



City Council Chamber
735 Eighth Street South
Naples, Florida 34102

City Council Workshop Meeting – June 2, 1997 – 8:30 a.m.

Mayor Barnett called the meeting to order and presided.

ROLL CALL ITEM 1

Present: Bill Barnett, Mayor
Marjorie Prolman, Vice Mayor

Council Members:
Bonnie R. MacKenzie
John R. Nocera
Fred L. Sullivan
Fred Tarrant
Peter H. Van Arsdale

Also Present:

Dr. Richard Woodruff, City Manager
Kenneth Cuyler, City Attorney
Missy McKim, Planning Director
Don Wirth, Community Services Director
Jon Staiger, Natural Resources Manager
Virginia Neet, Deputy City Clerk
Flinn Fagg, Planner
Ann Walker, Planner
Robert Egan, Waterfront Operations Supv.
Robin Williams, Executive Secretary
Molly Reed, Recording Secretary
Peggy Ralph
J. Dudley Goodlette
George Hermanson
David Trowbridge
Christine Minarich

James Rideoutte
Dan Spina
Merrill Johnson
George Ernhardt
Ken Abernathy
Richard Klaas
Fran Stallings
Stephen Pistner
Martha Dykman
Joe Biasella
Kim Case
Homer Helter

See Also Supplemental Attendance List
(Attachment 1)

Media:

Tara Beer, Naples Daily News

ITEMS TO BE ADDEDITEM 2

City Manager Richard Woodruff requested the following item be added to the agenda:

Item 8 – Discussion regarding redesign of 6th Avenue and 8th Street South.

Vice Mayor Prolman requested a review of the report from Utilities Director Dan Mercer regarding pipe backflow prior to the Regular Meeting of June 18th.

**.....ITEM 3
DISCUSSION OF UTILIZATION OF NAPLES LANDING FOR STAGING AREA
FOR KEY ISLAND DEVELOPMENT PROJECT. (8:32 a.m.)**

City Manager Richard Woodruff stated that Council's conditional use approval for Naples Landing included a clause requiring additional Council approval for intensification of use. He reported that the developer of Keewaydin Island had contacted the City Manager's office requesting a meeting to discuss staging plans for construction on the Island, and presenting a report by Hole, Montes which had been sent to each Council Member. (A copy of the report is contained in the file for this meeting in the City Clerk's Office.)

Editor's Note: The island, directly south of Gordon Pass, is named Key Island whereas the developed portion at the northern end of the island is referred to as Keewaydin. However, the terms Key Island and Keewaydin Island are used interchangeably.

George Hermanson, Sr. Vice President of Hole, Montes and Associates, representing Key Island Estates and Key Island Partners, explained that since 1995, his firm had been the engineers of record. He sought Council's approval for use of Naples Landing as the staging area for island construction, noting that the project's Planned Development (PD) required a construction management plan to be approved by the City Manager. Keewaydin Island construction will include:

1. Demolition of existing buildings, construction of a new water and drainage systems, and construction of common facilities; and
2. Construction of 20 residences.

He said the first component would take approximately 8-10 months; the time required for final completion depended on sales but is estimated to be up to five years.

Using transparencies, Mr. Hermanson explained that the project had designated three debarkation points: the end of Bayshore Drive would be used for personnel; the Keewaydin dock on Gordon Drive would be used for government inspectors, emergency personnel, and sales clients; and Naples Landing would be used for loading equipment and materials. He informed Council that the developer had made good faith offers for use of other debarkation sites, but a satisfactory arrangement was not achieved.

Council Member MacKenzie asked him to identify the alternate sites and indicate why they were not suitable. Attorney J. Dudley Goodlette explained that negotiations were continuing and because of sensitivity could not be discussed. He confirmed that the sites were commercial, and that the developer had considered both renting and buying, but, he added, they were not optimistic about results. Mrs. Prolman said she felt approval by Council

before negotiations were finalized would be premature and would also obviate the petitioner's pursuit of an alternate staging site.

Council Member Tarrant asked whether Boat Haven had refused use of its loading facility, and Attorney Goodlette again declined to disclose specifics. Council Member Sullivan asked whether the Bayshore and Gordon Drive locations could be used for construction staging. Mr. Hermanson replied that Bayshore Drive could accommodate neither large vessels nor a barge and the Gordon Drive shore station is residential, too small, and lacks access for docking and loading cargo. City Manager Woodruff pointed out that when the City issued the PD for Key Island, there were lawsuits pending regarding the Gordon Drive location with the result that the City would have to formally alter the PD and obtain permission from the parties in the lawsuit in order to permit use of that shore station.

Attorney Goodlette reminded Council that a construction management plan had been required in order to use the Naples Landing site, but Vice Mayor Prolman noted that Naples Landing had been neither contemplated nor discussed.

Council further learned that delivery trucks would depart the staging area via normal parking lot exits, and that the truck waiting area had not yet been determined. It was also learned that the developer would be willing to forego use of the Naples Landing on Saturdays in deference to recreational boaters.

City Attorney Kenneth Cuyler advised Council that in order to resolve the issue they should first formally approve the agenda, adding and including Items #s 3 and 8, acknowledging taking public input, and affirming that Council could take action on the issue.

MOTION by Sullivan to APPROVE the agenda, specifically including and adding Item 3 and Item 8, recognizing the taking of public input and that Council may take final action; seconded by MacKenzie and carried 6-1 (MacKenzie-yes, Nocera-yes, Prolman-yes, Sullivan-yes, Tarrant-no, Van Arsdale-yes, Barnett-yes)

Council Member Tarrant stated that he did not consider it appropriate to resolve the issue in a workshop.

City Manager Woodruff reviewed components of the staff report (contained in the file for this meeting and available at the City Clerk's Office) which included the importance of a supervisor to monitor all loading activity (loadmaster), an off-site staging area, and the use of containers to transport supplies to the barge area. Council Member Tarrant pointed out that in December Dr. Woodruff had encouraged Council to await the City-wide park master plan before granting any additional approvals for use of the park. Dr. Woodruff explained that Council had addressed both Cambier Park and Naples Landing without a city-wide plan in place.

Dr. Woodruff reviewed proposed fees of \$500.00 per day and \$300 per half day, adding that the days and hours of operation would require Council approval. Vice Mayor Prolman then stated that this proposal for commercial use went beyond Council's conditional use approval for Naples Landing which was limited to repairs on existing docks and seawalls. She then

asked whether the City Attorney had reviewed the agreement to determine whether the City was fully protected in the event of damage to the park facility, and learned that the developer would be required to repair any damage. Staff also confirmed that three trucks would fit on the barge for the trip to Key Island.

Again expressing concern about making decisions in a workshop setting which was not being televised, Council Member Tarrant noted that the Planning Advisory Board (PAB) and the Community Services Advisory Board (CSAB) had recommended denial of Naples Landing for commercial purposes. City Attorney Cuyler responded that he had found no ruling stating that formal action could not be taken at a workshop so long as the item had been properly advertised and the affected parties notified. In addition, he said, the PAB would be involved only if the conditional use process were repeated, explaining that Council's conditional use approval had provided for intensification of use with its approval. Mr. Tarrant said that since other issues had been postponed until winter residents were present, Council should hold this issue also. Mr. Cuyler noted that a continuance is a policy issue, and reaffirmed that the taking of public input and making a decision at a workshop are acceptable legal issues.

Public Input: (9:23 a.m.)

Attorney Anthony Pires, representing the Charter Club and Bayside Villas Condominiums, said that a commercial staging area expanded the park's conditional use and therefore constitutes a new use requiring reinstitution of the process including PAB review and new zoning approvals. He concluded that his clients were prepared to pursue legal recourse to require the City to follow the conditional use process. **David Trowbridge**, President of the Charter Club Resort, expressed surprise that Council was considering intensification of the conditional use granted for Naples Landing because the park is zoned Public Service and could not be used as a staging area for a major, commercial operation. He predicted that the Charter Club would go out of business if this were permitted. Collier County had funded 80% of the park to be used for recreational purposes, he said, and not to build a commercial loading dock. He said the estimated \$224,000 to derived in user fees over five years was too low when compared to the charges to other marine contractors using the dock. He also said that such a decision was not appropriate for a workshop meeting. **Bob Jepson, 1100 9th Street South**, opposed any intensified use of the park to subsidize a private developer, adding that to do so would violate Council's resolution of March 5th. **Robert Noble, 1100 9th Street South**, urged Council to increase the user fees to such an extent that the developer would arrange another staging location. **Emer Brennan, 880 8th Avenue South** said the number of trucks estimated to go through a residential area disturbed her. **Paul Kluener, 1100 9th Street South**, said he was concerned for people in the area who wanted to sell their property. **Russell Ferguson 540 12th Avenue South**, representing the board of the Village Green Association, said that the staff's proposal would make the park a commercial endeavor and would require at least two more inspectors to oversee the project. He suggested use of military landing barges as an alternative. **Attorney Thomas G. Eckerty, 12734 Kenwood Lane, Fort Myers**, representing the Charter Club developer, said it would be a direct contradiction of Council's action of March 5th to permit intensified use for commercial staging, adding that Council had originally said the dock would be used from 8 a.m. until 4 p.m., however the Key Island request was from 7 a.m. to 7 p.m. He predicted the Charter

Club would fail if commercial intensification was approved, and asked Council to hold a meeting with full public input. **Joe Herms, 167 3rd Avenue North**, confirmed with City Attorney Cuyler that a future Council could overturn a decision by the current Council inasmuch as it is not bound contractually. He predicted this would become a major campaign issue in the next election and urged Council to deny the intensified use since approval would also lead to litigation.

Dick Klaas, 3377 Gulf Shore Boulevard North, partner in Key Island Partners indicated that since the partnership purchased the property in 1989 it had settled 21 lawsuits and obtained permits from the City, State and Federal governments, largely because they had yielded to various groups' demands. As a result, use of the Gordon Drive shore station for staging is prohibited by written agreement. He reminded Council that both the PAB and Council had voted in favor of the project, and the Wildlife Federation and the Conservancy had supported it. Mr. Klaas also pointed out that throughout the approval process there were discussions regarding the use of Naples Landing with no consideration of an alternate staging area. He said that during the negotiations, all had given their word that Naples Landing was to be used for the project.

Mr. Klaas also remarked that the Charter Club, built in 1980, is a timeshare facility and not a condominium and that Naples Landing had been in place as a commercial dock since 1969, a fact that is well known. He said that, according to the PD documents, there is one year remaining to begin development of Key Island, and therefore the subject had become a property rights issue. He urged Council to honor its word, and concluded by presenting a letter from former Mayor Paul Muenzer dated May 29, 1997. (Attachment 2)

The petitioners confirmed that there was no litigation currently pending although there are other legal restrictions present.

Recess: 10:21 a.m. to 10:25 a.m. It is noted for the record that the same members of Council were present when the meeting reconvened.

Public Input Continued: (10:25 a.m.)

Amy Rego, 1060 6th Street South, urged Council to not set a precedent by permitting a commercial use in a public park. **Mary Brett, 530 First Avenue North**, president of the Old Naples Association, told Council that the board of directors is opposed to the proposed use and urged Council to direct the developer to find a more suitable staging area. **Homer Helter, 1100 9th Street South**, said he was sure there were alternative staging sites and challenged the developer to find them, adding that litigation was not necessary. **Kim Case, 389 Central Avenue**, said that even though the loading was allowed 7 a.m., trucks would arrive at 6:15 a.m. and be there after 7 p.m. She asked how many trucks would arrive per barge load if the product were not containerized.

Mayor Barnett asked Cotty Morris, president of Boat Haven, to clarify the status of using Boat Haven and to determine whether Boat Haven was for sale. Mr. Morris explained that a company called Naples Dock & Landing currently leased Boat Haven's commercial loading area on a monthly basis and confirmed that Boat Haven would be for sale but that estate

problems currently prohibit discussions of a long-term rental contract. Council Member Nocera asked whether there were objections to an additional 30-day lessee and Mr. Morris said that the current tenant would have to make that determination.

Council also learned that there is a commercial barge loading area on Marco Island and that although the Key Island developer had opened negotiations with Boat Haven, no attempt to negotiate an agreement had been made. Mr. Morris confirmed that a one-year, renewable agreement would be possible and that an agreement could be arranged between the developer and Boat Haven if Council agreed to postpone the issue for two weeks.

In response to Council Member MacKenzie, Mr. Morris stated that he could not determine if the City fee of \$60.00 for each barge debarkation were competitive since Boat Haven charges a flat monthly fee of \$2,000.00.

Attorney Anthony Pires reviewed a transcript of the regular Council meeting of March 5th, citing that Planning Director Missy McKim had stated that, according to the PD, the City had no obligation to providing Naples Landing as a staging area for Key Island. Mr. Pires noted that Mr. Klaas had referred several times to commitments made by the City, adding that the proposal before Council was not an intensification of use but, rather, an entirely new use.

Attorney J. Dudley Goodlette indicated that the approved Key Island PD specifies that any construction plan would have to be reviewed by the City Manager, adding that it was on this basis that the developer had proceeded. He noted that the only reason a construction management plan would require City Manager review was because of an understanding that City-owned property would be used for a staging area, and he described the strict requirements of the plan that had been established by the City Manager's office. Vice Mayor Prolman clarified, however, that the PD did not specifically refer to Naples Landing or to City property and Attorney Goodlette concurred. She then took issue with the connection between a construction management plan and the use of City property, noting that the City could rightfully request a plan for the Bayshore location if that location were a feasible staging site. She concluded that Council was never made aware of the assumption that the Key Island developers would use Naples Landing.

Attorney Goodlette stated that the project required a staging area that would be available over a four to five year period and Boat Haven could not provide that assurance due to unsettled estate problems among the owners. Council Member MacKenzie asked Mr. Goodlette to describe the difficulties in contracting with Boat Haven for one year with an alternate site arranged as an option in the event that a second year could not be arranged. Mr. Goodlette responded that acquiring an alternate, remote site was not economically feasible.

Joe Biasella, 860 12th Avenue South, indicated that regardless of the selected staging area, affected residents would protest and claim a resulting decline in their property values. He said that everyone in Naples lived in a construction area and property values have always increased. He urged Council to make a decision independent of threats of lawsuits.

Council Member Tarrant inquired whether the City Manager and the Planning Department considered the intensity of use to be compatible with the Comprehensive Plan and the Vision 2005 Plan. Dr. Woodruff said that he did. Vice Mayor Prolman expressed concern that the amphibious tour vehicles which had recently sought staging facilities would also have a legal basis to protest exclusion from Naples Landing if its use were now intensified, but Council Member MacKenzie observed that the City would be paid by the Key Island developers whereas the amphibious vehicle operators had wanted to use the site at no charge. City Attorney Cuyler added that barge use has also been an historical use of Naples Landing.

Vice Mayor Prolman then expressed concern that intensification of use conflicted with the Comprehensive Plan green space requirements and suggested that Naples Landing could not be referred to as a park during the five years it was being used as a commercial staging area. Dr. Woodruff clarified, however, that commercial staging would not be the primary use and noted that recreational boat launchings constituted a much greater use. He added, nevertheless, that Council could remove the park classification as open space although he said he felt it would be an error to do so. Mrs. Prolman stated that the driveway for the trucks using the park would have to be separated from the public driveway in order to maintain the open space category.

Vice Mayor Prolman then asked Council to consider a Monday through Friday 8 a.m.-4 p.m. restriction. Mayor Barnett said he agreed with eliminating Saturday use of the dock facility and Council Member Van Arsdale also pointed out that the hours of operation were not part of the motion on the floor. Mr. Van Arsdale then said that he considered 18 trucks per day to be negligible since the traffic count on 9th Street amounted to 9000 vehicles per day, including an estimated 2000 trucks. He further noted that a barge size of only 60 feet by 30 feet, with only six trips per day would not present a boating safety issue. He then said that although he was sensitive to the Charter Club, it was important to remember that it had been built on a commercial site and, as a timeshare, it continued to be a commercial endeavor. He continued that the proposed use of the landing was compatible with the historical use of the park and noted the consistent increase in property values in Naples which, he said, have never been adversely affected by construction projects. He concluded by reiterating that the City has an obligation to provide waterfront access regardless of whether or not the area is labeled a park.

Council Member MacKenzie, however, contended that government should not compete with private enterprise and indicated that Naples Landing should have been the developer's choice of last resort, adding that she was not convinced that alternative staging sites had been fully explored. She suggested that sufficient control over the days and hours of use, fees, and annually renewable consideration would encourage the developer to seek a more economically feasible staging area.

MOTION by MacKenzie to APPROVE utilization of Naples Landing as a staging area for the Key Island development project with the following requirements:

- 1.) Hours of operation must be 8 a.m. to 4 p.m.;***
- 2.) Days of use must be Monday through Friday;***
- 3.) Off-site staging storage area is to be identified;***

- 4.) *Contractor will pay the City a fee of \$300 per half day which is a minimum of four hours and additional, prorated, charges for more than four hours per day;*
- 5.) *The permit must be annually renewed at Council's discretion and not to be unreasonably withheld ;*
- 6.) *The collected fees from the Key Island development project will be used for City park improvements;*
- 7.) *Access to the staging will be reconfigured so trucks will enter and exit via the same route; and*
- 8.) *All staff restrictions not in conflict with this motion will remain in place.¹*

The motion was seconded by Van Arsdale and carried 4-3, (MacKenzie-yes, Nocera-no, Prolman-no, Sullivan-yes, Tarrant-no, Van Arsdale-yes, Barnett-yes)

A prior motion by Nocera to deny the petition, seconded by Tarrant, failed 3-4 (MacKenzie, Sullivan, Van Arsdale and Barnett dissenting)

Council Member Tarrant stated that he believed the motion violates the Comprehensive Plan and Vision 2005, and added that it was a betrayal of the taxpayers of Naples.

.....ITEM 4
DISCUSSION REGARDING DENSITIES FOR TRANSIENT LODGING FACILITIES. (Requested by Vice Mayor Prolman) (11:21 a.m.)

City Manager Richard Woodruff reviewed the background of the subject recalling that several months before based on a density study Council had rejected capping transient lodging. Subsequently, other hotels had come before Council requesting approval.

Planner Ann Walker noted that transient lodging in the City must seek approval through the conditional use process, adding that there are presently 36 hotels in the City with a total of 2,176 rooms. Five additional hotels had been approved, so an increase of 627 room will raise the total to 2803. (A copy of the information presented Ann Walker is included in the file for this meeting in the City Clerk's Office.) During her presentation, Council learned that restrictions in Florida on transient lodging are generally enforced by counties rather than the cities with a common standard of 1000 square feet per guest unit (44 units per acre). Collier County permits 26 units per acre in activity centers and 16 units outside of activity centers.

Dr. Woodruff pointed out that the City's only control on density is the 1.25 parking spaces ratio per guest room. Planning Director Missy McKim said that height restrictions are an additional control on density adding that lodgings that meet City requirements have approximately 30 units per acre. She suggested that the City should focus on requiring 1.25 parking spaces per room but permitting the operators to landscape portions of the required parking area for future use, if needed.

Vice Mayor Prolman said that it troubled her when the Wilderness/TelTrust hotel proposal had dropped from five stories to three but had eliminated only six guest rooms, adding,

moreover, that the subjective parking needs analysis process undercuts the City's method for controlling growth. In addition, she objected to overlooking parking insufficiency in favor of design and reminded Council that this approach led to recent approval of the Hilton Hotel which would be deficient by 80 parking spaces. If Council were serious about controlling growth, they would adhere to a consistent policy, she said, and concluded that it was appropriate to control density with parking requirements, but the policy should be applied evenly and without exception. She urged Council to abandon the parking needs analysis since it provided a loophole. Council Member Tarrant agreed.

Ms. McKim then explained how a conditional use parking needs analysis is currently applied to existing structures (primarily restaurant use) and new construction (primarily hotel use) in order to address inadequate parking conditions. She conceded that this procedure had been used to increase density, although that had not been the intent. She suggested that the parking needs analysis not be used for new construction but, instead, use landscaping in lieu of parking.

Council Member Van Arsdale suggested a method based on lot coverage and said he supported the parking needs analysis process because it prevented paving unless it was absolutely necessary. He stated that his primary concern was the total number of guest rooms permitted within the City and said he favored a cap on transient lodging because of its impact and the pressure on City resources. He reasoned that dealing with the issue of parking at a specific property neglected the larger issue of the total carrying capacity within the City since it appeared that many of the higher quality lodgings also had the highest densities.

Ms. McKim indicated that the most efficient way to control density would be through zoning since it becomes very complex to place a specific limit on the number of rooms. Dr. Woodruff suggested that Council be prepared to limit use of the parking needs analysis for new hotel construction.

It was the consensus of Council to request the City Manager and staff to conduct a study regarding the parking needs analysis in relation to hotel densities and to direct Dr. Woodruff and his staff to initiate the preliminary work for amending zoning ordinances accordingly.

.....ITEM 6
REVIEW OF ITEMS ON 6/4/97 REGULAR MEETING AGENDA.L (11:49 a.m.)

Item 5b (Purchase of "Poligon" shelter at Gulfview Middle School) Council Member Van Arsdale requested an illustration of a "poligon"; **Item 5c and 5d (Purchase of benches, trash receptacles and light fixtures for Cambier Park)** Council Member Van Arsdale requested the landscape plans for Phase I. City Manager Dr. Woodruff explained that park lights and benches on the street will be yellow to coordinate with 5th Avenue, and the lights within the park will be the same green as the roof on the pro shop; **Item 5f (Award bid for roofing repairs on the Police and Emergency Services Building)** Council Member Sullivan requested the reasoning for the delay in completing this work, and learned from Dr. Woodruff that the computer with the design for the Police Department addition had malfunctioned and the work had to be redone thus delaying the project for four months. He

explained that, in the meantime, the roof needed repair; Item 5i (Special events) Council Member Sullivan requested that the Naples Beach Hotel Summer Jazz Series be removed from Consent Agenda and set for separate discussion; Item 6 ("No Trespassing" sign ordinance amendment) City Manager Woodruff advised that this item will be continued; Item 12 (Approval of a parking needs analysis to increase the number of units at the Lemon Tree Inn) Council Member Sullivan requested the total number of acres encompassing the Lemon Tree Inn and the Baker Center; and Item 13 (Conditional use for a private club located on the northwest corner of Fifth Avenue North and Goodlette-Frank Road) Council instructed Planning Director Missy McKim to clarify the language of the proposal to reflect the requirement for a turn lane.

Vice Mayor Prolman requested that the item regarding grant issues be added to the agenda for the Workshop Meeting of June 16th.

Recess: 12:07 p.m. to 1:30 p.m. It is noted for the record the Council Members Sullivan and Nocera returned at 1:32 p.m. and Council Member Van Arsdale was absent for the remainder of the meeting.

.....ITEM 5
UPDATE/DISCUSSION – CITY PARTICIPATION IN LAWS OF LIFE PROGRAM.
(1:30 p.m.)

City Manager Richard Woodruff reviewed the Laws of Life Program, beginning its second year as a pilot project, described as a program for local students emphasizing etiquette and character development. The City had agreed to be the initial sponsor with the understanding that it would become a County-wide program if the first two years were successful; following the first year, the program had been deemed a success.

Vice Mayor Prolman stated that she had requested this discussion because funding had been unclear and she had wanted clarification of expenditures. Dr. Woodruff said that the City's \$5000 contribution was underwritten by confiscation funds which would continue to support the pilot program for one more year, adding that the County School System and YPO49ers contributed \$5000 each. Dr. Woodruff also explained that \$339 was spent as a thank you gesture to the volunteer essay contest judges and a \$200 expenditure was for custodial services at the facilities used by the program.

Vice Mayor Prolman stated that she would prefer the City's contribution be reduced by half and supplemented by private sources, but Council Member Tarrant said he supported any program designed to encourage children, adding that the use of confiscated funds was appropriate. Mayor Barnett remarked that he would support the program for another year, regardless of business community participation. Council Members Nocera and Sullivan each expressed support for the program. Council Member MacKenzie noted that information on the program had been vague because the program was evolving, but after a successful first year, she found the program to be very gratifying.

Council unanimously agreed to continue support for an additional year with identical funding in the event private funding could not be acquired.

.....ITEM 7
DISCUSSION REGARDING CLAM BAY SYSTEM MANGROVE DIE-OFF. (1:51 p.m.)

City Manager Richard Woodruff explained that this presentation was informational only and that no action would be required. (A copy of the Clam Bay Restoration and Management Plan is contained in the file for this meeting in the City Clerk's Office.)

Attorney Ted Brown of Orlando explained that he had been an environmental consultant on Clam Bay for approximately one year. WCI Communities and Pelican Bay had presented a proposal to restore Clam Bay to a mangrove estuary along with a set of parameters to achieve that goal.

Mr. Brown discussed five major issues proposed for restoration of the Clam Bay eco-system:

1. The Seagate culvert--inside the City--operates a control device that was required by the Environmental Protection Agency (EPA) in 1972 but does not allow the waters in the pipe culvert to flow out through Clam Pass. The solution would be the installation of a flap-gate system which would help prevent the Pass from closing and would improve water quality in Pelican Bay and Clam Bay.
2. Maintenance at Doctor's Pass would neither be affected nor aided by the flap-gate system.
3. The tidal prism of the system (ability of the Bay to accept and disgorge a greater amount of water) could be raised by excavating Clam Pass so that it would not re-fill as it had in the past and thereby generate an important tidal exchange in the mangrove areas to the north.
4. Adjustments within the estuary would involve small excavations to permit water to more freely move in and out of the Bay.
5. The impact of fresh water on the estuary system would be reduced when the Pelican Bay area adopted more indigenous landscaping which requires less irrigation. Other aspects of the proposal include an increase in the holding capacity of the storm water reservoirs and an analysis of sprinkler systems within Pelican Bay.

Council also learned that the project should not aggravate the shoaling problem at Doctor's Pass, and that The Conservancy had requested the Seagate culvert flap system be delayed until it was known how the system operated with the current control devices. A reconnection between Clam Bay and Vanderbilt Lagoon would not achieve the desired results for Clam Bay, however.

Council Member MacKenzie inquired whether restricting boat traffic in Clam Bay and Clam Pass would cause a decline in Seagate property values. Mr. Brown responded that the area was viewed as a conservation and nature area, and therefore the State and Federal authorities would not be likely to permit boating in the area. He added that he would oppose navigability if it conflicted with the eco-system. Council Member Sullivan said he had understood that the scouring action of boating helped keep the passes open and that the

boating rights of the Seagate property owners should not be denied. Mr. Brown reiterated that he would not support any plan inconsistent with ecological goals, and Council Member MacKenzie observed that opposition to boats in the southern end of the area was not a neutral position.

Council Member Nocera asked if there were any plans to modify the bridge to Naples Cay; Mr. Brown answered that only replacement of the culverts and the installation of three flap-valves on the northern side was planned. Council Member Mackenzie requested a memorandum of understanding from Mr. Brown that would confirm that the Seagate flapper gates would be installed at the latter stages of the project and stating that right of access would be granted by the City of Naples. Mr. Brown related that while City permitting could set such conditions, he, nevertheless, had no objection to a memo of understanding.

Natural Resources Manager Jon Staiger clarified that on the issue of navigability, the Corps of Engineers traditionally stands with property owners and would probably not object to a marked channel for outer Clam Bay egress through the seagrass area, but noted that permission for motorized boats to the north of Clam Pass was unlikely. He explained, further, that lawsuits in the past had defined the rights of Seagate property owners to use the pass and concluded by stating that he agreed with the proposal to install flap-valves so that the water entering Clam Bay would not flow back to the south.

Public Input (2:40 p.m.)

Martha Dykman, President of Seagate Property Owners, thanked Council Members MacKenzie and Sullivan for their support for Seagate property rights. She said the issue was to keep water from flushing back and the property owners supported the flap-valve concept, however, she said that boats were not the problem nor had ever been a problem.

Mayor Barnett then asked what role the City should take to protect the property rights of the Seagate residents. Dr. Staiger noted that the City would have input during the permitting process and City Attorney Kenneth Cuyler said that the City would have two opportunities to voice objections in favor of Seagate property rights -- during the State permitting process and during the City permit issuing process. He added, however, that he would study the situation further. Council Member Tarrant expressed the opinion that if a legal action were necessary to protect property rights, he supported having the City spend sufficient funds as it had done on the issue of ~~Sable~~ Sabal Bay.

Dr. Fran Stallings, 9835 Delaware Street, Bonita Springs, Florida, representing the Save the Manatee Club, stated that boating was not the problem in Clam Bay and that he did not oppose it, noting that he preferred a ban on motor boats north of Clam Pass. He said the channel should be marked, and affirmed his support for the flap-valve proposal. **Stephen Pistner, 10 Seagate Drive**, President Naples Cay Association, said his group supported the flap-valve proposal and their main goal is that Clam Pass be opened and remain open.

City Manager Woodruff offered to take Council Members on a tour of the Clam Bay area.

.....ITEM 8
DISCUSSION REGARDING REDESIGN OF 6TH AVENUE AND 8TH STREET SOUTH. (2:53 p.m.) Deferred to il the Workshop Meeting of June 14th.

CORRESPONDENCE / COMMUNICATIONS
None. (2:53 p.m.)

OPEN PUBLIC INPUT
None. (2:53 p.m.)

ADJOURN
2:53 p.m.

Bill Barnett, Mayor

Tara A Norman
City Clerk

Prepared by:

Molly Reed
Recording Secretary

Minutes Approved: 7/23/97.