



City Council Chamber  
735 Eighth Street South  
Naples, Florida 34102

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**City Council Workshop Meeting – February 14, 2005 - 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 8:36 a.m.)

**Council Members:**

William MacIlvaine  
Johnny Nocera (arrived 8:34 a.m.)  
Clark Russell  
John Sorey, III  
Penny Taylor

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**Also Present:**

Robert Lee, City Manager  
Tara Norman, City Clerk  
Steve Weeks, Technology Services Director  
Victor Morales, Asst. to the City Manager  
Cheryl Boutot, Technology Services  
Vlad Ryziw, Senior Civil Engineer

Pamela Koepke, Recording Specialist  
Henry Kennedy  
Sue Smith  
Lou Vlasho  
Joe Biasella

Other interested citizens and visitors.

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

*Consensus to add discussion regarding Deferred Retirement Option Plan (DROP) for City Clerk.*

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

None.

**.....ITEM 4**

**DISCUSSION OF ELECTION ISSUES / PROCESS FOR CITY COUNCIL MEMBERS**

City Manager Robert Lee said that during the previous election certain issues had arisen regarding City Council Members not completing terms thus creating vacancies.

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**It is noted for the record that Council Member Nocera entered the meeting at 8:34 a.m. and Vice Mayor Wiseman entered the meeting at 8:36 a.m.**

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Council Member Sorey said that his concern rested with amendments that would preclude taxpayers from being burdened with the necessity of a special election. (It is noted for the record that materials provided by City Attorney Robert Pritt are appended as Attachment 1.) He noted that City Attorney Pritt was expected shortly, and also pointed out that, although a specific incident had brought to light a particular flaw in the City's regulations, City Attorney Pritt had made general recommendations in an effort to preclude future occurrences. Upon arrival, City Attorney Pritt explained that a resignation had been submitted in 2003, the day before the

candidate qualifying period was to expire for the 2004 general election, and since the Charter speaks only to a requirement for an election qualifying period, a special election became necessary. He said he felt that any other opinion would have been open to court challenge.

Mr. Pritt recommended direction for continued legal research so that the Council could consider taking preemptive action. He also said that the most effective time to address issues of this nature is during non-election years, and he suggested that any Charter amendments be in place prior to the next election. This could be accomplished, he said, through a mail ballot election.

Council Member MacIlvaine however said that he believed a legal challenge to the current Charter is not a significant threat and that to place a Charter amendment before the voters other than at a regular election is quite costly. He, therefore, said he supported placement of any election-related amendments on the next general election.

Noting that the prior special election had been an unusual circumstance and should be avoided, Vice Mayor Wiseman, nevertheless, pointed out various other unanswered questions regarding term limits. For example, she said that both she and Council Member Taylor had each served a four-year and a two-year term, posing the question of whether this would be considered to have met the two term limit imposed upon City Council Members.

In response to Council Member Taylor, City Attorney Pritt explained that any Charter amendments would not apply until the following general election and would therefore not immediately address the issue of Council Members not completing their terms in order to run for Mayor. Another issue, he noted, is term limits, although he said he had not yet received direction from Council to offer an opinion. Council Member Taylor asked whether it would be advisable to defer action until the Bonita Springs term limit litigation is resolved. City Attorney Pritt said that while this should not be a reason to defer action, the ruling could provide guidance.

Council Member Sorey urged formal recommendations and supported addressing the various issues outside the normal election process. Council Member Russell offered his support for correcting the situation which led to the need for a special election, citing also a need to ensure sufficient time for qualifying. City Attorney Pritt also pointed out that the currently imposed 60-day time frame in which to conduct a special election may no longer be feasible, and the City Charter should be amended for consistency with the State law. In response to Council Member MacIlvaine, City Attorney Pritt clarified that amendments to municipal charters are governed by State law, which calls for a simple majority for passage.

In response to Vice Mayor Wiseman, City Attorney Pritt further indicated various items such as a mechanisms for appointing a Council Member to fill a vacancy with less than two years remaining in a term and pointed out that it was timely to conduct discussions of these items. City Clerk Tara Norman also explained that mail ballot elections are similar in cost to opening polling places and since ballots may not be forwarded, sufficient notice must be provided to voters who may be away from their residences so that absentee ballots could be obtained.

Council Member Russell also cited concern wherein a charter amendment petition language differs from the ballot language. City Attorney Pritt added that it is Council's responsibility to ensure the language of the ballot is in accordance with the law, but not to ensure that it is

consistent with the petition language; however this could be challenged by a third party, he said. Prior to receiving the direction cited below, City Attorney Pritt pointed out that mail ballots cannot be employed on the same day as other elections are being conducted; he suggested November 2, 2005, as an appropriate day for a mail ballot election.

***Consensus directing City Attorney to develop an opinion regarding Council term limits, qualifying dates, and filling of City Council vacancies; City Clerk to research alternatives and associated costs with reference to a special election at the polls or by mail ballot.***

At this point in the meeting, a short discussion occurred regarding an item to be heard by the Community Redevelopment Agency (CRA) session immediately following this meeting.

**GORDON RIVER GREENWAY PROPOSAL.....ITEM 5**

Council Member Sorey announced his recent resignation from the Southwest Florida Land Preservation Trust, which is commonly referred to as the Gordon River Greenway Committee. which was predicated by the fact that Chairman Pat Carroll is also a member of the Big Cypress Basin Board, which does consider some of the same issues.

Construction Management Director Ron Wallace presented an update on the Gordon River Greenway proposal which, he said, began approximately 15 years before as a private initiative to construct a continuous walking path along the Gordon River. He noted a preliminary master plan (Attachment #2 and stated that surveys and environmental studies had been completed along with a the portion of the path which is currently in use.

Construction Management Director Wallace also said that the City had been asked to review the south phase, which extends from North Road to US 41, to determine design and construction costs. Initial steps to be taken, he said, include feasibility studies, field surveying regarding wetlands and mitigation, route alignment review, and possibly property acquisition. Due to the wetlands, he said, construction constraints include possible elevated walking paths, pilings, and possible construction of a river crossing by barge. Estimates provided by Turrell & Associates to complete the south phase approximate \$2 million, which was based upon wood construction. Mr. Wallace also noted that the pathway must be sufficiently wide to accommodate emergency vehicles, pointing out that there are, nevertheless, some isolated sections of the pathway. Council Member Russell said that he must receive greater assurances regarding emergency access prior to conveying his support.

Construction Management Director Wallace said that he anticipated completion of the final master plan within three months which will provide additional detail for each segment of the project, although additional funding sources must be identified. Although there is the possibility of donations and grants, including County participation, City participation had yet to be determined.

In response to Council Member Taylor, Mr. Sorey explained that the Gordon River Greenway Committee is a not-for-profit organization, and he indicated that he would provide a complete member list to Council, if desired. In response to Council Member Nocera, Council Member Sorey confirmed that Scott Cameron was still a member of the Southwest Florida Land Preservation Trust Committee.

Mr. Sorey then cited an agreement with land developer Phil McCabe to connect the pathway with a boardwalk on his property, and of constructing the pathway to an undeveloped mangrove island. Mr. Sorey stressed, however, that the pathway routing would ultimately be impacted by the Department of Environmental Protection (DEP) and the permitting process. The long-term goal, he added, is to have a complete pathway system along both the west and east sides of the Gordon River. Regarding security, Mr. Sorey suggested establishing specific hours of operation and also considering a bicycle patrol officer.

In order to move the project forward, Council Member Russell suggested a joint effort between the City and the County. Construction Management Director Wallace clarified for Council Member Nocera that the south phase is in the City while the north phase is in the County. In further discussion of the level of City participation, City Manager Lee recommended that staff be permitted to continue to explore the concept, and if a multi-jurisdictional plan is developed and presented, there may be an opportunity for additional grant funds. He committed to keeping Council updated.

*Consensus authorizing continued staff participation.*

**DEFERRED RETIREMENT OPTION PLAN DISCUSSION .....ITEM 8**

City Manager Robert Lee noted information provided in the meeting packet concerning considerations relative to a Deferred Retirement Option Plan (DROP). In response to Mayor Barnett, Council Members indicated that they had reviewed and understood the information provided by Human Resources Director Denise Perez (a copy of which is contained in the file for this meeting in the City Clerk's Office).

Mayor Barnett asked Mrs. Perez whether a DROP could be tailored for a specific employee, while establishing certain criteria, such as time on the job, to avoid a proliferation of requests. Mrs. Perez advised that a DROP could be tailored for an individual employee, however, the effect on other long-tenured employees should be considered. She confirmed that Department Directors may choose between defined benefit or defined contribution type plans.

In response to Council Member Sorey, City Manager Lee said that if such a program is the will of Council, staff would comply, however, he said he does not recommend a DROP for one employee. Council Member Sorey said he believes a staff recommendation is necessary, due to the resulting implications for other employees; a DROP will then become a subject of collective bargaining. Mr. Sorey suggested that before Council takes action staff provide an analysis of the potential impacts on the remaining employees. Council Member MacIlvaine agreed, saying that the advantages and disadvantages need to be identified for both the City and the employee. Mr. MacIlvaine also said that, from his experience as a member of the General Pension Board, a DROP will assist in retaining valued employees but also prevent upward movement by less tenured workers.

Vice Mayor Wiseman said that she, however, fundamentally disagrees with the comments made, saying the City Council currently has two employees: the City Manager and the City Clerk. She also characterized City Clerk Tara Norman as a unique and outstanding employee, at a time when a large portion of senior staff had left the organization; therefore, she said that she fully supports creation of a cost-neutral plan specifically for the City Clerk. It is important for Council to as expediently as possible take whatever steps necessary to retain Mrs. Norman. Mayor Barnett agreed.

Council Member Russell said that while staff has not recommended a DROP, there are comprehensive advantages to retaining good, institutional employees, and he supports retaining the City Clerk. Despite the possibility of conveying a less than desired message, he said that the City Clerk is Council's direct employee and should be retained if it can be done in a cost-neutral manner. Council Member Taylor replied that, notwithstanding, contracts and agreements for this position do in fact affect the remaining employees and therefore become bargaining issues. She said that a review of the possibility of proliferation of DROP programs must be analyzed because of her belief that it will represent a significant cost to taxpayers.

Council Member Nocera urged caution, commenting that some of these types of programs around the State have not been successful. He expressed concern for retired employees requesting the same benefit. Council Member MacIlvaine agreed and pointed out that the General Pension Board had discussed DROP programs in the past and that offering a DROP would set a precedent. He suggested alternatives to retain a specific employee. Council Member Sorey expressed agreement with Council Members Nocera and MacIlvaine, and said that DROP programs should be a policy approved by Council and although, he has the highest regard for City Clerk Norman, he believes a DROP would be applicable to many other employees.

**Public Comment:** (9:44 a.m.) **Sue Smith, 15-11<sup>th</sup> Avenue South**, urged Council to take any steps necessary to retain City Clerk Norman and stressed that the DROP could be tailored exclusively for an individual employee. Mrs. Smith said City Clerk Norman has filled various positions in the City, is knowledgeable of the operations and history of the City and, as mandated in the City Charter, is a separate entity, not just an employee, providing a balance, and creating a liaison between the government and citizens. Mrs. Smith complimented City Clerk Norman and her staff for their dedication and devotion to the City during which she described as an unusual time because of a significant loss of tenured and highly regarded employees since July of 2003. She said that this knowledge and corporate memory cannot be replaced. Mrs. Smith said City Clerk Norman has an impeccable record and that the Council should accept her offer to remain in the City's employ during what she characterized as a most critical time of unprecedented growth, potential annexations, and the lack of oversight from a managerial position. Mrs. Smith said losing City Clerk Norman would cripple another department, such as what occurred recently in the Planning Division; she predicted significant repercussions with the loss of City Clerk Norman.

Council Member Russell said the position of City Clerk has been ever evolving and that the Clerk holds a unique position. In the private sector, any numbers of offers are made to key employees to keep them from being recruited by competitors. Mr. Russell said that in this instance, for a net benefit to the City, a DROP should be considered.

Council Member Taylor noted however that City Clerk Norman is not being asked to leave, but rather announced her retirement and then subsequently offered to stay. Miss Taylor said she values City Clerk Norman and her knowledge and skill, however, she stressed that a good manager also nurtures employees to move up. Miss Taylor reiterated her concern for potential bargaining unit negotiations in relation to a DROP. While Vice Mayor Wiseman and Mayor Barnett asserted that establishing a DROP in this instance would not constitute a precedent, Council Member Sorey disagreed, saying that there are disadvantages of such a plan and Council Member Taylor suggested that other options be reviewed. City Manager Lee said that the Clerk is in fact a separate employee that reports to City Council and Council does have the authority to

create an exclusive plan for this employee. Dr. Lee also noted however that a DROP proposal could be received during labor negotiations, regardless of whether the Council approves a DROP for the City Clerk. City Manager Lee inquired as to consensus of Council for staff to develop a DROP specifically for City Clerk Norman, which, he said, could be completed much more quickly than if it were to be applicable to other employees. Council Member Russell, however, said that he is also willing to consider a DROP plan for other employees, but the case in point involves one employee with a one-time arrangement, with no cost to the City and a significant benefit from retention. Council Member MacIlvaine agreed that some arrangement should be made to retain City Clerk Norman but that a DROP is not appropriate due to the potential of unintended consequences in conjunction with union negotiations. Council Member Nocera said that he was not interested in a DROP program exclusively for one employee.

Prior to the consensus which is stated below, Vice Mayor Wiseman said there appeared to be undercurrents of other issues relative to this matter, commenting on what she described as the less than timely response to the City Clerk's offer originally made months before. She also said that the Human Resources Director's memo on this subject appeared to have been written with a foregone conclusion and said Council should face the reality of City Clerk Norman's leaving the City.

***Consensus (failed 3-4) to authorize staff to tailor a Deferred Retirement Option Plan (DROP) exclusively for City Clerk Norman. (Wiseman-yes, Russell-yes, Nocera-no, Taylor-no, MacIlvaine-no, Sorey-no, Barnett-yes).***

Council Member Sorey suggested Council instead authorize Mayor Barnett to discuss other alternatives with City Clerk Norman, and added that he, however, did not believe there were undercurrents in these proceedings. Mayor Barnett agreed to conduct a discussion with Mrs. Norman, and Vice Mayor Wiseman inquired as to what parameters would be set. Council Member Taylor said that, until Mayor Barnett and the City Clerk have additional discussions, there are many unknowns. She stressed that there were, however, no personal issues playing a part in these deliberations. Mayor Barnett said, that unless there had been changes he was unaware of, the DROP was the incentive for City Clerk Norman to stay.

***Consensus authorizing Mayor Barnett to discuss with City Clerk Norman alternate options to the Deferred Retirement Option Program (DROP).***

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

City Manager Lee submitted his written report (a copy of which is contained in the file for this meeting in the City Clerk's Office).

**REVIEW OF ITEMS ON THE 02/16/05 REGULAR MEETING AGENDA .....ITEM 7**

It is noted that **Item 14** (City Manager salary increase) was added and **Item 8** (First Reading - Moorings Bay text amendment) was to be continued to March 16. Council Member Taylor requested **Item 6-g** (Babcock Ranch resolution) be removed from the Consent Agenda for separate discussion.

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

Referring to the City Manager's Report, Council Member Nocera inquired as to the \$50,000 County allocation for Naples Preserve and requested a report at the March 2 meeting.

Council Member Taylor announced that the Caribbean Gardens/Fleischmann Property Blue Ribbon Committee recently offered its support for a Collier County staff recommendation to postpone a grant application to the Florida Communities Trust until such time as the Fleischmann Family had taken receipt of the purchase bond. This was in order to avoid a potential claim of

pre-acquired property and potentially jeopardize future grant funding, she added, noting that it is better to apply in fiscal year 2006-07. Nevertheless, a portion of the property lies within the City boundaries and there is the possibility that the City may be in a position to apply for the grant funding. A question regarding future penalties still is unanswered, Miss Taylor said, but there is an anticipation of more specific information at the next Blue Ribbon Committee meeting. City Manager Lee offered to discuss with Community Services Director David Lykins the level of staff involvement necessary. Miss Taylor said the need for additional funding is due to estimated property appraisals, indicating that the \$40 million approved in conjunction with the bond referendum will most likely be insufficient to acquire the entire property.

Council Member MacIlvaine questioned why the last remaining billboard in the City had been allowed to remain in light of the fact that the property has changed ownership and there are no plans for redevelopment.

Mayor Barnett requested that copies of City Manager Lee's recent response to County Manager Jim Mudd be provided individually to Board of County Commissioners (BCC) Members; this memo, he said, dealt with a statement that the City had been uncommunicative.

Mayor Barnett also related complaints that it was difficult for vehicles to turn inside the City's parking garage when the facility is full. Mayor Barnett urged staff to find a means of indicating when the garage is at capacity. Mayor Barnett then inquired as to Council consensus to discuss mayoral term limits being the same as Council Members and the possibly of placing this question before the voters in the 2006 general election.

Council Member Nocera requested that staff look into a sizeable pothole reported near the Collier County Public Library on Central Avenue.

**PUBLIC COMMENT:**

(10:21 a.m.) **Joe Biasella, 860-12th Avenue South**, said that since his last appearance before Council, both the Department of Environmental Protection (DEP) and the United States Coast Guard had received complaints and had boarded vessels at the Fleischmann Dock again and all were found to be in compliance. He characterized this as harassment. He also promised a report identifying each vessel and its discharge filtration equipment. Regarding the City's intent to permanent removal of the mooring field in the Naples basin, Mr. Biasella urged that the City Manager take no action until a public hearing had been conducted. He expressed concern for potential risks to the safety and welfare of individuals who live aboard vessels which are docked nearby.

City Manager Lee confirmed that the DEP had requested that the City remove just the mooring balls, and that there is no intention to remove the anchors and chains. He added that there is additional administrative application processes to complete and submit to the DEP. In further response to Council Member MacIlvaine, City Manager Lee said that permanent removal had not been mentioned by the DEP, nor had re-application for the mooring field been required; rather, a submittal of past-due information had been requested for its review.

Mr. Biasella reported a conversation with Jon Inglehart of the DEP who had advised that the City had, in fact, indicated that the moorings balls were a nuisance, there was no interest in leasing the submerged lands in that area, and that mooring balls were being removed permanently. Mayor

Barnett accepted Mr. Biasella's offer of DEP minutes for transmittal to City Manager Lee, who indicated that he would provide an update at that week's regular meeting.

Council Member Taylor told Mr. Biasella that the City Manager had been requested to maintain a record of any confirmed complaints regarding the live-aboard vessels at the Fleischmann Dock because she said she believes the situation there is both manipulative and harassing. Miss Taylor said that there had been no confirmed complaints with the liveaboard tenants at the City Dock from the Naples Police & Emergency Services Department (PESD). Miss Taylor suggested a pattern be established for Council's benefit. Mr. Biasella further explained that most complaints are not considered formal, are not required to be in writing, can be anonymous, but still must be investigated. He added that the latest complaint involved improper vessel registration and, upon being provided with a copy of the State Statute, the Sheriff's Marine Officer's interpretation differed from that of the Naples Marine Officer. Mayor Barnett said that staff would also look into this situation.

Council Member Nocera inquired as to how many vessels use the mooring field and what revenues were generated. Council Member MacIlvaine commented that without the mooring field, vessel anchorage could become haphazard and difficult to control, characterizing the use of mooring balls as a tremendous asset to the City.

**ADJOURN** .....  
10:29 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: 3/16/05