



City Council Chamber  
735 Eighth Street South  
Naples, Florida 33940

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**City Council Workshop Meeting - April 4 1994 - 9:00 a.m.**

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Mayor Muenzer called the meeting to order and presided.

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**ROLL CALL**

**ITEM 1**

**Present:**

Paul W. Muenzer, Mayor  
Alan R. Korest, Vice Mayor

**Council Members:**

Ronald M. Pennington  
Marjorie Prolman  
Fred L. Sullivan  
Fred Tarrant  
Peter H. Van Arsdale (Left at 4:47 p.m.)

**Also Present:**

Dr. Richard L. Woodruff, City Manager  
Maria J. Chiaro, City Attorney  
Kevin Rambosk, Assistant City Manager  
Missy McKim, Community Dev. Director  
John Cole, Chief Planner  
Ann Walker, Planner II  
Arlene Guckenberger, C.D. Permit Clerk  
Mark Thornton, Community Serv. Director  
Terry Fedelem, C.S. Operations Supt.  
David Lykins, C.S. Rec. & Ent. Supt.  
Mary Margaret Gruszka, C.S. Rec. Supv. II  
Richard Gatti, Engineering Manager  
Mary Kay McShane, Human Res. Director  
Robyn Coker, Accountant  
George Henderson, Sergeant-at-Arms  
Tara Norman, Deputy City Clerk

G. Douglas Hale  
Werner Haardt  
Jeff Perry, MPO Coordinator  
John Farquhar  
Jack Conroy  
J. Dudley Goodlette  
Ted Toby  
Jim Smith  
Al French

**Media:**

Amy Chodroff, WNOG  
Eric Staats, Naples Daily News

Other interested citizens and visitors

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### ITEM 2

#### ITEMS TO BE ADDED

8. Review of cultural arts survey results. *(Requested by Council Member Prolman)*
9. Transportation update. *(Jeff Perry, Metropolitan Planning Organization Coordinator)*
10. Discussion of source of funding for Fishing Pier repair/reconstruction project. *(Requested by Council Member Tarrant)*

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### ITEM 4

#### UPDATE ON EMPLOYEE COMPENSATION, CLASSIFICATION AND BENEFITS

This item was continued to a subsequent meeting.

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### ITEM 9

#### TRANSPORTATION UPDATE

Jeff Perry, MPO Coordinator, reviewed the Florida Department of Transportation (FDOT) maintenance of traffic plan in conjunction with widening U.S. 41 across the Gordon River Bridges. FDOT is seeking local input with reference to two potential plans for handling traffic during construction. Mr. Perry urged the City to take an active role, although the MPO would make the final recommendation to the state on behalf of the community. (Mr. Perry provided diagrams of the proposed construction project which are contained in the file of this meeting in the City Clerk's Office.) The determination which the FDOT is seeking from local government is whether, during construction, bridge traffic should be four or six lanes; when completed the bridge will contain eight lanes of traffic. Although four lanes of traffic is considered safer for both workers and motorists because lanes are wider, the longer the project continues, the more it will cost and the more funding the state will have to divert from other projects. Mr. Perry indicated that the projected completion schedule would be 2½ years if four lanes were maintained during construction and 3½ years with six lanes. Other considerations with reference to the project include whether work would be done from the outside edges of the structure, moving east- and west-bound traffic to north or south lanes as necessary. Another option would maintain traffic on either side with a work area between lanes.

Engineering Manager Richard Gatti recommended that the thrust of local recommendations to the FDOT be to complete the project as soon as possible. By providing bonuses to contractors, construction time could be significantly reduced. For example, Mr. Gatti said, the McArthur Causeway project in the Miami area was completed six months ahead of schedule by providing

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these bonuses which were part of the bidding process.

Council Member Tarrant took issue with comments he said Mr. Perry had made on a radio broadcast to the effect that the City Council and County Commission were unanimous in wanting to go ahead with a second river crossing prior to rebuilding the present bridges. He said that if this had been the case, he would not have concurred with the City Council consensus at the February 7th workshop regarding building a new bridge. Mr. Tarrant said he did not see how a new bridge project could go forward without the Council and County Commission identifying funding. If the financial burden were not assumed locally, the FDOT would build the bridge itself in eight or nine years, he added.

Council Member Pennington urged the Council to look at the reconstruction of the bridge, the construction of a new bridge, and other related factors in a comprehensive way and recommended that a consensus of Council be achieved prior to the joint City/County meeting that Friday, April 8th.

Vice Mayor Korest mentioned the need to complete six-laning of Golden Gate Parkway prior to the bridge rebuilding in order for that highway to handle more traffic. Mr. Perry indicated that Golden Gate Parkway was now under design and right-of-way acquisition with project completion expected in 1996. Mr. Perry also noted that recently the City Council and County Commission had directed staff to proceed with drafting a scope of work for a preliminary design and environmental (PD&E) study; the firm of CH2M Hill had provided that scope of work. In addition, George Archibald of the County Transportation Department was to determine if there were sufficient impact fees to pay for the study. This information will be available for the April 8th joint meeting. Mr. Perry said that staff is hoping that it will receive direction to proceed with the final phase of the PD&E which will provide data on placement of a new bridge and information on which locations the various agencies would permit the structure to be built.

Following further discussion, **City Manager Woodruff summarized the following Council preferences with reference to this project: that the Golden Gate Parkway six-laning be completed prior to commencement of the U.S.41 widening project; that four lanes of traffic be maintained during bridge construction with variations in lane closure implemented to accommodate peak traffic; to confirm intent that a second (toll) bridge be constructed prior to reconstruction of the existing Gordon River bridges; and that, if a second bridge is not built, to begin work on the existing bridges at the close of the winter season and to consider a bonus program to accelerate the project.**

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**Break:** 10:30 a.m.. to 10:39 a.m. It is noted for the record that the same members of Council were present when the meeting reconvened.

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### ITEM 3

#### **DISCUSSION OF OPTIONS RELATED TO NEGOTIATED SETTLEMENT REGARDING CITIZENS' INITIATIVE PETITION**

Council Member Pennington read from a discussion paper which he had prepared on this subject, a copy of which is contained in the file of this meeting in the City Clerk's Office. He said he felt strongly that the proposed ordinance should proceed through the electoral process.

City Attorney Chiaro explained that the Council had authorized her to move jointly with other participants in the litigation for a stay in the appellate court, which had been granted, putting the issue on hold for 180 days. The basis for that request is a memo of settlement which states that all parties would request the stay pending submission to the Council of the ordinance proposed in the initiative petition, as well as submission of a clarifying and amending ordinance. The amending ordinance would make the initiative ordinance less far reaching, exclude Coastland Mall from applicability, and clarify language. Ms. Chiaro said that the Planning Advisory Board (PAB) would consider this legislation at its next meeting.

The City Attorney also reviewed various Charter questions which were to be addressed by the appellate court: how signatures on petitions are to be obtained; what can be done to correct a deficiency in signatures; how a committee must circulate a petition; and other items set forth in the Charter which were challenged by petitioners' committee when petitions were questioned by the City Clerk. If the Council carries out the process set forth in the memorandum of settlement, Ms. Chiaro explained, the City will not receive an opinion from the court on the Charter. One of the other elements of the settlement proposal is to establish a committee to review the language of the Charter with regard to the petition process and determine if it should be clarified.

Mr. Korest said he was concerned that the proposed ordinance was not consistent with good land planing and also that the process to obtain an opinion relative to the Charter had been stopped.

City Manager Woodruff pointed out that the mediation process had been ordered by the court but that the course of action by the City's mediation team was not binding upon the City Council. This was made very clear throughout the mediation. He said the staff recommends that the Council move quickly to clarify the Charter language which will in effect make the lower court ruling moot on the original Charter provisions. Dr. Woodruff also explained that without adoption of the companion ordinance, the initiative ordinance would include Coastland Mall and make it nonconforming, thus curtailing its current planned expansion. The companion ordinance makes the provisions applicable only to future development. This would have minor impact because the City is almost entirely built out. Additional

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amendments and/or future clarifications could however be made after passage of the initiative and companion ordinances, he said.

Coastland Mall attorney, John Farquhar, indicated that his clients were concerned because, as fiduciaries, they could not feel secure if there was any potential whatsoever that the development could not go forward, even though they could argue that the initiative ordinance did not apply to their project because of the vesting arguments provided by an approved DRI (development of regional impact). The importance of the second ordinance is that it would exempt Coastland from regulation since it applies only to projects which are 750,000 square feet. In the short term, therefore, no one would be damaged. In conclusion, Mr. Farquhar cautioned that the appellate process may not provide the clarification hoped for by the City with reference to its Charter.

Mr. Pennington said that even with the companion ordinance, the amendments in his opinion were still poor legislation. If the companion ordinance could exempt Coastland, then another ordinance could just as easily be drafted that was more acceptable from a planning standpoint. City Attorney Chiaro emphasized, however, that once the initiative ordinance was enacted, the litigation is over insofar as the petitioners' committee is concerned. That does not, however, remove the risk from Coastland without the companion ordinance.

Council discussed other options including adoption and immediate repeal of the initiative ordinance. This, it was pointed out, would not only open the Council to criticism but would not conform to the terms of the settlement agreement and could result in further litigation. It was also acknowledged that while there may not be a requirement that the initiative ordinance and companion ordinance be reviewed by the PAB, it was decided by the staff that this would be the most appropriate course of action in this instance. Both ordinances are scheduled for review by the PAB on April 13; the Council would be presented with the initiative ordinance for first reading on April 20. Second reading of that ordinance at a subsequent meeting would then coincide with first reading of the companion ordinance.

Mr. Pennington asked whether the initiative ordinance could contain a provision exempting Coastland Mall since the Charter allowed passage of petitioned legislation in substantially the form submitted. City Attorney Chiaro said she was concerned that such an amendment would be regarded as a change in substance.

Mr. Korest said that many of his concerns had been satisfied and that he would not be in favor of placing before the electorate a technical ordinance such as the one discussed. Mr. Pennington said that the Council's discussion had satisfied his goal of placing this item on the agenda. It was determined that an item with reference to this issue on the following Wednesday's regular meeting agenda would therefore be removed.

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### ITEM 5

#### **PRESENTATION BY GENERAL PENSION BOARD WITH REGARD TO PROPOSED CHANGES IN THE CITY'S PENSION PLAN**

G. Douglas Hale, member of the General Pension Board, presented proposed changes to various provisions of the pension plan for general city employees. These changes are outlined in a booklet provided by the Board and contained in the file of this meeting in the City Clerk's Office.

The General Pension Board had conducted a complete review of the plan and a study of trends in retirement planning. Study findings indicated that the plan purpose was outdated and should be revised to reflect the goal of enabling long service employees to make a transition to retirement without a reduction in their standard of living. Although the Board had determined that the current plan is adequate, it is not effective either in terms of cost or in terms of benefits derived from the level of investment. It also lacks flexibility for employees, and is less favorable from a tax standpoint because employees contribute after-tax dollars rather than pre-tax dollars as in a plan qualified under Internal Revenue Service regulations.

The Board recommended that plan objectives be revised as follows: recognize 30 years of service as adequate to earn a full pension; replace final average earnings, along with Social Security, at 80% and 100%; be as cost effective as possible for both employer and employee; and produce a higher than average real rate of return on invested funds. Recommended plan changes include: implementation of a "Rule of 90" allowing earlier than normal retirement for employees who began their careers at an early age; reduction of the employee contribution rate from 3% to 2%; and establishment of an employer matching savings program through a defined contribution component (50% City match up to 4% of employee contribution). For new employees, it was recommended that the normal retirement age be raised from 60 to 65 years to be more consistent with trends in Social Security, that membership be optional up to age 25, and that eligibility be provided after six months of service in order to reduce administrative costs.

In the discussion following Mr. Hale's presentation it was noted that no contribution to the plan had been required of the City in the present year and that, because of high earnings on investments, no contribution would be required for the foreseeable future even if recommended changes were implemented. Dr. Woodruff also pointed out that the City administration plays no role in the management of the General Pension Fund or any other of the employee retirement plans. The administration, however, has no objection to the recommended revisions. He estimated that the matching component could require between \$50,000 and \$60,000 per year, depending upon participation.

In response to other questions, Mr. Hale indicated that funds invested by employees in a defined contribution plan may be withdrawn at any time after an employee terminates. Therefore, an

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important component of any such plan is effective employee counselling. Nevertheless, he said, the trend in retirement plans is toward defined contribution plans rather than the defined benefit plan currently in place for the City's general employees.

Mr. Hale indicated that prior to implementation, the recommended revisions would be a subject of bargaining with the general employee union (American Federation of State, County and Municipal Employees).

Council Member Sullivan, who also serves as Chairman of the General Pension Board, acknowledged the contributions of Mr. Hale and other Board members, Terry Fedelelem, Arlene Guckenberger and Tara Norman. The process undertaken by the Board was, he said, a learning experience and, if a consultant had been engaged to perform the same studies, would have cost the pension system a considerable sum of money.

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~~Recess: 12:58 p.m. to 2:09 p.m. It is noted for the record that the same members of Council were present when the meeting reconvened.~~

### **ITEM 7**

#### **REPORT BY JACK CONROY REGARDING LEASE NEGOTIATIONS WITH NAPLES PLAYERS/NAPLES ART ASSOCIATION**

Community Redevelopment Agency Advisory Board member Jack Conroy explained that in December of 1993 he had volunteered to discuss business terms and condition for long term land leases with Naples Players and the Naples Art Association for placement of buildings in Cambier Park. Both groups had voluntarily proceeded with plans, even without a signed letter of intent, based on the likelihood Council would want more information prior to voting on the issue.

The major concerns, Mr. Conroy said, are building height and green space. In addition, the issue of legal constraints for use of the park for this purpose had been raised. He said, however, that it was his opinion that play in parks should not be determined by age and therefore interpreted broadly rather than narrowly so as to permit uses such as these.

In reviewing changes from the prior draft of the letter of agreement with Naples Players, Mr. Conroy noted that Page 2, Paragraph 9 had been amended to place the burden on the Players to coordinate their performance schedule with the park to avoid conflicts. Paragraph 10 institutes an obligation on the part of the Players to produce a minimum number of performances per year.

With reference to use of the theater facilities by other groups, Mr. Conroy indicated that such arrangements were viewed by the Players as a benefit, not a cost, and that the letter of agreement anticipates that these other groups would accommodate the long-term planning undertaken by

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the Players who are scheduling performances two years in advance. However, should the theater be empty, the Players would accommodate requests for auditorium events on relatively short notice. This would satisfy a need to control the level of use while also producing income.

In other discussion, Council expressed concern about the setting of rental rates and whether certain provisions of the lease could be reopened. Mr. Conroy recommended that the setting of rates could be jointly determined by the tenant and landlord. Dr. Woodruff suggested that a 20-year period for lease renegotiation might be appropriate with possible buyout provisions for the City to acquire the facility if it was in the public interest.

Council Member Tarrant observed, however, that while the City is discussing means of controlling these arrangements, the arts organizations should from their perspective have an equal concern. Both Naples Players and Naples Art Association have a solid track record, he said, and therefore he was not enthusiastic about the necessity of the City becoming involved in the operation of an arts facility. It is essential to keep these groups in the downtown area, Mr. Tarrant said, and cautioned against dampening the enthusiasm which had been generated for the project.

Council requested information with reference to similar public/private arrangements in other cities. **City Attorney Chiaro said that she would attempt to obtain sample leases from other jurisdictions. Mr. Conroy said he would contact the arts groups and incorporate Council's directives into subsequent draft letters of intent.**

Mayor Muenzer asked about the City's level of liability should a default occur in a cultural arts building mortgage. Mr. Conroy responded that there would be no encumbrances on the land and that any new occupants would be required to follow the terms of the lease. City Attorney Chiaro also pointed out that any assignment would have to be approved by the City. Mr. Korest asked about Council's ability to modify or add terms when the lease was signed. City Attorney Chiaro explained that the letter of intent was merely a statement of policy and there was no commitment to approve a lease.

There will be a Special Council Meeting on Monday, April 11, at 2:00 p.m. to review the issue of placement of arts facilities in Cambier Park.

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**Break:** 3:45 p.m. to 3:58 p.m. It is noted for the record that the same members of Council were present when the meeting reconvened.

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## **ITEM 8**

### **REVIEW OF CULTURAL ARTS CENTER SURVEY RESULTS**



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City Manager Woodruff explained that Council Member Prolman had asked the staff to obtain input from the general public on various aspects of the cultural arts center issue. Approximately 500 names had been selected randomly from ad valorem tax records and utility account lists; 113 of those contacted were willing to participate in the survey questions. Dr. Woodruff indicated that while the survey was not scientific, it did encompass a cross section of the community. Calls were made by department heads with the exception of Mark Thornton due to his closeness to the issue through the Community Services Board. (A copy of the survey results is contained in the file for this meeting in the City Clerk's Office.)

Dr. Woodruff reviewed six alternative sites within proximity to the downtown area, their estimated value and size. **It was determined that the staff would develop a matrix system so that various factors could be evaluated under a point system.**

City Attorney Chiaro pointed out that, after reviewing case law with reference to provisional gifts, and the documentation available with reference to the site, she was satisfied that there was no legal impediment to placing cultural arts facilities in Cambier Park.

Council Member Tarrant said that he had noted considerable resistance among constituents to placing an arts center in the park. He said he favored looking into the City procuring an alternate site with the possibility of the organizations repaying the City with private funds and taking full responsibility for the facilities at some point in the future. This would eliminate many of the concerns with reference to controls should cultural arts facilities be placed on park property, he explained.

Council Members VanArsdale and Prolman indicated their desire to look at Cambier Park as a whole and determine what could be done to improve the park over time. These sentiments were echoed by Council Member Korest who said that the cultural arts facilities could however serve as a focal point to tie activities in the park together.

Mayor Muenzer said that on April 11th the Council should determine whether the center is to be in the park and, if not, whether the Council wished to designate another downtown location. This would, he said, provide the Naples Art Association and Naples Players with the necessary answers to facilitate their planning.

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### ITEM 10

#### **DISCUSSION OF SOURCE OF FUNDING FOR FISHING PIER REPAIR/ RECONSTRUCTION PROJECT**

Council Member Tarrant asked that the Council address whether it wished to use City tax dollars for the Fishing Pier repair/renovation project, whether a united front should be presented to the

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Tourist Development Council to request funding, or whether there was potential that funding assistance would be available from Collier County. Mayor Muenzer said that he hoped the County would look favorably on the City's request for capital improvement funds. This issue will be discussed at the next joint City Council/County Commission meeting. Mayor Muenzer noted that in the past when a pier admission fee had been discussed by the Council, there had been opposition principally from County residents.

Mr. Pennington observed that the City should look optimistically toward potential County financial participation in this project.

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### **ITEM 6**

#### **REVIEW OF ITEMS FOR APRIL 6, 1994, CITY COUNCIL MEETING**

It was noted that Item 18, a joint project agreement with Collier County for a wastewater force main, would be removed from the agenda. Items 16, 17, 20 and 25 would be removed from the Consent Agenda for separate discussion. In addition, Council Member Pennington requested correction of the street closure map for the Fourth of July Parade (Item 22). Item 14, resolutions related to the citizens' initiative petition on shopping centers, would also be removed from the agenda pursuant to discussion at this workshop meeting.

#### **ANNOUNCEMENTS / CORRESPONDENCE / COMMUNICATIONS**

Assistant City Manager Rambosk reported on research into various alternatives for repair of the City Hall air conditioning system. It was indicated that the staff would proceed with installation of new compressors at an estimated cost of \$42,000 with Council confirmation at a subsequent regularly scheduled meeting.

**ADJOURN:** 5:34 p.m.

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Paul W. Muenzer, Mayor

Janet Cason  
City Clerk

Tara A. Norman  
Deputy City Clerk

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These minutes of Naples City Council approved on May 4, 1994.



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**April 4, 1994**  
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