



City Council Chamber
735 Eighth Street South
Naples, Florida 34102

City Council Workshop – Monday, August 15, 2005 – 8:30 a.m.

Mayor Barnett called the meeting to order and presided.

ROLL CALLITEM 1

Present:

Bill Barnett, Mayor
Tamela Wiseman, Vice Mayor (arrived 8:35 a.m.)

Council Members:

Johnny Nocera
William MacIlvaine
John Sorey, III
Penny Taylor

Also Present:

Robert Lee, City Manager
Jessica Rosenberg, Deputy City Clerk
Robert Pritt, City Attorney
Ann Marie Ricardi, Finance Director
Victor Morales, Assistant to the City Manager
Elizabeth Rogers, Recording Specialist
Karen Kateley, Administrative Specialist I
Stephen Weeks, Information Services Director

Martin Conant, Building Official
Joseph Biasella
Jamie Shane
Jenah Victor

Media:

Myra Rodriguez, WINK TV

Other interested citizens and visitors.

SET AGENDA.....ITEM 2

City Manager Lee announced that in addition to the Biasella litigation, the City Attorney would later in the meeting request an executive session for Wednesday, August 17, with reference to the A&B Charters case.

MOTION by Nocera to ***SET AGENDA***; seconded by Taylor and carried 5-0,
(Nocera-yes, MacIlvaine-yes, Sorey-yes, Taylor-yes, Wiseman-absent, Barnett-yes.)

PUBLIC COMMENT.....ITEM 3

None. (8:32 a.m.)

.....ITEM 4
INTERVIEWS WITH CANDIDATES FOR COMMUNITY SERVICES ADVISORY BOARD (CSAB)

Council Member Taylor requested that documentation on the prior attendance by Richard Housh on the CSAB be provided to the Council as soon as possible. The following candidates were then interviewed: Jamie Shane and Jenah Victor.

It is noted for the record that Vice Mayor Tamela Wiseman entered the meeting at 8:35 a.m. during the first CSAB interview.

Following the interviews, Council Member Taylor asked that the Council contact Richard Housh directly relative to his prior CSAB attendance record.

.....**ITEM 5**
DISCUSSION OF UNEXPIRED TERM ON CITY COUNCIL DUE TO RESIGNATION OF CLARK RUSSELL

Council Member Sorey and Vice Mayor Wiseman stressed the importance of making an appointment so as to avoid tie votes with a fully constituted Council. Noting the upcoming February general election, Council Member Nocera suggested not appointing a member at that juncture. Vice Mayor Wiseman, however, urged that the Council institute an interview and selection process which is conducted in the public forum. Council Members MacIlvaine and Taylor concurred with the need to fill the vacancy as soon as possible via an agreed-upon selection process.

In further discussion, Vice Mayor Wiseman also expressed concern that news reports of Council Members supporting certain individuals could result in a reduced number of candidates. She further said that during interviews it should be ascertained whether a candidate intends to run for election in February 2006. While the Planning Advisory Board (PAB) is a likely source for those to fill the City Council vacancy, she said this should not preclude other qualified applicants; it should also not appear that the Council had made any determination during its summer recess. Mayor Barnett indicated his concurrence with a selection process, but disagreed with the importance of an applicant's intention to run for City Council in February. He also noted correspondence regarding William Willkomm and Ron Pennington and indicated that he had contacted PAB Chairman Gary Price who had confirmed his interest.

City Attorney Pritt explained that the Charter does not provide for a selection process to fill a Council vacancy; therefore, an appointment could be made as early as the regular meeting of August 17, or could be delayed until an interview process could be conducted. He confirmed that interviews could be scheduled at the workshop of Tuesday, September 6 (September 5 being a legal holiday), with action taken either at a special meeting that same day or at the regular meeting the following day.

Consensus that the position be advertised, that interviews be conducted at the workshop of Tuesday, September 6, and that appointment be made at a special meeting held that day. (Editor's note: It was subsequently determined that swearing-in would be conducted at the start of the regular meeting on Wednesday, September 7.)

Council Member Sorey also suggested that a formal process be considered requiring resignation of a Council Member if certain conditions, such as incapacitation, occur. Later in the meeting Vice Mayor Wiseman requested that the City Clerk produce an application form similar to the one used for boards and committees.

DISCUSSION OF NEW INVESTMENT POLICYITEM 6

City Manager Lee announced that lightning damage had caused difficulties for various components of the newly installed audio/video technology which would necessitate Council referring to text of Finance Director Ann Marie Ricardi's presentation. Ms. Ricardi explained that the City must either follow investment statutory guidelines or adopt its own policy. The City

having operated under its own investment policy for approximately five years, there is a need to make revisions to achieve improved compliance with state law, she said. (It is noted for the record that Ms. Ricardi's recommendations appear in summary as Attachment 1; a full copy of her presentation is contained in the file for this meeting in the City Clerk's Office.)

Council Member MacIlvaine asked whether a process had been established for a third party custodian (final recommendation, Attachment 1). Ms. Ricardi indicated that this would be Fifth-Third Bank which was the successor institution to the City's most recent contractual custodian. As the contract will expire in 2006, Mr. MacIlvaine suggested that the City use the selection process recently undertaken by the three employee pension boards.

DISCUSSION OF ADOPTION OF THE 2004 FLORIDA BUILDING CODE.....ITEM 7

Building Official Martin Conant made a presentation, a copy of which is contained in the file for this meeting in the City Clerk's Office. Mr. Conant explained that adoption of the 2004 Florida Building Code is required by Florida Statutes and replaces the 2001 comprehensive edition which had been based in the 1997 Southern Building Code. Rather than being a single document as in the 2001 edition, the 2004 code is however made up of seven main volumes covering all aspects of the construction process which had been developed through a public hearing/consensus process conducted in 2003 by the International Code Council (ICC). This most recent code allows all residential provisions to be embodied in a single document. Nevertheless, local changes are allowed, and the ordinance presented for Council action at the August 17 regular meeting embodies some of these changes.

Council Member Sorey asked whether the code accounts for the types of issues present in a high velocity wind zone as established in FEMA (Federal Emergency Management Agency) regulations. Mr. Conant confirmed that specific requirements applicable to this area are contained in the code such as impact resistance and wind resistance, and requires design for 140 mph wind speeds; FEMA requirements and local law are nevertheless also applicable in addition to the Florida Building Code.

Mr. Conant then listed the following advantages to adoption of the 2004 Florida Building Code:

- All codes are coordinated and designed to work together.
- Florida is now one of 45 states using codes based on the IBC (International Building Code) and IRC (International Residential Code).
- Training opportunities for personnel are expanded.
- Technical services are easily accessible to the construction community.
- Uniformity provides the following advantages:
 - Products shipped interstate w/o separate approvals;
 - Evaluations of new products are available;
 - Codes and standards contained therein are kept current; and
 - Naples and Florida have an opportunity to participate in the code development process.

Council Member MacIlvaine asked whether this code addressed allowing hurricane shutters at the extreme outside surfaces of high-rise buildings to areas which are not fitted with fire suppression. Mr. Conant explained that if this were allowed, sprinkler systems must be extended into balcony areas; otherwise, a fire could establish itself in an unprotected area virtually undetected. In response to Council Member Nocera, he explained that as new building products

appear on the market, they eventually are addressed in subsequent codes, although the Building Official is authorized to accept alternate methods and materials, provided the same end results are achieved.

Council Member Taylor requested further information on the status of procedures for evaluation of historic buildings. Mr. Conant explained that utilizing a point system, non-compliance with certain requirements is allowed in order to preserve the character of older commercial buildings if various other health/safety issues are met. Council Member Sorey noted that the 45 day delay imposed on demolition of contributing (historically important) structures, and pointed out that the PAB had previously recommended six months. He proposed that a longer period therefore be imposed. However, Mayor Barnett suggested that any change in this particular provision be considered after additional public input.

REQUEST FOR ATTORNEY/CLIENT SESSIONS.....ITEM 8

City Attorney Robert Pritt requested that executive (closed) attorney/client sessions be conducted on Wednesday, August 17, during the City Council regular meeting involving the following litigation: Biasella v. City of Naples, U.S. District Court, Middle District of Florida, Case No. 2:04-cv-320-FtM29DNF at 11:30 a.m.; and A&B Charters, Inc., Byron C. Thomas, and Jeffrey Player v. City of Naples, Circuit Court Case 04-2386-CA at 11:45 a.m. City Attorney Pritt indicated that, in addition to Mayor and Council, he and City Manager Robert Lee would attend as well as Attorneys James Fox (Biasella case) and Clay Crevasse (A&B Charters case) of Roetzel & Andress, and Pam Arsenault of AAF Reporting or other certified court reporter. (It is noted for the record that documentation applicable to these requests is contained in the file for this meeting in the City Clerk's Office.)

BRIEFING BY CITY MANAGER.....ITEM 9

Noting his written report (contained in the file for this meeting in the City Clerk's Office), City Manager Lee acknowledged the efforts of staff at all levels who play a part in preparation of the City Council packet and noted that staff would also provide a budget presentation later that day.

Regarding Pelican Bay annexation, he said that the referendum question would be presented to Council in September, at which time the certification of consent forms from Pelican Bay residents will have been completed. He said he had also asked Council Members, department directors and presidents of homeowner associations to advise of issues which they feel should be addressed in September via the staff's report to Council. Mayor Barnett urged Council Members to provide their response to the City Manager by August 19. Council Member Taylor said that prior to the summer recess she had requested that the properties utilized to constitute the approval percentage be disclosed; however this information had not been provided to date. City Manager Lee however said that he had believed this information was to have been provided along with responses to various other questions.

City Manager Lee then addressed the consent order and temporary use agreement executed with the Department of Environmental Protection (DEP) regarding the Naples Bay mooring field. Later in the meeting he clarified for Council Member Taylor that various provisions in the consent order were standard references to requirements already imposed by Florida law. He again commended the effectiveness of City staff on this matter as well as working with the Florida Fish & Wildlife Commission (FFWC) regarding vessel speed postings.

City Manager Lee noted that the staff had also scheduled homeowner association meetings regarding the FEMA (Federal Emergency Management Agency) flood plain maps which are to take effect in November. These sessions will also include insurance representatives to answer questions regarding the significance of the new maps. In addition, City Council will receive recommended Code of Ordinance amendments relative to these map changes. FEMA representatives will be present at a joint City Council/County Commission workshop on October 18; in the interim, an agreement with FEMA is being drafted to delineate responsibilities of all parties in relation to future map revisions. While he said he respected the decision reached during the summer recess by the Mayor and City Manager, Council Member Sorey said that he nevertheless believed that the Council's consensus had been to appeal FEMA's decision in proceeding with the flood maps as drafted. This, he said, underscores the importance of establishing a process whereby the latest scientific information is implemented by FEMA as early as possible so as to avert undue economic impact upon property owners which may have been precipitated by incorrect elevations.

Council Member Sorey requested that on large meeting packets, items be provided on an incremental basis as they are completed.

REVIEW OF ITEMS ON THE 8/17/05 REGULAR MEETING AGENDAITEM 10

To accommodate the second attorney/client session requested by City Attorney Pritt, Item 6 will be numbered as 6-a and 6-b. Item 21 (appointment of Council Member) will be continued to September 6. It was clarified that interviews would be conducted during the workshop with a special meeting called immediately thereafter to make the appointment. City Manager Lee pointed out that Item 9 (Rezone Petition 05-R1/City Center PD) would be withdrawn at the request of the petitioner. Mayor Barnett questioned the conclusion time for the Halloween party listed under Item 7-b(6). City Manager Pritt asked that Item 7-c (navigational signage and pilings in Naples Bay) be removed from the Consent Agenda for separate discussion due to a conflict issue relative to legal representation. Council Member Sorey requested that Item 7-e (Paddy Murphy's live entertainment permit) also be discussed and acted upon separately; he and Vice Mayor Wiseman requested the same for Item 7-o (amend 2004-05 budget/Naples Bay mooring field). Mrs. Wiseman also requested a summary of actions leading up to the current situation and the reasons for the level of cost deemed necessary to correct it. Mr. Sorey requested a cost/benefit analysis with reference to Item 7-o. With reference to Consent Agenda Item 7-p (Agreement for Disclosure Counsel for bonding) Council Member Taylor requested separate discussion and vote as well as further information regarding past use of this process. On Item 12 (Conditional Use Petition 05-CU5/bank drive-through) Council Member Taylor requested the status of the project should it be approved by Council prior to final action by the Design Review Board (DRB).

PUBLIC COMMENT.....

Joseph Biasella, 860 12th Avenue South, noted that the consent order executed with reference to the Naples Bay mooring field allowed utilization only by tenants of the City Dock unless a named storm was approaching. However when such a storm had recently occurred, he said, City Dock tenants declined to use the anchorage and some of the tenants at the adjacent Fleischmann Dock however did so. Nevertheless, police cited two of the three Fleischmann tenants for failing to obey an order by City staff for the vessel operators to leave the anchorage. A third Fleischmann tenant had complied with the request but suffered personal injury due to the effects of storm conditions while moving from the anchorage. He therefore urged the Council to be

vigilant regarding unintended consequences of the various requirements being imposed by the Department of Environmental Protection (DEP) and recalled that the Council had stated by resolution that a mooring field was needed due to the instability of Bay bottom anchorage. In response to Council Member Sorey, Mr. Biasella confirmed his recommendation that the mooring field be retained and pointed out that the area is in fact designated as an anchorage on nautical charts over which the City has no control. He said that Mayor Barnett should contact Governor Jeb Bush regarding these issues. Mayor Barnett asked that City Manager Lee provide Council with a point-by-point response to Mr. Biasella's allegations.

CORRESPONDENCE AND COMMUNICATIONS.....

Council commended the staff for City Hall landscaping improvements and for installation of new exterior doors in the Council Chamber. Vice Mayor Wiseman requested clarification of whether River Park was intended to be included in the redevelopment district. She also received confirmation that the subdivision of Haldeman property would be scheduled for Council action in September. Referring to significant public contact regarding this matter, Mrs. Wiseman asked that the staff provide an analysis of the entire situation relative to the Haldeman property as well as the viability of Council Member Taylor's suggested referendum.

Council Member Taylor sought confirmation that both the owner of the Haldeman property and the potential buyer had contacted City Manager Lee with a sales offer of \$6 million for the Haldeman home. She expressed concern that this had not been communicated to City Council. Citing the various continuances by the Planning Advisory Board (PAB) of the petition to subdivide the property, City Manager Lee said that he had throughout the process spoken both to the property owner and to various individuals who expressed an interest in saving the home. The suggestion that the City purchase the home had been discussed extensively, he pointed out, including a request by Sharon Kenny to the City Council; nevertheless, he had received no direction or expression of interest on the part of the City Council. Miss Taylor said that in light of the concern that had been expressed in the community, and the fact that the aforementioned offer was serious, the City Manager should bring these matters to the Council in memorandum form.

Miss Taylor also recommended that code enforcement personnel visit the Wilkinson House due to reported deteriorating conditions and asked for a response to a memorandum she said she had written approximately three months before regarding possible code violations at a home on 12th Avenue North.

She then said that City Manager Lee had indicated a need for a consensus of Council in order to disseminate information relative to annexation of various properties in which, she said, the City is actively involved. She enumerated Poinciana Village, South and North Horseshoe Drive, and Grey Oaks and stressed that staff should report to Council by memo as soon as annexation information is requested rather than Council Members learning of it from Collier County. Miss Taylor characterized this process as a new direction in her experience on City Council. Mayor Barnett indicated that he had received unconfirmed reports to this effect but he said he believed that there had been no official contact. City Manager Lee said that inquiries are received but only some, such as Moorings Park, proceed. However, he said that he would direct that the Planning Department advise him of these calls so that he could inform Council. However, he said that his recollection was not that he had sought a consensus in order to disseminate

information, but that he had suggested Council adopt a policy to address instances wherein the City is contacted. His suggestions had also included documenting other steps in the annexation process, including the process in relation to Collier County.

Council Member Taylor said that she would like to be informed of annexation contacts; however, Mayor Barnett said that he would not support this if contacts are merely for information. (Later in the discussion Mayor Barnett pointed out that the City currently has a policy of not soliciting annexations. He suggested that the Council discuss any desired revisions to this policy in the near future.) Council Member Sorey said that, like the Haldeman House issue, this discussion was an example of the need for Council to provide the City Manager with clear direction via consensus. He said that only if an annexation proposal is a serious one, then the Council should be informed. Vice Mayor Wiseman suggested requiring that those seriously approaching the City do so in writing which could then be transmitted to Council; various Council Members indicated concurrence. Council Member Nocera said that he has maintained an interest in aligning the City's borders along North US 41 and would support annexation contacts from that area.

Vice Mayor Wiseman noted current research into the composition and function of the Staff Action Committee (SAC). She said that a proposal to incorporate SAC functions into the Design Review Board was, in her opinion, ill-advised since SAC continues to perform a valuable function for the small businesses in the Fifth Avenue area and therefore should not be considered for a merger into a group imposing a more formal process.

Deputy City Clerk Jessica Rosenberg provided the previously requested attendance information on former Community Services Advisory Board Member Richard Housh (a copy of which is contained in the file for this meeting in the City Clerk's Office). During Council discussion of possible further inquiries of Mr. Housh, Council Member Sorey related a conversation wherein Mr. Housh had indicated that business demands at times interfered with board meetings. Mr. Sorey noted however that Mr. Housh provides valuable input relative to such topics as bicycle paths and grants. It was determined that all this information would be considered when Council makes appointments to the Community Services Advisory Board.

ADJOURN.....
10:35 a.m.

Bill Barnett, Mayor

Minutes prepared by:

Tara A. Norman, City Clerk

Minutes Approved: 9/21/05

Current Policy	Proposed Policy
Includes only funds in excess of those required to meet short-term expenses and funds created by bond ordinances (bond issuance related proceeds).	Includes all assets with the exception of funds related to the issuance of debt where there are existing policies or indentures, and funds that are controlled by Federal or State agencies. <u>Effect:</u> Encompasses all City assets, including those for short term expenses, except for those assets which are governed by separate legal policies such as bond indentures and resolutions.
Defines the Budget and Investment Manager as the Investment Officer.	Names City Council as the oversight authority and the City Manager or designee as responsible for implementation. <u>Effect:</u> Clarifies the hierarchy in accordance with the City's line of authority; identifies the roles of the City Council, employees and Investment Officer; and by adding the Standards of Prudence to the Investment officer, sets a higher standard for persons who invest, monitor or advise concerning the City's assets.
Competitive selection is not included. Budget and Investment Officer is responsible for each transaction.	Establishes a minimum three-bid policy for each investment. <u>Effect:</u> Implements a minimum/market price comparison method for buying and selling securities to ensure the best price for each transaction.
Does not identify maturity requirements and states that the Budget and Investment Manager is responsible for the liquidity needs of investments.	Establishes a maximum maturity of five years and an average duration (weighted cash flow) of less than three years, and requires two months' retention of operating expenditures in the Florida Local Government Surplus Fund (SBA) in order to meet unexpected cash requirements. <u>Effect:</u> Establishes a maturity limitation and overall duration of the City's investments and creates a policy to provide for daily liquidity and unexpected cash flow needs.
Requires qualified financial institutions authorized to act as broker/dealers to the City, and that they provide audited financial statements, proof of NASD certification, and knowledge of the City's investment policy requirements.	Requires that dealers either to be Qualified Financial Institutions by the State of Florida's Chief Financial Officer, Primary Dealers as listed by the Federal Reserve Bank of New York, or a regional dealer that qualifies under the SEC Rule 15C3-1; it also requests them to be qualified as a dealer under the Securities Act of 1934, a NASD dealer, and registered to sell securities in Florida. Capital of no less than \$10,000,000 is also required. <u>Effect:</u> Provides a more restrictive policy and establishes additional safeguards to protect the City's assets by increasing the qualifications for those bidding on the City's security transactions.
Provided authorized investments and portfolio allocation and rating requirements when appropriate for each permitted security type.	Clarifies the asset allocation for the authorized investments in simplified format, adds maturity limits, and adds Corporate Notes rated "AA" or better as an authorized investment; it also limits the exposure to 15% of the City's assets and 5% per issuer. <u>Effect:</u> Establishes clear guidelines and limits to ensure the management of the City's assets in accordance with the City's investment objectives and ongoing investment strategies. The addition of "AA" rated or better corporate notes provides another investment vehicle with the potential to increase the City's investment earnings.
Established a long-term benchmark of the average return of three-month U.S. Treasury Bill .	Establishes benchmarks for the City's investments based on the strategies and uses of the City's assets; measures the short-term portfolio (assets with maturities of approximately one year and less) against the Florida SBA; measures the long-term investment portfolio against the Merrill Lynch 1-3 Year U.S. Treasury Index; and will be measured in total return in accordance with the CFA Institute standards. <u>Effect:</u> Creates a total return calculation for the City's long-term assets which is in compliance with the Association for Investment Management Research (the CFA Institute).

Current Policy	Proposed Policy
Requires an annual report to the City Council and City Manager of transactions and the investment position as of the date of the report (including market value, book value and unrealized gain or loss of the securities in the portfolio).	Provides for quarterly and annual investment reports on the City's short-term and long-term core investments and requires: 1) a list of individual securities; 2) the percentage of security type; 3) coupon, discount or earning rate; 4) average life or duration and final maturity of investments; 4) par value and market value; and 5) performance compared to the performance benchmark. <u>Effect</u> : Finance Department will continue to provide base information monthly, but the Investment Advisor will provide supplemental reports.
The City's investments were to be held in a safekeeping account as assets of the bank.	Requires the City's assets be held with a third party custodian who must designate all securities purchased and all collateral obtained by the City as an asset of the City and who must report monthly; it also clarifies authorization to transact. <u>Effect</u> : Provides additional security and control over the City's assets.