissioner Coyle however predicted that quoting rates would be difficult in part due to the lack of state mandated caps on insurance premiums for non-complying structures. Council Member MacIlvaine also urged that depictions be prepared showing current construction versus required construction under the new FEMA plan to convey a visual relationship.

It is noted for the record that Commissioner Coyle left the meeting at 8:50 a.m.

.....ITEM 4

INTERVIEWS WITH CANDIDATES FOR VARIOUS BOARDS AND COMMITTEES

8:50 a.m.	Willie Anthony	Citizen's Police Review Board
8:54 a.m.	Harriet Coleman	Citizen's Police Review Board
8:58 a.m.	Austin Lynch	Board of Appeals, Planning Advisory Board
9:02 a.m.	Lloyd Donnelly	Citizens' Police Review Board
9:11 a.m.	Daniel Fontella	Citizens' Police Review Board
9:16 a.m.	Ibrahim Ghorayeb	Citizens' Police Review Board
9:21 a.m.	Eugene Greener	Citizens' Police Review Board
9:24 a.m.	William Haines	Citizens' Police Review Board
9:27 a.m.	James Jessee	Citizens' Police Review Board

Discussion ensued regarding various positions available on the Citizens' Police Review Board. City Clerk Tara Norman clarified the number of positions available and which candidates were eligible for each vacancy.

9:32 a.m.	Paul Lindabury	Community Redevelopment Agency Advisory Board
9:45 a.m.	Bill Kennedy	Community Services Advisory Board
9:51 a.m.	Carol Olsen	Community Services Advisory Board
10:01 a.m.	James Black	Planning Advisory Board
10:03 a.m.	Gary Price	Planning Advisory Board
10:09 a.m.	Gene Scanlan	Planning Advisory Board
10:13 a.m.	James Siedel	Planning Advisory Board
10:18 a.m.	Carl Erickson	Staff Action Committee

City Clerk Norman requested that appointments to the Planning Advisory Board (PAB) be deferred until the April 7 meeting to enable another pending applicant to be interviewed. She also noted that current terms do not expire until the end of April. Council Member Sorey however suggested appointing the incumbents who had applied, continuing just the appointment for the alternate position. Mayor Barnett said that in fairness to all applicants it would be more appropriate to continue the PAB appointments. The remaining Council Members concurred.

Recess: 10:31 a.m. – 10:42 a.m. It is noted for the record that the same Council Members were present when the meeting reconvened.

PRESENTATION OF JUVENILE JUSTICE INITIATIVESITEM 5

Steven Moore, Chief of Police & Emergency Services, advised that juvenile justice program initiatives would be shared among all of the components of the justice system; namely, Circuit Judge Cynthia Ellis, the Public Defender's Office, the Department of Juvenile Justice (DJJ), the Collier County Sheriff's Office (CCSO), and Naples Police & Emergency Services (PESD). These initiatives would address non-violent, misdemeanor, first-time juvenile offenders through

two programs: the Juvenile Civil Citation Program (JCCP) and the Neighborhood Accountability Board (NAB).

Chief Moore explained the JCCP is a pre-arrest diversionary program in which a civil citation can be issued in lieu of arrest when the juvenile admits guilt and the parents agree to the diversionary program of community service hours. The juvenile is processed through the Youth Relations Department of the CCSO, which administers this program. This program also alleviates the juvenile court docket, Chief Moore added.

The NAB is a state sponsored, post-arrest diversion program for non-violent, first time offenders, Chief Moore said, which is currently operating successfully in North Naples and Marco Island and is seeking volunteers for the City of Naples. Chief Moore explained that the NAB meets with the juvenile and parents and can sanction community service hours and drug and anger management counseling. There will also be no resulting criminal record if the juvenile successfully completes the sanctions, and thereby the workload on the juvenile justice docket is relieved. Chief Moore then introduced Officer Sandra Springer, liaison between PESD and JCCP and NAB; Officer Springer, he indicated, has over six years' experience as a juvenile probation officer with the Department of Juvenile Justice (DJJ). Chief Moore said he would personally review the programs twice yearly.

Chief Moore then introduced Dr. Sandra O'Brien of the Florida Gulf Coast University (FGCU) Division of Public Affairs; Dr. O'Brien also serves as Director for the Center for Public and Social Policy (The Center) and is responsible for obtaining the grants for both of the aforementioned programs.

Dr. O'Brien then explained that The Center received a grant to develop and implement NAB's in this area, which are based on a restorative premise to repair harm caused by the crime, as well as to empower the community and reduce its risks. She explained that the North Naples NAB consists of retired law enforcement officers, teachers and business owners. When a juvenile offender is referred to NAB by either DJJ or the court, a holistic and comprehensive case plan is prepared with required sanctions such as stringent curfews and community service hours. After successful completion, the juvenile's criminal record would be cleared, she said. Dr. O'Brien also pointed out that just one out of 100 juveniles in the program had re-offended, making the NAB a promising diversionary practice. Efforts are also underway to integrate the program into the school system to address pre-arrest issues that would be monitored by a planned School Accountability Board. In response to Council Member MacIlvaine, Dr. O'Brien said the anticipation is to divert approximately 70% of offending juveniles out of the justice system.

North Naples Neighborhood Accountability Board Coordinator David Correa said that the NAB is designed so that the community can react to crimes and apply sanctions that benefit the juvenile, the parents, and the community. In addition to publicity already underway, Mayor Barnett said that the City Manager, Chief Moore and City Council could make the citizens of the City aware of the program.

In response to Council Member Taylor, Mr. Correa explained that two boards are being anticipated for the City: a merchant board for Coastland Mall and another, which would apply Citywide. Mr. Correa offered his assistance in interviewing potential volunteers and further

explained that there are plans to conduct training sessions with Dr. O'Brien and her staff from FGCU.

In conclusion, Chief Moore suggested an advertisement for volunteers on the City's television channel with Mr. Correa's contact information. In further response to Council, Chief Moore indicated that the boards have been limited by personnel and cost. He also noted that the majority of offenses occurring in the City are committed by County residents, although the North Naples NAB has handled and successfully concluded one City resident case thus far. Chief Moore confirmed that funds were being sought from many different avenues.

NAPLES AIRPORT AUTHORITY QUARTERLY UPDATE.....ITEM 6

Naples Airport Authority (NAA) Chair Alice Carlson presented the quarterly report to City Council (Attachment 1).

NAA Commissioner Eric West reported on the status of the ongoing litigation regarding the Stage 2 jet ban and the Jet One Center eviction (Attachment 1, Page 5). Mr. West also stressed that the current ongoing litigation had not been initiated by the NAA.

Mr. West reminded Council that Naples is the first airport in the nation to implement a 24-hour Stage 2 jet ban since adoption of the 1990 Airport Noise and Capacity Act, which made possible the implementation of operational restrictions on aircraft in the United States. Pursuant to the Part 161 Cost-Benefit Study, the NAA had established that Stage 2 aircraft represented less than 1% of airport operations but generated more than 36% of noise complaints. The NAA has also been successful, he said, litigating a Constitutional challenge mounted by various trade organizations.

However, the NAA is appealing in federal court a finding favorable to the Federal Aviation Administration (FAA) in the FAA's Part 161 challenge. With reference to this matter, Mr. West observed that the entire judicial body, which found against the airport, is employed by the FAA. In addition, because the NAA could not grant a request by Continental Aviation to have its Stage 2 aircraft excluded from the ban, Continental had brought suit alleging illegal zoning practices. While this had failed, an appeal is anticipated.

Referring to the Jet One matter, Mr. West said that this commercial tenant had had its non-public fueling permit revoked and lease declared in default by the NAA for the illegal sale of commercial fuel. The NAA was subsequently awarded a permanent injunction prohibiting any fueling of any type by Jet One at the airport. However, eviction and lease termination litigation is on hold pending a Chapter 11 bankruptcy filing by Jet One, and there appears to have been large transfers of funds to Jet One stockholders just prior to the Chapter 11 filing.

In response to Council Member Nocera, Mr. West indicated that approximately \$3 million had been expended on the Stage 2 jet ban litigation and approximately \$1 million on the Jet One issues. Mayor Barnett ascertained from Mr. West that the NAA remains financially solvent and has funds available for litigation. Mr. West however said that while it is uncertain what the total legal expenditures will be, the NAA is not basing its decision to continue in the courts upon funding but, rather, on an established vision regarding the mission of the Naples Municipal

Airport. Both the jet ban and Jet One matters, Mr. West observed, are not only connected to that vision, but are responsive to the community's indication that the airport is a community asset.

In response to Council Member Taylor, Mr. West confirmed the belief, that over time the Stage 2 fleet will decline, a projection, he added, which had been included in the analysis for the Part 161 study. Nevertheless, it is believed that approximately 2000 Stage 2 jets will still be flying in 2020, indicating the potential for a continued and significant impact on the community.

Council Member Taylor however maintained that the NAA had not availed itself of all enforcement measures at its disposal and also noted that over time new ways to minimize noise will become available. She also expressed concern that litigation expenses will progress to an inappropriate waste of resources and therefore suggested that the NAA consider curtailing pursuit of further legal remedies. In addition, Miss Taylor said she understood that for several years the NAA had in fact overlooked Jet One's business practices, only subsequently proceeding with litigation. Mr. West however disagreed, stating the NAA maintains five years of communications with Jet One, acknowledging non-compliance, and that Jet One is now under a permanent, mandatory injunction as it applies to refueling.

Council Member Taylor then inquired as to the current status of FAA grants. Mr. West explained that all FAA grants have been withheld for approximately one year and the NAA Executive Director Ted Soliday, confirmed that grant monies being held by the FAA equal \$1.3 million.

In response to Council Member Russell, Mr. West explained that the Jet One litigation is extremely fact intensive with several levels of process, which has in turn resulted in increased costs.

Chairman Alice Carson completed the quarterly report (Attachment 1, Pages 6 – 9).

Mayor Barnett expressed concern for airport improvements awaiting FAA funding and inquired as to the potential of grant monies being again appropriated after the litigation is resolved. Executive Director Soliday said there is the possibility that FAA funding will be withheld even after the litigation, although improvements will be considered for the next fiscal year budget as well as making application for State grants. He further advised that runway lighting had in fact been updated from previously obtained grant funding, although various other airport improvements are awaiting funding. Mr. Soliday added that the ongoing hangar project has been 50% funded by the State and is not affected.

Council Member MacIlvaine said he felt it inappropriate to continue pursuing costly litigation and questioned the validity and motives relative to the various causes of action. Mr. Soliday however reiterated issues involved in the Jet One litigation, and Mr. West asserted that because approximately 60% of the airport revenues are derived from fueling rights, NAA is correct in pursuing the Jet One litigation to safeguard this funding source. Otherwise, he said, airport funding is derived either through intense scheduling of commercial service or taxpayer subsidies. Council Member MacIlvaine nevertheless maintained that litigation expenses and a lack of federal funding could result in the City being asked to assist financially in airport operations and

maintenance. Mr. West assured City Council that the NAA has not, and would not, request financial assistance from the City.

In response to Council Member Taylor, Mr. West confirmed that the Collier County Airport Authority is subsidized with County tax dollars; however, he said he feels the residents of the City would not agree to subsidizing the Naples Airport. Executive Director Soliday also advised that, as an incentive, landing and space rental fees were waived for Cape Air, and any other commercial carrier that contracts with the Airport for service.

Regarding Jet One, Council Member Sorey said that it is clear that the NAA has the responsibility to enforce its leases and after reviewing the information, he said he believes it appropriate for the NAA to pursue this litigation.

REVIEW OF ITEMS ON THE 03/17/04 REGULAR MEETING AGENDAITEM 7

Added: Item 11 (Workmen's Compensation Settlement) and Item 12 (Resolution-Golden Gate/Airport Road Overpass) City Manager Lee requested these items be added. Item 13 (Metropolitan Planning Organization reorganization) Council Member Russell requested this item be added. **Withdrawn:** Item 7-k (Settlement - City of Naples v. United Contractors) City Manager Lee requested this item be withdrawn. **Continued:** Item 10-e (Planning Advisory Board appointments) Mayor Barnett indicated this item is to be continued to April 7. Item 7-b (Garden of Hope and Courage Music Festival) Mayor Barnett requested this item be withdrawn from Consent Agenda for separate discussion and vote, and Council Member Taylor inquired as to when the bands were contracted to perform. Item 7-f (Naples Concert Band agreement) Council Member Sorey requested clarification regarding use of banners at the stage area and insurance coverage requirements. Item 7-j (sidewalk construction Naples Landing) Council Member Sorey requested clarification of contractor time constraints in the agreement.

Recess: 12:03 p.m. – 1:31 p.m. It is noted for the record that Council Member Nocera was absent when the meeting reconvened.

BRIEFING BY CITY MANAGERITEM 8

City Manager Robert Lee submitted his written report (a copy of which, along with other pertinent documents, are contained in the file for this meeting in the City Clerk's Office) and also noted supplemental information regarding a draft Overpass Interlocal Agreement, a Collier Coastal Advisory update, and information regarding the reorganization of the Metropolitan Planning Organization (MPO). He said the written report also includes monthly financial information, except interest earned, and acknowledgment of a grand piano donated to the Norris Center by Gunther and Gevella Mansion. He said he anticipated that at the next workshop Council would receive a prioritization of City issues, estimated time frames and funding sources. In response to Council Member Taylor, City Manager Lee advised that the Tourist Development Council (TDC) grant application is due by the end of March and would be placed on a future agenda. Council Member MacIlvaine inquired as to a \$5,000 payment noted in the monthly financial report for attorney fees for the Naples Airport Authority (NAA); Council Members Russell and Wiseman however responded that this represented City Attorney Pritt's filing of an amicus curiae brief showing support for the NAA litigation.

**.....ITEM 9
DISCUSSION OF GOLDEN GATE PARKWAY /AIRPORT ROAD OVERPASS**

Mayor Barnett suggested delaying the City's pending Comprehensive Plan Amendment relative to overpasses in order to obtain an agreement from the County that any future planned overpass

plans include the City early in the process. Mayor Barnett cited discussions, which had occurred subsequent to a City/County joint workshop on the subject, as well as avoidance of litigation with the County in which City Attorney Pritt had advised that the City would most likely not prevail.

Council Member Russell urged development of a clear Comprehensive Plan before attempting to adopt an amendment and stressed the importance of Council support for the premise that the County had actually met the criteria set forth in the amendment in question and therefore the City does not object to the planned overpass.

It is noted for the record that Council Member Nocera entered the meeting at 1:39 p.m.

Vice Mayor Wiseman asked that Section 1.5 of the draft interlocal agreement relative to this particular overpass be deleted as inappropriate for inclusion in the settlement document. (A copy of this agreement is contained in the file for this meeting in the City Clerk's Office.) This, she said, should instead be developed into an independent policy if Council so desires. Regarding Section 1.2, final design review, Mrs. Wiseman suggested establishing a schedule prior to a contract being awarded. Finally, in Section 1.4, regarding presentation of plans for future overpasses or flyovers she recommended that the term "directly affecting" be defined, in relation to the City.

Council Member MacIlvaine said that he is opposed to the Golden Gate Parkway/Airport Road overpass because he feels it will merely move traffic congestion from one location to another. He also predicted that traffic impacts upon the City would nevertheless dramatically lessen over the next twenty years with development of other destinations in unincorporated areas. However, he said he is also vehemently opposed to costly litigation and that the draft agreement is an appropriate way to avoid it and protect future interests of the City.

Council Member Russell suggested removal of the Comprehensive Plan amendment from that week's regular meeting agenda, or the drafting of a more clear definition of the amendment criteria. Mayor Barnett suggested however first addressing the immediate issue before Council; namely, the potential litigation with the County. City Attorney Robert Pritt advised that the Comprehensive Plan amendment could not be removed, however, there are no legal constraints regarding amending language in either the Comprehensive Plan or the pending amendment. He did caution however that the Department of Community Affairs (DCA) is scheduled to review the amendment in May, and therefore urged expediency. At the request of Council Member Taylor, Mr. Pritt also reviewed the results of litigation between the City of Fort Myers and Lee County where the City had not prevailed in deterring construction of the Midpoint Bridge.

Council Member Sorey said, however, that he still does not support the Golden Gate Parkway/Airport Road overpass, not having been convinced that all feasible alternatives had been exhausted. The overpass will change the character of the City, he said, and pointed out that the Fort Myers litigation did at least delay the bridge construction for an extensive period of time; a delay in the case of the Golden Gate Parkway/Airport Road overpass could allow the City time to further develop alternatives and continue to study current data. Mr. Sorey added that he feels Council has an obligation to the residents to preclude additional major road modification in the City; this overpass is not going to be the last one, he predicted. In response to Council

Members Sorey and Taylor, City Attorney Pritt advised that actual litigation for the Midpoint Bridge took approximately two years and that he is unsure of the total legal costs.

Mayor Barnett however said that the advantage of an agreement with the County is to protect the City for the future and to ensure the City's immediate involvement regarding any additional overpass plans. He added that although he does not favor an overpass into the City, it would in fact be built and litigation would be a waste of resources. Council Member Sorey however predicted that additional overpasses would be handled by the County in the same fashion as the current one had been. City Attorney Pritt also cautioned against utilizing a lawsuit as a delaying tactic as a specific cause of action must be alleged. Council Member Sorey said the intent of litigation would be to delay the process to allow for more time to further evaluate the alternatives and perform more complete and accurate traffic studies.

Council Member Nocera however expressed the position that, after extensively studying the issue and reviewing consultants' reports, the overpass will be beneficial and that the longer it is delayed, the more it will ultimately cost the taxpayers. Council Member Russell said that regardless of land use changes being implemented, the Golden Gate Parkway/Airport Road overpass is still needed; five different consultants have determined this, he added. Nevertheless, Mr. Russell said, he is not comfortable with the draft settlement agreement as it does not allow for a commitment for the City to be included in future overpass plans, however, with a commitment from City Council to no longer obstruct the overpass, the City could be afforded additional time by the County to create an agreement that would improve communication and cooperation.

City Manager Lee suggested redrafting the agreement to state that the City would no longer object to the Golden Gate Parkway/Airport Road overpass and expects any administrative challenges to be withdrawn. He also recommended that during review of initial Comprehensive Plan amendments in May, the Council address language that is more clear and acceptable for both the City and the County. Mayor Barnett suggested City Council commit to forgo litigation regarding the Golden Gate Parkway/Airport Road overpass in exchange for the County withdrawing its administrative challenge and in May during the Comprehensive Plan review incorporate future cooperation requirements.

Vice Mayor Wiseman said that she feels the County does not wish to litigate with the City and suggested Council commit to withdrawing the objection to the Golden Gate Parkway/Airport Road overpass and then, through the Comprehensive Plan review cycle, determine a better practice for the future. She urged that Council remain cognizant that the overpass will also benefit traffic flows out of the City and that the County has committed to \$400,000 in aesthetic enhancements.

In response to Council Member Taylor, City Attorney Pritt said that a citizen would in fact have the right to sue the County regarding the overpass but that the legal foundation would depend upon proximity to the structure. He further advised that because the DCA has found the Comprehensive Plan in compliance, the City holds a strong position for any administrative challenge. Regarding the ultimate decision on whether the County can build the overpass, Mr. Pritt advised that there is a possible cause of action available whereby the County did not inform

the City in a timely manner. Vice Mayor Wiseman however said that regardless of whether the Comprehensive Plan amendment is ultimately upheld, if the County is determined to move forward with the overpass, the City's only position is one of legal action to prevent it. City Attorney Pritt clarified that he was not advising Council to pursue litigation.

Council Member Taylor questioned whether the City is prudent to withdraw its objections to the overpass when the traffic patterns could change so as to make an overpass unnecessary. Council Member MacIlvaine agreed, but again mentioned the potential of sizeable litigation expenses; nevertheless, he said, the Comprehensive Plan amendment remains in effect with only the possibility of some rewording for clarification during the review in May. Council Member Nocera however disagreed, stating that because of the new I-75 interchange, the Golden Gate Parkway/Airport Road overpass will in fact be needed, even if future traffic patterns change.

Council Member Sorey requested an estimate of potential litigation costs the City might incur if an agreement were not reached with the County, asserting that City residents are very clear on their opposition to the overpass. He also reiterated that a delay could ensure that all alternatives had been investigated.

In response to Council Member Taylor's comment regarding traffic patterns, Council Member Russell said that he believed that the Metropolitan Planning Organization's (MPO) new traffic modeling would take approximately one year and further pointed out that significant County land use changes, such as the rural fringe villages, had not yet been applied to County modeling either. However, he predicted that traffic patterns would not change to an extent that would preclude the need for the Golden Gate Parkway/Airport Road overpass, even though the overpass will also require expenditures for intersection improvements at other locations despite limited resources for this purpose.

Vice Mayor Wiseman said she agrees that it is important to halt the County's administrative challenge with the DCA, as it will not prevent the County from moving forward with the overpass. She cautioned that there are negative impacts to governmental relationships when there is this level of controversy.

Consensus to discontinue opposition to the Golden Gate Parkway/Airport Road overpass to avoid the administrative hearing and potential litigation (Sorey and Taylor dissenting).

Consensus directing a re-draft of resolution and agreement with Collier County.

.....ITEM 10
DISCUSSION OF AGREEMENT ON THE USE OF THE PULLING PROPERTY

This item was continued to 04/07/04.

DISCUSSION OF STREAMLINING CITY COUNTY MEETINGS.....ITEM 12

Referring to City Attorney Pritt's memorandum on the subject (Attachment 2), Mayor Barnett said that there had been no intent other than to suggest processes that could assist in streamlining City Council meetings. Mayor Barnett said that City Council is not obligated to adopt any of the suggestions in the memo.

Regarding public comment (Attachment 1, Item 1), City Attorney Pritt advised that while public comment is required on such matters as public hearings, including ordinance adoption, is not the case with most administrative agenda items. He also noted that in most jurisdictions open public comment is heard at either the beginning or the end of the meeting, and sometimes both. In response to Council Member Taylor, Mr. Pritt concurred with the importance of memorializing Council procedural changes for the benefit of all interested parties.

Council Member Sorey indicated support for open public comment at the beginning of the meeting to better accommodate people's schedules, however, he expressed concern for repetitive public comment that becomes cumbersome and time consuming. Vice Mayor Wiseman supported the open public comment at the beginning of both the workshop and regular meetings. Council Member Russell said that he too supports the open public comment at the beginning of the meetings, but he also suggested giving authorization for the Mayor to re-open public comment whenever necessary. Council agreed to hear non-agenda related public comment at the beginning of the workshop and regular meetings. Council also declined to eliminate open public input on individual agenda items. Regarding elimination of additional open public comment on each agenda whereby there would only be one opportunity to speak instead of twice (Attachment 2, Item 2), Council concurred that this suggestion would not be adopted.

City Attorney Pritt explained that the law does not require more than one public hearing on certain issues (Attachment 2, Item 3). Council Member Russell however indicated his preference for input from staff, petitioner, and public on both first and second readings of ordinances. Vice Mayor Wiseman said she did not support limiting public hearings because this could actually cause delays when Council requests major modifications in such cases as land use petitions, which tend to be fluid. Council concurred that there would be no decrease in public hearings.

Conducting quasi-judicial hearings on a separate day and time (Attachment 2, Item 4) was also rejected by Council. It was however suggested by various Council Members that the practice of listing items at a time certain be used more effectively, such as placement in the morning or immediately following a lunch recess. Mayor Barnett advised that he and City Manager Lee were currently addressing this issue to ensure petitioners are not rushed because of time constraints.

Mr. Pritt then said that quasi-judicial proceedings that only require resolutions or simple approvals could be done at the Planning Advisory Board (PAB) level (Attachment 2, Item 5). There would be a process of remanding the petition to the PAB when new evidence is going to be presented, he said. After discussion, however, Council rejected this suggestion. Regarding the elimination of workshops (Attachment 2, Item 6), City Attorney Pritt advised that workshops are not required although they have been a long-standing local tradition in this community. However, it was also determined that Council would not adopt this suggestion.

Noting the desirability of establishing clear direction regarding use of staff resources, City Attorney Pritt then suggested establishing a process leading up to legislation (Attachment 2, Item 7), whereby staff utilization on matters that are addressed by other City Boards and Committees

is set forth. Council concurred with the creation of a policy addressing the legislative trail through staff.

Regarding staff addressing certain administrative matters (Attachment 2, Item 8), Mr. Pritt pointed out that some issues could legally be approved at the staff level and do not require City Council approval. Vice Mayor Wiseman agreed, but nevertheless expressed concern regarding special events, live entertainment permits or residential impact statements. Council Member MacIlvaine indicated that he wished to retain ultimate decision making at the Council level because approvals for certain things determine the character of the City. Council Member Russell nevertheless expressed interest in discussing the various administrative approval thresholds. Council Member Sorey said staff should be encouraged to show leadership by identifying those issues that could be approved at the staff level, while also identifying an appeal process for petitioners that disagree with staff decisions. Council agreed with identifying those administrative approvals that could be addressed at the staff level.

Regarding greater use of the consent agenda (Attachment 2, Item 9), Council concurred that the City Manager could authorize items to be placed on the Consent Agenda, while Council retains authority to withdraw any items from the Consent Agenda at its discretion.

City Attorney Pritt then suggested an increase in the threshold financial authority exercised by the City Manager (Attachment 2, Item 10). Council Member MacIlvaine supported an increase but accompanied by a disclosure report for any expenditures that exceed a certain amount. Council Member Sorey also expressed support for an increase in the threshold, especially for budgeted Capital Improvement Projects (CIP's), but with implementation of an internal audit process. Mr. Pritt suggested a survey of other area governments to determine their financial thresholds but reminded Council that there are currently, in place, policies for purchases and spending. Council Member MacIlvaine added that the threshold policy could be extended to include, not just purchasing items, but other expenditures such as employee bonuses. Council Member Russell expressed interest in other area governmental policies. Council Member Sorey suggested a two-tiered threshold: one amount for CIP expenses and another for any new item. Vice Mayor Wiseman suggested a cap for vendors with regard to change orders. Council concurred with addressing this issue following a review and a report by the City Manager.

Discussion then ensued regarding lunch recess for workshops and regular meetings, and Council concurred that the word "may" would be inserted on City Council agendas to indicate that lunch recesses would be at Council's discretion.

DISCUSSION OF STATUS OF FEMA FLOOD PLAIN MAPS.....ITEM 11

City Manager Lee presented an overview and status of the Florida Emergency Management Administration's (FEMA) Flood Insurance Rate Maps (FIRMS) (Attachment 3). Mayor Barnett commended those involved with obtaining a time delay for the implementation of the Flood Insurance Rate Maps (FIRMS).

In response to Council Member Russell, City Manager Lee said that FEMA is allowing additional time to review and submit accurate data, which FEMA appeared receptive to receiving. Beyond submission of the data, City Manager Lee said, he is unsure what other input the City would have. Later in the meeting he also mentioned that Council would be presented

with preliminary maps, financial assumptions and more quantitative information from FEMA sometime between August and October.

CORRESPONDENCE/COMMUNICATION

Council Member Taylor inquired as to new tenant activity occurring at the location which formerly held the restaurant known as Viva's on Fifth and asked whether those activities had been appropriately permitted. She also commented that the clock on the exterior of that building was not working. Community Development Director Ron Lee explained that the building is occupied by new tenants and all appropriate permits have been obtained. Council Member Nocera requested notice be given to the tenants to repair the clock.

Council Member Taylor inquired as to a schedule for receipt of Andres Duaney's final report regarding the Fifth Avenue South Special Overlay District. Mr. Lee advised that findings and recommendations are anticipated in written form shortly.

Council Member Sorey referred to the February 25th Design Review Board (DRB) minutes where concerns were raised regarding the possibility of design criteria being in conflict with portions of the Code of Ordinances. He therefore encouraged staff to work closely with the DRB and make recommendations to Council for any amendments necessary to ensure compliance with the Code.

Council Member Russell said he wished to clarify his earlier statement regarding the color of the Norris Center. He said that his intent had been to question the reason for departing from the color scheme of other facilities located at Cambier Park, but not to disparage any department, advisory board or committee.

Mayor Barnett requested a review of an amended variance petition from Anthony and Diane Gualario. City Manager Lee advised that the petitioner has altered the building plans so as not to require a variance and that the amended petition is therefore strictly for a parking waiver on Eighth Street South. It was determined through discussion that City Manager Lee would confirm with City Attorney Pritt that the resubmittal procedure for this matter is appropriate.

PUBLIC COMMENT

None

ADJOURN

3:31 p.m.

Bill Barnett, Mayor

Tara A. Norman, City Clerk

Minutes prepared by:

Pamela M. Koepke, Recording Specialist

Minutes approved: 4/21/04