



City Council Chamber
735 Eighth Street South
Naples, Florida 34102

City Council Regular Meeting –September 1, 2004– 9:00 a.m.

Mayor Barnett called the meeting to order and presided.

ROLL CALLITEM 1

Present:

Bill Barnett, Mayor
Tamela Wiseman, Vice Mayor (arrived 9:04 a.m.)

Council Members:

William MacIlvaine
Johnny Nocera
Penny Taylor
John Sorey, III

Absent:

Clark Russell

Also Present:

Robert Lee, City Manager
Robert Pritt, City Attorney
Victor Morales, Asst. to City Manager
Dan Mercer, Public Works Director
Jon Staiger, Natural Resources Manager
Martin Conant, Building Department Official
Denise Perez, Human Resources Director
Ann Walker, Planning Manager
Kerry Nielson, Planner
Pamela M. Koepke, Recording Specialist
Karen Kateley, Administrative Specialist

Doug Wingard
John Passidomo
William Farley
John Cowan
Jerry Alajajial
Arlene Guckenberger
Jim Boula
Henry Kennedy

Media:

John Henderson, Naples Daily News
Other interested citizens and visitors.

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

Council Member Nocera.

ANNOUNCEMENTSITEM 3

City Manager Robert Lee advised that Hurricane Frances may pose a threat to this area, and that Police & Emergency Services (PESD) Chief Steven Moore would be attending a briefing at the Collier County Emergency Operations Center regarding implementation of emergency management plans. He also said that the Board of County Commissioners (BCC) would conduct a special meeting on Thursday to determine whether to declare a state of emergency. A brief discussion ensued regarding the City obtaining an agreement with a local radio station to routinely broadcast information to City residents during storm events.

Mayor Barnett informed City Council that City Clerk Tara Norman had submitted her resignation, effective February 19, 2005. (A copy of Mrs. Norman’s memorandum is contained in the file for this meeting in the City Clerk’s Office.)

SET AGENDA.....ITEM 4

Added: **Item 22** (Golden Gate Parkway/Airport Road overpass conflict resolution), **Item 23** (Waterside Shops expansion), **Item 24** (Conservation Collier proposed land purchase), and **Item 25** (Executive Session – labor negotiations). **Continued:** **Item 6-b** (architectural design – Norris Center), **Items 11-a and 11-b** (Bice Ristorante – conditional use, residential impact statement) and **Item 12** (Bice Ristorante – live entertainment).

PUBLIC COMMENT.....ITEM 5

(9:10 a.m.) None

CONSENT AGENDA

SPECIAL EVENTSITEM 6-a

1. Stan Spiro and The Townsman Concert – City of Naples Community Services Department – Cambier Park Bandshell – October 17, 2004
2. Naples Daily News Jazz Band Concert – City of Naples Community Services Department – Cambier Park Bandshell – October 24, September 7 and December 5, 2004
3. Naples Concert Band – City of Naples Community Services Department – Cambier Park Bandshell – October 31, 2004
4. “Thursday on Third” – Third Street South Merchant’s Association – September 16, October 21, November 18, and December 2, 9, 16, 23 and 30, 2004
5. Hurricane Charley Fundraiser (modified event – Evening on Fifth) – Fifth Avenue South Association – September 9, 2005

RESOLUTION (Continued to 09/15/04; see Item 4)6-b

A RESOLUTION APPROVING A SECOND AMENDMENT TO AN AGREEMENT BETWEEN THE CITY OF NAPLES AND WARNER ARCHITECTS, INC., FOR ADDITIONAL SERVICES ASSOCIATED WITH ARCHITECTURAL DESIGN FOR THE REPLACEMENT AND EXPANSION OF THE NORRIS COMMUNITY CENTER; AUTHORIZING THE CITY MANAGER TO EXECUTE THE SECOND AMENDMENT; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 04-10551.....6-c

A RESOLUTION APPROVING PAYMENT OF THE 2004 COLLIER COUNTY INVOICE FOR ARTIFICIAL REEF CONSTRUCTION; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 04-10552.....6-d

A RESOLUTION RATIFYING AND CONFIRMING THE ACTION OF THE MAYOR AND CITY MANAGER TO AUTHORIZE AN EMERGENCY EXPENDITURE IN ORDER TO PROVIDE ADDITIONAL HORTICULTURAL PICKUP CREATED BY HURRICANE CHARLEY BY T.F.R. ENTERPRISES OF AUSTIN, TEXAS UNDER RESOLUTION 04-10526; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 04-10553.....6-e

A RESOLUTION APPROVING AN AGREEMENT WITH MAGNUM CONSTRUCTION MANAGEMENT CORPORATION TO RELOCATE THE CITY’S RAW WATER MAIN LOCATED AT GOLDEN GATE PARKWAY AND I-75; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. Title not read.

MOTION by Nocera to **APPROVE CONSENT AGENDA**, except Item 6-b, which was continued to September 15, 2004. This motion was seconded by MacIlvaine and carried 6-0 (MacIlvaine-yes, Nocera-yes, Russell-absent, Sorey-yes, Taylor-yes, Wiseman-yes, Barnett-yes).

END CONSENT AGENDA

ORDINANCE 04-10554.....ITEM 7
AN ORDINANCE AMENDING SECTION 118-90 OF THE CODE OF ORDINANCES PERTAINING TO BUILDING DIVISION FEES IN ORDER TO CLARIFY THE DEFINITION OF GROSS SQUARE FOOTAGE; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. (9:11 a.m.) Title read by City Attorney Robert Pritt. City Manager Robert Lee said that, due to a question posed by a contractor, it was determined that the Building Division Fees ordinance required clarification. In response to Council Member Nocera, Building Division Official Martin Conant advised that no refunds had been requested and that none would be offered.

MOTION by Wiseman to **APPROVE ORDINANCE 04-10554**, as submitted, seconded by MacIlvaine and carried 6-0 (MacIlvaine-yes, Nocera-yes, Russell-absent, Sorey-yes, Taylor-yes, Wiseman-yes, Barnett-yes).

ORDINANCE 04-10555.....ITEM 8
AN ORDINANCE DETERMINING SMALL-SCALE COMPREHENSIVE PLAN AMENDMENT PETITION 04-CPASS1 IN ORDER TO AMEND THE FUTURE LAND USE MAP DESIGNATION FROM PUBLIC, SEMI-PUBLIC INSTITUTIONAL, TO LOW DENSITY RESIDENTIAL FOR PROPERTY LOCATED AT 1450 MANDARIN ROAD, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE. (9:13 a.m.) Title read by City Attorney Robert Pritt, who advised that because this ordinance amends the Comprehensive Plan, an affirmative vote by a majority of City Council Members would be required. Council Member Nocera expressed concern for the request because adjacent property owners had purchased their homes with the reasonable expectation that there would be no additions to density, but were now facing four additional dwelling units and attendant infrastructure. Council Member MacIlvaine, however, pointed out that the additional homes would generate more tax revenue, but Mr. Nocera maintained that approval goes against the City's commitment to reduce density.

MOTION by MacIlvaine to **APPROVE ORDINANCE 04-10555**; seconded by Sorey and carried 6-0 (Taylor-yes, Nocera-yes, MacIlvaine-yes, Russell-absent, Sorey-yes, Wiseman-yes, Barnett-yes)

ORDINANCE (FIRST READING).....ITEM 9
AN ORDINANCE AMENDING SECTION 98-4 BY AMENDING THE DEFINITION OF "SUBDIVISION" AND ADDING A NEW SECTION 110-95 TO THE CODE OF ORDINANCES OF THE CITY OF NAPLES IN ORDER TO ESTABLISH REGULATIONS FOR THE SPLITTING OF SINGLE FAMILY ZONED PLATTED LOTS; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. (9:16 a.m.) Title read by City Attorney Robert Pritt.

MOTION by Wiseman to **APPROVE AT FIRST READING**; seconded by Sorey and carried 6-0 (MacIlvaine-yes, Nocera-yes, Russell-absent, Sorey-yes, Taylor-yes, Wiseman-yes, Barnett-yes).

ORDINANCE (FIRST READING).....ITEM 10
AN ORDINANCE GRANTING REZONE PETITION 04-R5 FOR PROPERTY
LOCATED AT 300 GOODLETTE ROAD, MORE PARTICULARLY DESCRIBED
HEREIN, IN ORDER TO PERMIT REZONING FROM PD, PLANNED
DEVELOPMENT, AND D, DOWNTOWN, TO A NEW PD, PLANNED
DEVELOPMENT; PROVIDING A SEVERABILITY CLAUSE, A REPEALER
PROVISION AND AN EFFECTIVE DATE. (9:16 a.m.) Title read by City Attorney Robert Pritt. Notary Public Pamela Koepke administered an oath to those intending to give testimony; all responded in the affirmative. This being a quasi-judicial proceeding, Council Members offered the following ex parte disclosures: Wiseman/brief discussion with Attorney John Passidomo; Nocera/discussion with Attorney Passidomo and the petitioner; Barnett/no contact; Taylor/conversation with staff; MacIlvaine/received phone call from Attorney Passidomo, but no conversation or contact; Sorey/brief discussion with Attorney Passidomo.

Attorney John Passidomo, representing the petitioner, indicated that the request is an extension of an approval, granted by City Council in January 2003, for the original 17.76 acre Grand Central Station site. Mr. Passidomo explained that an additional two acres are under contract, which is anticipated as being more commercial in nature. The master plan has been adjusted to accurately reflect the additional land, he said.

Mr. Passidomo listed the following five components to the request: 1) an extension of Third Avenue South through the site, as originally approved, with the addition of a new interior street extending and connecting to First Avenue South, which will include a pedestrian access to US 41; 2) all open, green, and public spaces will be retained as originally presented, but improved upon; 3) density remains capped at 12 units per acre; 4) lot coverage remains at a maximum of 39% and 5) all building heights, commercial or residential, will not exceed 42 feet.

Mr. Passidomo then explained that setbacks along Goodlette-Frank Road had been reduced for consistency with other commercial enterprises on Goodlette; there had also been an increase in the total number of residential and commercial units, although density will still not exceed 12 units per acre, as originally agreed upon. Characterizing each change as an improvement in the project, Mr. Passidomo noted that the plan is consistent with “D” Downtown zoning. He urged approval and assured Council that the petitioner would abide by all its recommendations.

Council Member Sorey said that he was willing to support the request because the petitioner would maintain the density cap and lot coverage. Attorney Passidomo then confirmed for Council Member Taylor that a parcel inside the project, proposed for purchase by Florida Gulf Coast University (FGCU), had been included in the plan, as was an increase in commercial space. (A copy of the plan referred to is contained in the file for this meeting in the City Clerk's Office.)

Council Member MacIlvaine indicated support for the request, but received confirmation from Attorney Passidomo that the initially planned tennis courts had not been retained due to insufficient space. Mr. MacIlvaine said that he felt the project would be an asset to the City. Mayor Barnett suggested a possible agreement between the developer and the City's Tennis

Center at Cambier Park. Council Member Nocera suggested a partnership whereby the developer would install tennis courts on the Pulling property, as it is developed as a public park.

Council Member Nocera made a motion to approve and Council Member MacIlvaine offered a second, however, further discussion ensued.

Council Member Taylor inquired as to potential traffic impacts with the proposed FGCU theater and museum. Mr. Passidomo said that while there will be an impact, it was taken into account during the traffic impact generation analysis; however, he noted, those impacts had actually shown a decrease when compared to a fully functioning commercial Grand Central Station shopping center. Planning Manager Ann Walker explained that the setback change was also recommended by the Design Review Board (DRB) for a consistent appearance between commercial and residential interests on Goodlette-Frank Road. Miss Taylor said that, for the record, the original request had been for a change to 25-foot setbacks from the roadway.

City Attorney Robert Pritt confirmed that the petition then was strictly a Planned Development (PD) rezone request. Planning Manager Walker also noted that the development agreement and residential impact statements would be submitted for review at the next regular City Council meeting.

Public Comment: (9:38 a.m.) None.

MOTION by Nocera to APPROVE AT FIRST READING; seconded by MacIlvaine and carried 6-0 (MacIlvaine-yes, Nocera-yes, Russell-absent, Sorey-yes, Taylor-yes, Wiseman-yes, Barnett-yes).

**RESOLUTION (Continued to 09/15/04; see Item 4)ITEM 11-a
A RESOLUTION DETERMINING CONDITIONAL USE PETITION 04-CU7 TO
ALLOW OPERATION OF A COCKTAIL LOUNGE WITH A PRIVATE
MEMBERSHIP SOCIAL CLUB, LIVE ENTERTAINMENT AND EXTENDED
OPERATING HOURS NIGHTLY AT BICE RISTORANTE, LOCATED AT 300 FIFTH
AVENUE SOUTH, MORE PARTICULARLY DESCRIBED HEREIN, SUBJECT TO
THE CONDITIONS LISTED HEREIN; PROVIDING FOR THE CITY CLERK TO
RECORD SAID CONDITIONAL USE; AND PROVIDING AN EXPIRATION DATE
AND AN EFFECTIVE DATE. Title not read.**

**RESOLUTION (Continued to 09/15/04; see Item 4) ITEM 11-b
A RESOLUTION DETERMINING A RESIDENTIAL IMPACT STATEMENT FOR
PETITION 04-RIS6 TO ALLOW OPERATION OF A COCKTAIL LOUNGE WITH A
PRIVATE MEMBERSHIP SOCIAL CLUB, LIVE ENTERTAINMENT AND
EXTENDED OPERATING HOURS NIGHTLY AT BICE RISTORANTE, LOCATED AT
300 FIFTH AVENUE SOUTH, MORE PARTICULARLY DESCRIBED HEREIN; AND
PROVIDING AN EFFECTIVE DATE. Title not read.**

**RESOLUTION (Continued to 09/15/04; see Item 4)ITEM 12
A RESOLUTION DETERMINING LIVE ENTERTAINMENT PETITION 04-LE3 FOR
BICE RISTORANTE LOCATED AT 300 5TH AVENUE SOUTH, MORE
PARTICULARLY DESCRIBED HEREIN, SUBJECT TO THE CONDITIONS LISTED
HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title not read.**

RESOLUTION 04-10556.....ITEM 14
A RESOLUTION DETERMINING CONDITIONAL USE PETITION 04-CU8 TO
ALLOW FOR CONSTRUCTION OF A GUEST UNIT NOT TO EXCEED 450 SQUARE
FEET, AT 1600 MUREX LANE, MORE PARTICULARLY DESCRIBED HEREIN,
SUBJECT TO THE CONDITIONS LISTED HEREIN; PROVIDING FOR THE CITY
CLERK TO RECORD SAID CONDITIONAL USE; AND PROVIDING AN
EXPIRATION DATE AND AN EFFECTIVE DATE. (9:40 a.m.) Title read by City Attorney Robert Pritt. Notary Public Pamela Koepke administered an oath to those intending to give testimony; all responded in the affirmative. This being a quasi-judicial proceeding, Council Members offered the following ex parte disclosures: Wiseman/familiar with site, no contact; Nocera and Barnett/visits to the site, no contact; Taylor/contact with ~~Mary~~ Terry Storter regarding the site; MacIlvaine/no contact; Sorey/visited the site and discussion with Petitioner William Farley.

Planner Kerry Nielson said that this request is for a conditional use allowing a guest unit, which will not exceed 450 total square feet. Mayor Barnett acknowledged Petitioner William Farley as being present and available for questions. Council Member Sorey said that Mr. Farley had indicated plans to install an additional driveway, and confirmed with Planner Nielson that two driveways are, in fact, permitted at single-family residences as long as setback requirements are met.

Planner Neilson also confirmed that the proposed guest house would be one story, and Council Member MacIlvaine received confirmation from Petitioner Farley that there was no intent to convert it to two stories. Planner Nielson also explained that maximum height for residential is 30 feet; therefore, two stories could, though not planned, be permitted. In further discussion, Planning Manager Ann Walker explained that guest units are limited to one habitable story, which allows for parking underneath, but precludes lofts and interior stories. Ms. Walker also stressed that the request under consideration is strictly for construction of a guest unit, which is restricted by the Code to one habitable story and not to exceed 450 square feet.

Council Member MacIlvaine, however, suggested limiting approval to strictly one floor to prevent a 30-foot-high structure from being positioned adjacent to a one-story, single family residence. In response to Council Member Nocera, Planning Manager Walker confirmed that the petitioner, under the Code, could build one, 30-foot guest unit and raze and rebuild his existing home also to 30 feet in height. In further response to various Council Member inquiries, Planner Nielson advised that there are some guest houses on Murex Drive, and Planning Manager Walker explained that the proposed guest house is well within the setback requirements, and will not impact adjacent properties.

Council Member MacIlvaine offered a motion to approve the request with the condition that the guesthouse remains a single story structure with no parking underneath. Council Member Sorey, however, pointed out that a single story can be as high as 30 feet and inquired as to a conditional height restriction being placed on the approval, whereby the structure would not exceed in height the dwelling already located on the property. Mr. Farley said that the intent was to build a guest unit consistent in appearance with the main house. Mr. MacIlvaine said that he would, therefore, amend his motion to also restrict the guesthouse to 17 feet in height. Mr. Sorey then suggested

adding requirements for landscaping that would hide the guesthouse from the street. Mr. Farley said that that had already been incorporated into the plan. Council Member MacIlvaine said that he would amend his motion to also include camouflaging landscaping as a requirement of the approval. Council Member Taylor suggested using the term screen from the roadway instead of camouflage.

Council Member Nocera, however, said that he felt Council was being too restrictive by involving itself with the design aspects of the request. Vice Mayor Wiseman said that the conditions recommended by staff are sufficient. Mayor Barnett concurred.

Public Comment: (9:52 a.m.) None.

MOTION by MacIlvaine to **APPROVE RESOLUTION 04-10556**, with the following conditions: *The guesthouse is not to exceed 17 feet in height and landscaping is to screen the guesthouse from the roadway. This motion was seconded by Sorey and failed 3-3-0 (Wiseman-no, Nocera-no, MacIlvaine-yes, Taylor-yes, Russell-absent, Sorey-yes, Barnett-no).*

MOTION by Nocera to **APPROVE RESOLUTION 04-10556**, as submitted, seconded by Wiseman and carried 4-2-0 (Sorey-yes, Russell-absent, Wiseman-yes, Nocera-yes, MacIlvaine-no, Taylor-no, Barnett-yes).

RESOLUTION 04-10557.....ITEM 15

A RESOLUTION DETERMINING LIVE ENTERTAINMENT PERMIT RENEWAL FOR TOMMY BAHAMA LOCATED AT 1220 THIRD STREET SOUTH, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.

(9:56 a.m.) Title read by City Attorney Robert Pritt. Notary Public Pamela Koepke administered an oath to those intending to give testimony; all responded in the affirmative. This being a quasi-judicial proceeding, Council Members offered ex parte disclosures which, in each case, included a visit to the site but no other contact.

MOTION by Nocera to **APPROVE RESOLUTION 04-10557**, seconded by MacIlvaine and carried 6-0 (MacIlvaine-yes, Nocera-yes, Russell-absent, Sorey-yes, Taylor-yes, Wiseman-yes, Barnett-yes).

Public Comment: (9:58 a.m.) None.

RESOLUTION 04-10558.....ITEM 16

A RESOLUTION DETERMINING PETITION 04-EV2 FOR VACATION AND REESTABLISHMENT OF A DRAINAGE EASEMENT BETWEEN THE PROPERTIES AT 1870 AND 1900 GALLEON DRIVE OR LOTS 72 AND 73, GALLEON DRIVE SECTION, PORT ROYAL, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE. (9:57 a.m.) Title read by City Attorney Robert Pritt.

MOTION by Wiseman to **APPROVE RESOLUTION 04-10558**; seconded by MacIlvaine and carried 6-0 (MacIlvaine-yes, Nocera-yes, Russell-absent, Sorey-yes, Taylor-yes, Wiseman-yes, Barnett-yes).

ORDINANCE 04-10559.....ITEM 17

AN ORDINANCE AMENDING THE FINAL BUDGET OF THE EAST NAPLES BAY SPECIAL TAXING DISTRICT FOR FISCAL YEAR COMMENCING OCTOBER 1, 2003 AND ENDING SEPTEMBER 30, 2004 ADOPTED BY ORDINANCE 03-10194; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. (9:58 a.m.) Title read by City Attorney Robert Pritt.

MOTION by Wiseman to **APPROVE ORDINANCE 04-10559**; *seconded by Taylor and carried 6-0 (MacIlvaine-yes, Nocera-yes, Russell-absent, Sorey-yes, Taylor-yes, Wiseman-yes, Barnett-yes).*

RESOLUTION 04-10560.....ITEM 18

A RESOLUTION AUTHORIZING ACCEPTANCE OF A MITIGATION PROPOSAL TO ALLOW DEVELOPMENT OF THE VACANT PROPERTY LOCATED AT 4067 9TH STREET NORTH; AND PROVIDING AN EFFECTIVE DATE. (9:58 a.m.) Title read by City Attorney Robert Pritt. Notary Public Pamela Koepke administered an oath to all those intending to give testimony; all responded in the affirmative. This being a quasi-judicial process, Council Members offered the following ex parte disclosure: Wiseman/greeted by the petitioner before the hearing, no other contact; Nocera and Barnett/brief discussion with the petitioner; Taylor/brief telephone conversation with the petitioner several weeks prior, discussion with the petitioner two days prior regarding his appearance before Council; MacIlvaine/lengthy telephone conversation with petitioner one month prior; and Sorey/visited the site, conducted a brief conversation with the petitioner.

City Manager Lee said that the property is currently zoned “HC” Highway Commercial and the request is to approve tree removal and proposed mitigation. Natural Resources Manager Jon Staiger explained that the petitioner has had serious difficulty in selling his property because the tree ordinance prevents removal of trees, and thus development of the site. In an effort to resolve this issue, off-site mitigation is being offered in the form of a \$44,000 donation to the City’s Land Preservation Trust Fund, and staff recommends approval, he said. He said a similar situation had, at one time, been proposed for the site which became the Naples Preserve, which would have resulted in the Fleischmann Estate donating land to the City. Dr. Staiger said that City Attorney Pritt had opined that the course of action proposed by the current petitioner was appropriate.

Council then concurred with a proposal by Vice Mayor Wiseman that the funds must stay within the Land Trust. City Attorney Robert Pritt noted that, because the Land Preservation Trust Fund had not yet been established, it may be necessary to transfer the amount once the fund is created. City Manager Lee said that arrangements to establish the Fund would be made.

Public Comment: (10:08 a.m.) None.

MOTION by Nocera to **APPROVE RESOLUTION 04-10560**, *with the condition that the mitigation funds are allocated specifically to the Land Preservation Trust Fund. This motion was seconded by Sorey and carried 6-0 (MacIlvaine-yes, Nocera-yes, Russell-absent, Sorey-yes, Taylor-yes, Wiseman-yes, Barnett-yes).*

Following the vote, it was determined that the petitioner should not remit the funds, but rather wait until the 30 day objection period had passed.

ORDINANCE (FIRST READING).....ITEM 13

AN ORDINANCE DETERMINING REZONE PETITION 04-R6 FOR PROPERTY LOCATED AT 111 12TH AVENUE SOUTH, MORE PARTICULARLY DESCRIBED HEREIN, IN ORDER TO PERMIT REZONING FROM R1-10 TO PS, PUBLIC SERVICE; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. (10:09 a.m.) Title read by City Attorney Robert Pritt. Notary Public Pamela Koepke administered an oath to those intending to offer testimony; all responded

in the affirmative. This being a quasi-judicial proceeding, Council Members offered the following ex parte disclosures: Wiseman, Nocera and Barnett/familiar with the site, no contact; Taylor/familiar with the site, brief conversation with a citizen. MacIlvaine/inspected the site, no contact; and Sorey/visited site on numerous occasions, advised his spouse is member of Historical Society Board of Directors, and conducted lengthy discussions with Historical Society President Don Wingard.

City Manager Lee explained that the Palm Cottage property had been rezoned in 1993 to a conditional museum use and the Historical Society had purchase the property immediately east, which it desires to use as a garden depicting the evolution of landscapes in Naples.

Mayor Barnett said there had been fears expressed that visitors to the garden will exacerbate parking near Palm Cottage, although he said he was unsure of a solution. Council Member Taylor inquired as to a parking requirement for “PS” Public Service zoning. Planning Manager Ann Walker explained that parking requirements are not based upon zoning, but rather upon use, although there had been no parking requirement imposed on Palm Cottage, and the garden is considered ancillary which, likewise, does not have a parking requirement.

In response to Mayor Barnett, Historical Society President Don Wingard said that the garden is being viewed as an extension of Palm Cottage, as well as preserving the open space for the benefit of Palm Cottage and the City as well. Mr. Wingard stressed that the intent is not to bring more traffic to the area, as the garden will not be heavily used, and there are plans for more organized staff parking along the alley Mr. Wingard said the adjacent neighbor has given his support.

Council Member Sorey proffered a motion to approve, and Council Member MacIlvaine said he felt the plan was an excellent use of the property and offered a second; however, further discussion ensued regarding the types and sizes of events held at Palm Cottage and how parking is addressed during those events. Mr. Wingard stressed that there are few events held at Palm Cottage, and those are limited in the number of attendees. If an event generates 75 attendees, valet parking is utilized, and all events are required to conclude by 10:00 p.m. Mr. Wingard was unsure of the location of the valet parked cars, but advised he could ascertain that information if necessary. He stressed that the majority of visitors walk to Palm Cottage and that he has never witnessed the facility being at capacity.

Public Comment: (10:20 a.m.) None.

MOTION by Sorey to APPROVE AT FIRST READING; seconded by MacIlvaine and carried 6-0 (MacIlvaine-yes, Nocera-yes, Russell-absent, Sorey-yes, Taylor-yes, Wiseman-yes, Barnett-yes).

After the vote, Council Member Nocera said that the parking lot at the Fishing Pier might be an ideal location for an additional public parking garage.

**RESOLUTION 04-10561.....ITEM 19
A RESOLUTION OF THE CITY OF NAPLES, FLORIDA, AMENDING THE 2003-04
BUDGET ADOPTED BY ORDINANCE 01-10191, AND PROVIDING AN EFFECTIVE
DATE.** (10:18 a.m.) Title read by City Attorney Robert Pritt. Council Member Sorey said that he wanted to ensure sufficient funding, in a future budget, to conduct water sampling on Naples

Bay and to perform a conceptual study of the Gordon River Greenway, from the Gordon River Bridge to the existing Greenway at Naples Municipal Airport.

City Manager Lee said that a report would be presented during a budget presentation, although the budget does not specifically detail Naples Bay water sampling. However, there is an anticipated cost of \$50,000 and funding sources have been identified, he added.

MOTION by MacIlvaine to APPROVE RESOLUTION 04-10561; seconded by Sorey and carried 6-0 (MacIlvaine-yes, Nocera-yes, Russell-absent, Sorey-yes, Taylor-yes, Wiseman-yes, Barnett-yes).

RESOLUTION 04-10562.....ITEM 20

A RESOLUTION RELATING TO THE COUNTY’S PLANS TO CONSTRUCT THE GOLDEN GATE OVERPASS; STATING THE INTENTION OF THE NAPLES CITY COUNCIL TO INITIATE THE CONFLICT RESOLUTION PROCEDURES OF THE FLORIDA GOVERNMENTAL CONFLICT RESOLUTION ACT, CHAPTER 164, FLORIDA STATUTES; SPECIFYING THE ISSUES OF CONFLICT; AUTHORIZING AND DIRECTING THE CITY MANAGER WITHIN FIVE DAYS TO SEND A LETTER IN ACCORDANCE WITH SECTION 164.1051, AND CERTIFIED COPY OF THIS RESOLUTION TO THE COLLIER COUNTY MANAGER BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED; AND PROVIDING AN EFFECTIVE DATE. (10:20 a.m.) Title read by City Attorney Robert Pritt. Council Member Sorey said that it was important for the City to appropriately position itself regarding opposition to the Golden Gate Parkway/Airport Road overpass.

Public Comment: (10:22 a.m.) None.

MOTION by Sorey to APPROVE RESOLUTION 04-10562; seconded by MacIlvaine and carried 4-2 (Nocera-no, Sorey-yes, Taylor-yes, MacIlvaine-yes, Wiseman-no, Russell-absent, Barnett-yes).

ORDINANCE 04-10564.....ITEM 21

AN ORDINANCE AMENDING SUBSECTION (a) (1) OF SECTION 2-44 OF CHAPTER 2 OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES TO REMOVE THE REQUIREMENT THAT THE CITY COUNCIL AGENDA BE PUBLISHED IN ITS ENTIRETY; PROVIDING FOR CODIFICATION; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. (10:22 a.m.) Title read by City Attorney Robert Pritt.

City Manager Lee confirmed for Mayor Barnett that this resolution is a cost saving measure, which he commended City Clerk Tara Norman for formulating. He clarified that the agenda would still be published on the City’s television channel and website, however, the costs to publish the agenda in the newspaper will be eliminated.

MOTION by MacIlvaine to APPROVE ORDINANCE 04-10564; seconded by Sorey and carried 6-0 (MacIlvaine-yes, Nocera-yes, Russell-absent, Sorey-yes, Taylor-yes, Wiseman-yes, Barnett-yes).

(Continued to 09/15/04; see below).....ITEM 22
CONSIDER IMPOSING SANCTIONS ON COLLIER COUNTY REGARDING DEPARTMENT OF COMMUNITY AFFAIRS APPROVAL OF THE CITY OF NAPLES COMPREHENSIVE PLAN AMENDMENTS.

MOTION by Sorey to CONTINUE to September 15, 2003; seconded by MacIlvaine and carried 6-0 (MacIlvaine-yes, Nocera-yes, Russell-absent, Sorey-yes, Taylor-yes, Wiseman-yes, Barnett-yes).

Council concurred with City Attorney Robert Pritt to conduct this discussion in executive session. Therefore, later in the meeting, City Attorney Pritt formally requested an executive session for September 15, time to be announced.

RESOLUTION (Not Enacted)ITEM 23

A RESOLUTION REQUESTING THE BOARD OF COLLIER COUNTY COMMISSIONERS TO MAKE THE APPROVAL OF PETITION PUDA-03-AR-4008 AND DRI-03-AR-4777 CONTINGENT UPON W.C.I. COMMUNITIES, INC. AGREEING TO FUND CLASSIFICATION AND TRAFFIC CALMING STUDIES IN THE RESIDENTIAL AREA SOUTH OF THE WATERSIDE SHOPS, THE COSTS OF RECOMMENDATIONS FROM THOSE STUDIES AND IMPLEMENTATION; DIRECTING THAT THIS REQUEST BE FORWARDED TO THE BOARD OF COLLIER COUNTY COMMISSIONERS; AND PROVIDING AN EFFECTIVE DATE.

(10:25 a.m.) Title read by City Attorney Robert Pritt. City Manager Lee explained that this resolution lists a not-to-exceed cost of \$8500 to undertake a traffic impact study regarding the proposed Waterside Shops expansion, in an effort to assist the Board of County Commissioners (BCC) in considering the City's request. Council Member Taylor inquired as to whether the City would move forward with a traffic impact study without the County or developer's participation. Dr. Lee said that it has been indicated to him by County Manager Jim Mudd that he feels the request will not be an issue. Mayor Barnett inquired as to Council's authorization to allow the City Manager to address this with the County. Council concurred. City Manager Lee clarified that the resolution requests the County's approval for the expansion to be contingent upon their agreement to meet the criteria established in the resolution, and is not giving support for the expansion.

Council Member Sorey suggested stronger language stating that the City expects the developer to participate, expressing the view that the developer should contribute to the costs of any traffic calming requirements determined from the study.

Vice Mayor Wiseman recommended against requesting financial assistance with both a study and possible installation of calming devices, without first having discussions with the developer. Public Works Director Dan Mercer advised that he was to meet with the developer on September 9, and Mrs. Wiseman received Council concurrence to also attend that meeting. Vice Mayor Wiseman then said that she feels the City should also have a presence at the BCC meeting to express its concerns. Council concurred. In response to Council Member Sorey, Mrs. Wiseman said that, at this juncture, she does not perceive the issue as adversarial, therefore, a resolution of this type is not necessary.

MOTION by Sorey DIRECTING Vice Mayor Wiseman and Public Works Director Dan Mercer to discuss with WCI Communities the possibility of financial assistance for a traffic study and traffic calming devices, and to attend the 09/14/04 Board of County Commissioners' meeting to present the City's concerns and/or any agreements with WCI regarding the proposed Waterside Shops expansion. This motion was seconded by MacIlvaine and carried 6-0

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

.....ITEM 24
**CONSIDER GRANTING APPROVAL TO CONSERVATION COLLIER COUNTY
PROPOSED PURCHASE OF 4.39 ACRES OF WETLANDS ADJACENT THE PULLING
PROPERTY.**

City Manager Lee said that correspondence had been received from Collier County Environmental Services (a copy of which is contained in the file for this meeting in the City Clerk's Office) asking whether the City objects to a purchase of 4.39 acres consisting of tidal wetlands, located just south of the City's wastewater treatment plant. He recommended advising that there is no objection. He also noted that there is the possibility, due to the proximity to the Pulling site, that the City and County could enter into a joint effort to incorporate the two properties.

Council Member Sorey said that, since the parcel cannot be developed, it should not be costly. He noted that this proposed purchase is, in part, due to the Hamilton Harbor settlement and suggested Council support the request. He also recommended that the City inquire as to an interlocal agreement between the City and Conservation Collier, to combine the site into the Pulling property.

Mayor Barnett said that he supports the staff recommendation. Council Member Nocera, however, suggested delaying a response until the City/County joint meeting. Mayor Barnett said that this proposed purchase would not constitute a quid pro quo situation, and Mr. Nocera then inquired as to the reason for the purchase of property that cannot be developed. City Manager Lee explained that the purchase is a portion of the Hamilton Harbor settlement, and he added that the County has requested a response within 30 days.

In response to Council Member Taylor, City Manager Lee said that he would contact Conservation Collier to determine how they wish to receive the City's response. Miss Taylor suggested staff comments be included with the correspondence.

***MOTION by Sorey DIRECTING the City Manager to forward a letter of no
objection; seconded by MacIlvaine and carried 6-0 (MacIlvaine-yes, Nocera-
yes, Russell-absent, Sorey-yes, Taylor-yes, Wiseman-yes, Barnett-yes).***

CORRESPONDENCE AND COMMUNICATION.....

City Attorney Pritt requested an executive session be conducted on September 15, regarding the Department of Community Affairs and the Golden Gate Parkway/Airport Road overpass. (A copy of the request is contained in the file for this meeting in the City Clerk's Office.)

Council Member Taylor requested photographs of the brick crosswalks around the City to determine resilience; Council concurred. She also requested assistance with a damaged mahogany tree at 1287 11th Street North. Miss Taylor and Council Member MacIlvaine then inquired as to corrugated and cardboard box recycling by the Solid Waste Department. Public Works Director Dan Mercer advised that this material is collected and recycled as long as the items have been broken down and left curbside. Council Member Sorey commended the organizing of an employee appreciation barbeque held the day before. He then requested that the Gordon River Greenway be on the workshop schedule for October 18, in conjunction with the

possible approval by the voters to purchase the Fleischmann property.

Referring to Council Member Taylor’s memo regarding sidewalks (a copy of which is contained in the file for this meeting in the City Clerk’s Office), Council Member Sorey said he disagrees with her conclusions, stating that there is not an established policy regarding majority support for neighborhood improvements. He further said that he agrees with Council Member Russell’s comments regarding the Olde Naples Association sidewalk survey being written in a manner to solicit a negative response. He said that he is hopeful City Council can, however, eventually establish such a policy. Miss Taylor stressed that, upon reading the minutes from Town Hall meetings conducted in previous years, that it was indicated by both Mayor Bonnie MacKenzie and City Manager Kevin Rambosk, that there is in fact a policy regarding 51% majority approval. City Attorney Pritt said that Council could establish policy with a motion and vote. Miss Taylor expressed concern that residents had, however, been told that their majority support or opposition would be considered. She stressed the importance for Council to address this issue. City Attorney Pritt advised that the City Manager often does establish policy that staff must follow, however, City Council has the authority to accept, change, or repeal it.

City Manager Lee said this issue is scheduled for a workshop to afford Council an opportunity to formalize a policy.

PUBLIC COMMENT.....
None

EXECUTIVE SESSION.....**ITEM 25**
Mayor Barnett advised that City Council would enter into an executive session with City Manager Lee and Human Resources Director Denise Perez regarding labor negotiations.

Recess for Executive Session: 11:07 a.m. – 11:38 a.m. It is noted for the record that the same members were present when the executive session concluded and the meeting reconvened.

ADJOURN.....
11:38 p.m.

Bill Barnett, Mayor

Tara A. Norman, City Clerk

Minutes prepared by:

Pamela M. Koepke, Recording Specialist

Minutes Approved: 10/6/04