



City Council Chamber  
735 Eighth Street South  
Naples, Florida 34102

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**City Council Workshop Meeting – August 16, 2004 - 8:30 a.m.**

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Mayor Barnett called the meeting to order and presided.

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

**Present:**

Bill Barnett, Mayor  
Tamela Wiseman, Vice-Mayor-arrived at 8:33 a.m.

**Council Members:**

William MacIlvaine  
Johnny Nocera  
Clark Russell  
John Sorey III  
Penny Taylor

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**Also Present:**

Robert Lee, City Manager  
Tara Norman, City Clerk  
Dan Mercer, Public Works Director  
Bob Middleton, Utilities Director  
Jon Staiger, Natural Resources Manager  
Pamela M. Koepke, Recording Specialist  
Karen Kateley, Administrative Specialist

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**Naples Airport Authority:**

Ted Soliday, Executive Director  
Joe McMackin, Attorney  
Alice Carlson, Chairman  
Sheila Dugan, Finance Director

Other interested citizens and visitors

Mayor Barnett commended all City workers for their diligence before, during, and after Hurricane Charley. Council Member Sorey requested Mayor Barnett write a formal letter of commendation to all.

Mayor Barnett however expressed concern regarding confusion or misinterpretation of the term “mandatory” in relation to evacuations and suggested some type of alternative language to make hurricane danger more apparent. He also expressed dismay that people were on City beaches during the storm event and suggested closing beaches at such times with violators prosecuted. Mayor Barnett also asked that an option for a local radio station be researched so as to provide accurate information during storm events. In conclusion, he reported that he had offered the City’s support to those communities that were devastated by Hurricane Charley.

At this time Council also discussed other measures such as curfews, although it was noted that during the most recent storm event such measures had been deemed unnecessary. Other Council Members also listed local radio coverage as being needed, and City Manager Robert Lee expressed concern that removing individuals from the beaches would overwhelm emergency

personnel. He also said that maintaining order had been exacerbated by restaurants and other commercial establishments remaining open during emergency conditions.

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

***MOTION by Nocera to SET AGENDA; seconded by Russell and unanimously carried, all members present and voting (MacIlvaine-yes, Nocera-yes, Russell-yes, Sorey-yes, Taylor-yes, Wiseman-yes, Barnett-yes).***

**PUBLIC COMMENT.....ITEM 3**

(8:46 a.m.) **Stewart MacFarlane, 735 Belair Court**, expressed dismay that a tree swing located in the cul-de-sac of his neighborhood was no longer allowed because of one resident that had complained. Not only had the swing been popular with neighborhood children for many years, but the City had planted shrubbery to dissuade use of the area and had not given the neighborhood input on plantings as promised. Residents' efforts to ensure the safety of the children and well being of the tree which had held the swing had been ignored, Mr. MacFarlane said, and conveyed the neighborhood's desire for the shrubbery to be removed and the grass restored. He also urged release of the restrictions for use of the tree swing. Referring to the neighbor who he said precipitated the issue regarding the swing, he advised that construction vehicles owned by this individual frequently block Belair Court causing other residents to drive on and park on the grass. He said that this same individual had also built a driveway without a permit which encroaches on a neighboring property, violations that the City appears to be disregarding. Mr. McFarlane concluded however by expressing his appreciation to the City government and its efforts regarding Hurricane Charley.

Mayor Barnett advised that he has been following this situation and that discussion could occur at the regular meeting that Wednesday. City Manager Lee indicated that Council would receive a report on the matter. Council Member Taylor urged that as a matter of policy residents and citizen groups with long standing amenities on public property have input in these types of issues. City Manager Lee further explained that involved are complaints regarding a house under construction, the fact that a cul-de-sac had been used as a park by the neighborhood, and that this use represents safety concerns for the residents.

Expressing empathy with the neighborhood families, Council Member Russell nevertheless cited what he described as extraordinary liability if this particular activity were approved by the City. He requested the presentation of options, but pointed out that once complaints are received, it is not always possible to maintain the status quo. Council Member Nocera expressed similar sentiments regarding the disappointment expressed by the neighborhood. He then received confirmation that the issue of the driveway encroachment had already been addressed.

Council Member Sorey questioned that liability would be any more of an issue on a public cul-de-sac than it would in a City park. Miss Taylor again stressed the importance of neighborhood involvement and cited a possible communications breakdown in this instance.

**Robert Wheeler, 131 Third Street North**, expressed his appreciation to the City for Hurricane Charley efforts but expressed opposition to the installation of a brick paved crosswalk at Third Street North and First Avenue North and offered his written comments (Attachment #1). He said crosswalk improvements similar to those on Eighth Street South at Fourth Avenue South however, would be acceptable to him and his neighbors.

At Council Member Nocera's suggestion, Mr. Wheeler said he would attempt to obtain a petition to present at that week's regular meeting. Council Member Russell said he believed the crosswalk to have been planned for two years and inquired as to reasons for the current opposition. City Manager Lee said that he understood the crosswalk plan to have been in place for that long and that it had been supported. He said that he would report back to Council on the history of this matter

**Erica Hinson, 347 Central Avenue**, also complimented the City on pre-storm and post-storm coverage, particularly Janet Mullins of Community Services for her assistance in removing small sailboats from the beach. Mrs. Hinson however expressed the opposition of the Olde Naples Association to any plan to install a connecting sidewalk system and asked City Council to fulfill a prior Council's commitment that no sidewalk would be installed if 51% of residents opposed it. She further noted that there had been no pedestrian versus motor vehicle or bicycle accidents in Olde Naples. Again referring to the effects of Hurricane Charley, Mrs. Hinson said that it was now appropriate to seriously consider undergrounding utilities. Citing the efforts underway by Florida Power & Light (FPL) to restore power to an extensive area of the State, Mayor Barnett also commented that regardless of whether power lines are underground or overhead, during a storm event such as was recently experienced, there is generally little difference in the rapidity of power restoration.

Regarding sidewalks, Council Member Russell said that he frequently receives communication that former Mayor Bonnie MacKenzie had committed to 51% support being necessary before sidewalks would be installed. He said he however understood that Council would consider sidewalks on the basis of individual streets, including discussions with those affected, but that he could not support the aforementioned 51% approval requirement. He also asserted that the misinformation conveyed by the Olde Naples Association, as well as what he described as the group's inflammatory, nonobjective, and highly emotional communications, makes the process regarding sidewalks that much more difficult.

Council Member Taylor however characterized Council Member Russell's comments as inappropriate and that she did not believe the Olde Naples Association to be circulating incorrect information. Council had in fact implemented a policy whereby residents opposing projects in their neighborhood by 51% or more would be a deciding factor, she said, but Council Member Russell disagreed. Miss Taylor stressed the importance of considering Olde Naples' concerns since this neighborhood would be impacted by sidewalks far greater than any other. Mayor Barnett requested City Manager Lee to provide an update on this issue at the next meeting. City Manager Lee said that there were no immediate plans to install sidewalks anywhere in the City, however, the issue would be heard again in a workshop after staff has had an opportunity to research all viable alternatives. He added that staff is reviewing all petitions received on this issue to gauge neighborhood support.

Council Member Sorey offered a copy of an Olde Naples Association document (Attachment #2) to be distributed to Council. Mr. Sorey said that he agrees with Council Member Russell that the survey was counter-productive and designed to garner the response the Association was seeking. Regarding undergrounding utilities, Mr. Sorey suggested that City Manager Lee obtain factual information from FPL as to whether this enhances power restoration during storm events.

**INTERVIEWS WITH APPLICANTS FOR VARIOUS BOARDS .....ITEM 5**

Joseph Donahue	Code Enforcement Board
David Bard	Code Enforcement Board
Clyde Craig	Fire Pension Board
Daniel Keller	Fire, Police or General Pension Board

In response to Council Member Taylor, City Clerk Tara Norman explained that, although there were two vacancies on the Fire Pension Board, one was for the fifth member, chosen by the Board, and that there were currently incumbents in these positions on both the Police and Fire Pension Boards of Trustees.

**BUDGET PRESENTATION BY NAPLES AIRPORT AUTHORITY.....ITEM 4**

Naples Airport Authority (NAA) Chair Alice Carlson presented the Authority's 2004 accomplishments and described projects anticipated for 2005 (Attachment #3). During the presentation she advised that Delta Airlines would be initiating commercial service to Atlanta in November, and Cape Air would begin service to Key West in October. She added that the type of aircraft being considered by Delta is a 70 seat, Stage 3 jet that has proven to be the quietest of jets of this size and significantly quieter than Stage 2 models.

NAA legal counsel Joe McMackin presented an update of current litigation (Attachment #3) and advised that NAA had prevailed in its second noise pollution case in the Second District Court of Appeals versus Continental Aviation, and that the time to file additional appeals had expired. The only remaining litigation is against the Federal Aviation Administration (FAA). Attorney McMackin further explained that the FAA is not attempting to impose acceptance of Stage 2 aircraft, but if Stage 2 aircraft are banned, the FAA can then withhold grants. Mr. McMackin said the case has progressed to the United States Circuit Court of Appeals in the District of Columbia, which is one court below the United States Supreme Court. The first briefing is scheduled for September 13, which is when the City of Naples and Collier County amicus curiae brief is due. A final decision is expected within the next year, he said. Mr. McMackin also advised that, locally, the litigation against Jet 1 Center is still ongoing and a decision is imminent regarding the appointing of a trustee in that firm's bankruptcy. Council Member Nocera inquired as to the cost to date on the various legal proceedings. Mr. McMackin advised that over \$1 million had been expended thus far.

NAA Executive Director Ted Soliday presented a letter of response to inquiries made by Council Member Taylor regarding Delta Airlines projected revenue and legal fees. (Attachment 4).

NAA Financial Director Sheila Dugan then presented the Authority's Fiscal Year 2005 budget (Attachment 3). Ms. Dugan confirmed for Council Member Sorey the expectation that Delta Airlines' projected 120,000 passenger prediction would meet its revenue guarantee. Mr. Sorey also expressed appreciation for the Authority's commitment to the Gordon River Greenway effort.

Council Member MacIlvaine inquired as to any reimbursement or retroactivity in FAA grants should the NAA prevail. Executive Director Soliday explained that grant applications had been submitted and, to ensure their validity, the FAA in fact had requested re-submittal. He also noted that matching funds had been allocated as well. Mr. MacIlvaine then said that while recently

awaiting a flight out of Atlanta, he had witnessed the takeoff a regional jet similar to those being proposed and that the noise level was barely discernible.

Executive Director Soliday then responded to Council Member Taylor relative to the airfield lighting system, which Miss Taylor noted had been on a grant list for approximately three years. She also inquired as to whether the FAA withholding funds for these improvements would pose a safety issue. Mr. Soliday confirmed that the lighting had been a priority for as long as five years. While the first phase, most critical items had been completed, the second phase had been in grant form for two years. Mr. Soliday also noted that if a runway is down, pilots do have alternative runways to use, depending on the winds. However, Mr. Soliday confirmed that while the NAA had written the FAA to the effect that lighting is a safety issue, he said the NAA feels that the out-of-date fire truck situation, and its costly maintenance, as being more of a safety concern than the lighting.

Council Member Taylor asked how many Stage 2 jets are currently operating in the United States. Executive Director Soliday said that the main issue regarding Stage 2 jets is that the citizenry made it very clear that they do not want that type of aircraft operating from Naples, hence the legal actions taken by the NAA. Mr. Soliday then asserted that the main question is whether the NAA, as a legal entity, made the Stage 2 ban decision according to the law and acted reasonably. He stressed that the NAA feels very strongly that it will prevail in the litigation. Citing statistics provided by Continental Airlines, Mr. Soliday also said that he feels the number of Stage 2 jets is in fact not relevant to the issue. Miss Taylor, however, said that she understood that the NAA had received letters questioning the amount of money expended thus far on litigation compared to the number of Stage 2 jets in operation, therefore, giving it relevancy. Mr. Soliday said the majority of letters received are from an individual who was involved in the State level litigation that was won by the NAA. Mr. Soliday reiterated that the Authority has attempted responsiveness to community demands, along with the recommendation and support of the various airport advisory boards, and including Council Members.

Council Member Taylor then confirmed with Mr. Soliday that the projected net operating revenue of the airport were based upon projections of Delta's commercial operations in Naples.

In response to Council Member Russell, Mr. Soliday said that at a previous meeting, when stating how many Stage 2 jets were in operation, he was attempting to clarify that during a court session with the NAA, the FAA issued a conclusion that in the year 2020 there would be 2000 Stage 2 jets operating, which was not supported by the noise studies conducted by the NAA. Mr. Russell commented that not having made that data available to Council, the repercussions had been harsh and inappropriate. Mr. Russell said that nevertheless a course was chosen and pursued to ensure the goals requested by the community, and is proving successful. He expressed his appreciation for the NAA's efforts.

Council Member MacIlvaine said that the issue is not how many Stage 2 jets are flying in the U.S., but rather how many fly into Naples. Although the airport represents only 1% of the City's noise complaints, 40% of the Naples Airport complaints were Stage 2 jet noise. Mr. Soliday confirmed that when three or more complaints were received on one take off, that 90% of those complaints involved Stage 2 jets.

**BRIEFING BY CITY MANAGER.....ITEM 6**

City Manager Robert Lee submitted his written report (a copy of which, along with other pertinent documents, is contained in the file for this meeting in the City Clerk's Office) and acknowledged those employees who had left their families to respond to the storm emergency on behalf of the City. He advised that recently an employee recognition committee had been formed, which includes a bonus program, and that it would be reviewing the efforts of employees during the storm for special recognition. City Manager Lee also acknowledged Mayor Barnett, Vice Mayor Wiseman and Police & Emergency Services Chief Steven Moore for the time they each devoted to preparing for and seeing the community through the storm, as well as the post-storm efforts.

City Manager Lee then overviewed storm preparation and clean-up operations and advised that a comprehensive report would be presented at the next City Council Workshop. He also advised that the City was assisting those communities north of Naples with an emergency services team in Charlotte County, a firefighter team in Lee County, and supplies and a generator being taken to Arcadia.

Mayor Barnett explained that although the Fishing Pier had sustained railing damage, it was expected to reopen soon. Council Member Sorey suggested that because mahogany trees appear to be vulnerable to high winds, the City arborist research more wind resistant varieties. He also suggested trimming damaged trees in a manner that would protect them from disease and infection. Council Member Russell, referring to the pending tree canopy ordinance, inquired as to the possibility of specifying trees which are more appropriate for location near power lines.

Natural Resources Manager Jon Staiger gave a brief overview of beach damage and agreed with earlier comments regarding beach closures during storm events. He noted that the City has jurisdiction 300 feet into the Gulf and could do so if needed. Although a storm surge was less than predicted, a large rearrangement of sand did occur. Overall, the beaches fared well, he said.

Dr. Staiger then confirmed for Council Member Nocera that large trees that were uprooted could not be replanted because of root damage. Council Member Russell said he was aware of two boats that had sunk during the storm and inquired as to any other issues on Naples Bay related to the storm. Dr. Staiger explained that Dockmaster Mike Klein surveyed the Bay and the canal system with no damage to report other than the two boats that had sunk at the Naples Yacht Club, which City personnel responded to. There was no fuel spill to be concerned with, he also reported. In further response to Mr. Nocera, Dr. Staiger explained that the City does not have a salvage contractor of record and that SWS Company of Cape Coral is the contractor utilized for fuel spills, with fire personnel being the first responder for spill confinement. He said he that was unaware of any marine salvage companies in the Naples area.

Council Member Taylor asked whether City staff would be present at the Collier County Planning Commission meeting regarding the proposed Waterside Shops expansion. City Manager Lee said that there were plans for staff to attend and that a report was being prepared for presentation at that week's regular City Council meeting. Miss Taylor inquired as to what staff's recommendation would be in relation to Chief Moore's report regarding citations issued

for City Ordinance violations. City Manager Lee advised that a specific recommendation was being prepared for Council to be presented at the next meeting.

**REVIEW OF ITEMS ON 08/18/04 REGULAR MEETING AGENDA.....ITEM 7**

**To be withdrawn: Item 12** (350 Sixth Avenue South Subdivision) City Manager Lee advised that the petitioner had requested withdrawal. **To be added: Item 17** (State of Emergency Declaration) and **Item 18** (executive session – collective bargaining issues) City Manager Lee requested these items be added to the agenda. Council Member Sorey requested that updates be provided regarding the Golden Gate Parkway/Airport Road overpass consultant and conflict resolution process. Vice Mayor Wiseman inquired as to separate legal counsel being necessary for the above mentioned executive session, but City Manager Lee confirmed that this would not be necessary. City Manager Lee advised that a request to place a portable trailer at Fun Time Nursery had been made due to an excess of students caused by the closing of another child care facility on Tenth Street South. He said staff had been directed to expedite the process in an effort to accommodate the request. **Item 6-a** (minutes) Council Member Taylor requested amplification of statements regarding a residential rental program on 6/1/04 Workshop, page 2. Council Member Sorey identified typographical errors in 6/1/04 Workshop, 6/2/04 Regular, 6/14/04 Workshop, and in 6/16/04 Regular, page 5, he requested the word “it” be changed to “slow speed/minimum wake zone”, and in 6/14/04 Workshop, on page 16, change .004 to .4. Vice Mayor Wiseman requested the word “approved” be changed to “presented” on 6/16/04 Regular, page 3. **Item 6-c** (interlocal agreement-Norris Community Center) Vice Mayor Wiseman inquired as to the square footage of the space to be rented. **Item 6-g** (Paddy Murphy’s live entertainment permit) Council Members Sorey and Taylor requested this item be removed from the Consent Agenda for separate discussion and vote. **Item 6-n** (purchase agreement-Eaton Electrical) Council Member Sorey suggested Council address authorizing the City Manager to approve expenditures below a yet to be determined amount. **Item 7** (transient lodging ordinance) Council Member Taylor requested that Sharon Patti of the Lake Park Association be notified of the public hearing.

**CORRESPONDENCE/COMMUNICATIONS .....**

For that evening’s budget workshop, Mayor Barnett recommended casual attire. He said that an attempt would be made to cover the entire budget that evening.

Natural Resources Manager Jon Staiger corrected earlier statements regarding lack of a salvage contractor in Naples and the location of the sunken boats. There is, in fact, one salvage company in the community, he said, and explained that one boat had been recovered and one was still submerged, the sinking having occurred at the Naples Sailing & Yacht Club. Dr. Staiger clarified for Council Member Nocera that Joe Biasella is a licensed salvage contractor however, he was not the contractor on record for the City. Mr. Nocera inquired as to why the City contracts with a company elsewhere when there was one available in the area. City Manager Lee advised that he would research the history of this and report back to Council at a later date. Mr. Nocera stressed that Naples, being a waterfront community, should seriously consider a contractor that could respond more quickly.

Council Member Russell, regarding his comments about the Olde Naples Association earlier in the meeting, clarified that his frustration is with the leadership of the Association. He said that despite Council’s efforts to be reasonable about the issue of sidewalks, the Association’s letter and survey contained misinformation and was designed to illicit a certain response. Mr. Russell

said he is committed to being reasonable and to not supporting action contrary to the overall best interest of the community, and that he is willing to work with the residents regarding sidewalks as long as reasonableness and objectivity are maintained.

Council Member Taylor inquired as to the status of her previous request to research whether the Environmental Protection Agency (EPA), in fact, opposes reclaimed water use along coastal areas this having been mentioned by Turrell & Associates at a previous meeting. She reminding Council that Collier County Commissioner Fred Coyle had recommended that the City show its commitment financially regarding the Naples Depot.

Council Member MacIlvaine inquired as to whether the recent hurricane and lack of storm surge and flooding having any influence with the Federal Emergency Management Agency (FEMA) to support the City's position regarding the forthcoming flood rate maps.

Council Member Sorey suggested that Council Members provide City Manager Lee with a list of items they wished to have discussed during the upcoming joint County/City workshop. Regarding the vessel speed ordinance, Mr. Sorey stressed the importance that any data the State may require to be prepared and available. Also, he said that it had been suggested to him that Natural Resources Manager Jon Staiger conduct boat trips in four different boats that are typical of this area, to accurately gauge trip times. He also suggested that Council reconsider the 20 mph speed zone, as proposed in the ordinance, as it had been explained to him, that that speed is not conducive to controlling wake action. He inquired as to Dr. Staiger's recommendation in this regard. Mr. Sorey then advised Council that a political action committee had been formed regarding the Fleischmann property (Caribbean Gardens) acquisition and that various options are being considered.

Council Member Nocera volunteered to accompany Natural Resources Manager Staiger on the aforementioned boat trip study suggested by Council Member Sorey. Council Member Taylor and Mayor Barnett agreed that the presence of a Council Member would be beneficial.

**PUBLIC COMMENT.....**

(11:03 a.m.) **Joe Biasella, 860 12<sup>th</sup> Avenue South**, apologized for his actions during a previous Council meeting and explained that he is very passionate about Naples Bay and expressed dismay regarding current activities there. He then explained that he is the only licensed marine salvage contractor in the City and that he retains a multitude of salvage equipment, however, he stressed that he has no desire to contract with the City because of issues that had occurred several years ago. He then explained that the two boats that sunk at the Naples Sailing & Yacht Club contained a combined total of 900 gallons of diesel fuel which, he said, is leaking into the Bay and is a violation accompanied with very large fines. He expressed concern that the organization attempting to perform the salvage operation having no experience in this type of operation and that the sunken vessels have not been surrounded by a containment boom, which is also required by law. He said it is not always possible to have emergency personnel respond to situations of this nature, especially during storm events, and he stressed the necessity for the City's formulating an alternative plan of action and designating certified first responders for fuel spills. He further explained that he voluntarily assisted with control and containment of a barrel of ether improperly delivered and stored recently, to which the City's contractor, SWS, did not respond immediately, but rather reported to the scene 4 ½ hours after the call.



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Mayor Barnett requested City Manager Lee to research and report back to Council on the various items mentioned by Mr. Biasella.

**ADJOURN** .....  
11:14 a.m.

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Bill Barnett, Mayor

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Tara A. Norman, City Clerk

Minutes prepared by:

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Pamela M. Koepke, Recording Specialist

Minutes Approved: 9/29/04