



City Council Chamber  
735 Eighth Street South  
Naples, Florida 34102

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**City Council Regular Meeting – December 3, 1997 – 9:00 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  
Marjorie Prolman, Vice Mayor

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

**Also Present:**

Dr. Richard Woodruff, City Manager  
William Harrison, Assistant City Manager  
Kenneth Cuyler, City Attorney  
Missy McKim, Planning Director  
Tara Norman, City Clerk  
Donald Wirth, Community Services  
Director  
Anne Middleton, Budget and Investment  
Manager  
George Archibald, Traffic Engineer  
Ann Walker, Planner  
Molly Reed, Recording Specialist  
Duncan Bolhover, Admin. Specialist

Reverend David Pierce  
Joseph Herms  
Douglas Walton  
Peter Gerbosi  
Duke Turner  
Amy Rego  
Mark Weakley  
Kim Case  
Rainey Norins  
J. Dudley Goodlette  
Other interested citizens and visitors

**Media:**

Marc Caputo, Naples Daily News

**INVOCATION AND PLEDGE OF ALLEGIANCE.....ITEM 2**  
Reverend David Pierce of the First Presbyterian Church.

**ANNOUNCEMENTS .....ITEM 3**  
Community Services Director Don Wirth presented Council with a Gift Catalog for public donations to implement the Cambier Park Master Plan.

**ITEMS TO BE ADDED .....ITEM 4**  
Vice Mayor Prolman requested the following items be removed from the Consent Agenda for separate discussion:

Item 5g & 5h Approval of annual contracts for irrigation systems and landscape material and streamlining of bid procedure

City Manager Woodruff requested the following items be added to the agenda:

Item 12 Consider a resolution for settlement of a discrimination lawsuit

Item 13 Consider retention of architectural services for an expanded Norris Community Center

**MOTION by Sullivan to SET AGENDA, ADDING ITEMS 12 AND 13 AND REMOVING ITEMS 5g AND 5h FOR SEPARATE DISCUSSION; seconded by Van Arsdale and unanimously carried, all members present and voting (MacKenzie-yes, Nocera-yes, Prolman-yes, Sullivan-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes).**

.....ITEM 5g  
**APPROVAL OF ANNUAL CONTRACT FOR IRRIGATION SYSTEMS ON AN AS-NEEDED BASIS AND STREAMLINING OF THE BID PROCEDURE. (9:05 a.m.)**

.....ITEM 5h  
**APPROVAL OF ANNUAL CONTRACT FOR LANDSCAPING MATERIAL ON AN AS-NEEDED BASIS AND STREAMLINING OF THE BID PROCEDURE. (9:05 a.m.)**

Vice Mayor Prolman had requested clarification on the total amount of the project and Community Services Director Don Wirth responded that the final allocations resulted in \$73,000 for landscaping and \$33,000 for irrigation.

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**It is noted for the record that Items 5g and 5h were discussed as one item and approved as part of the Consent Agenda. See motion below.**

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## **CONSENT AGENDA**

**APPROVAL OF MINUTES .....ITEM 5a**  
November 3, 1997 City Council/Board of County Commissioners Joint Workshop Meeting; November 3, 1997 Workshop Meeting; November 5, 1997 Regular Meeting.

.....ITEM 5b  
**APPROVE THE FOLLOWING SPECIAL EVENTS:**

Old Naples Tuba Christmas - 12/14/97

Martin Luther King, Jr. Parade and Celebration- 1/19/98

St. Patrick's Day Parade - 3/14/98

Multiple Sclerosis Walk - 3/22/98

American Cancer Society "Relay for Life"- 5/14-15/98

**RESOLUTION 97-8131.....ITEM 5c**  
**A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AIRPORT RESCUE FIREFIGHTING FACILITY AGREEMENT, IN SUBSTANTIALLY THE FORM ATTACHED HERETO, BETWEEN THE CITY OF NAPLES AND THE CITY OF NAPLES AIRPORT AUTHORITY, TO PROVIDE AIRCRAFT CRASH, FIRE, AND RESCUE SERVICES; AND PROVIDING AN EFFECTIVE DATE.** Title not read.

Council Member MacKenzie recommended that “Section II. Scope,” Paragraph A, be amended to contain a provision that a public emergency relieved the City of its obligation to provide uninterrupted service to the Airport. City Manager Richard Woodruff suggested that City Attorney Kenneth Cuyler develop a proviso pertaining to circumstances of natural disaster.

**.....ITEM 5d**  
**AUTHORIZE THE PURCHASE OF A 21-PASSENGER MINI-BUS FOR USE BY THE RECREATION DIVISION \ VENDOR: ATLANTIC BUS SALES, POMPANO BEACH, FLORIDA \ PRICE: \$48,346.00 \ FUNDING: CIP #98G03 & CIP #98G05.**

**RESOLUTION 97-8132.....ITEM 5e**  
**A RESOLUTION AUTHORIZING THE BUDGET AND INVESTMENT MANAGER TO SIGN THE PUBLIC DEPOSITOR REPORT TO THE TREASURER; AND PROVIDING AN EFFECTIVE DATE.** Title not read.

**.....ITEM 5f**  
**AWARD A BID TO REPLACE THE HEATING/AIR CONDITIONING SYSTEM AT THE FLEISCHMANN PARK COMMUNITY CENTER \ CONTRACTOR: ENERGY EFFICIENCY SYSTEMS, NAPLES, FLORIDA \ PRICE: \$13,950.00 \ FUNDING: CIP #98I12.**

**END CONSENT AGENDA**

***MOTION by Sullivan to APPROVE the Consent Agenda including Items 5g and 5h, which received separate discussion; seconded by Van Arsdale and unanimously carried, all members present and voting (MacKenzie-yes, Nocera-yes, Prolman-yes, Sullivan-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes).***

**RESOLUTION 97-8133.....ITEM 6**  
**A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF NAPLES ESTABLISHING AN ASSESSMENT DISTRICT TO PROVIDE INTERSECTION IMPROVEMENTS ON GOODLETTE-FRANK ROAD AT BAYFRONT MARKETPLACE, AS REQUIRED IN FLORIDA STATUTES; AND PROVIDING AN EFFECTIVE DATE.** Title read by City Manager Woodruff. (9:09 a.m.)

Assistant City Manager William Harrison said this resolution is the result of an agreement between adjoining property owners to move the existing traffic signal northward approximately 150 feet to the main entrance of Bayfront Marketplace. City Manager Richard Woodruff added that, from an engineering standpoint, the northward location was desirable, regardless of whether a street cut-through is built at Grand Central Station, as suggested in the 41-10 master plan.

**Public Input:** None (9:09 a.m.)

***MOTION by Sullivan to APPROVE Resolution 97-8133; seconded by Van Arsdale and unanimously carried, all members present and voting (MacKenzie-yes, Nocera-yes, Prolman-yes, Sullivan-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes).***

.....ITEM 7  
**PRESENTATION OF ANNUAL INVESTMENT REPORT BY PALM BEACH INVESTMENT ADVISERS, INC. (9:11 a.m.)**

Assistant City Manager William Harrison explained that the City's investment policy required an annual report regarding results of investment activities and called attention to the Annual Investment Report provided each Council Member. (A copy of this report is included with the file for this meeting in the City Clerk's office.) Budget and Investment Manager Anne Middleton reviewed investment activity over the past year, noting that a total investment portfolio of \$20,987,000 had generated interest income of \$1,829,250, exceeding the markets common benchmarks for passive investment portfolios. Mrs. Middleton said the City should be proud of these results, and Mr. Harrison pointed out that there are no derivatives in the City's investment portfolio. Further, Mr. Harrison said that Palm Beach Investment Advisers, Inc., is paid \$4,000 per year for market overviews and occasional consultation, whereas other investment advisors had offered similar services for an annual fee of \$30,000-\$35,000.

City Manager Richard Woodruff emphasized that the success of the investments was not, however, due to the Palm Beach Investment Advisors, but rather the work of Mr. Harrison and Mrs. Middleton who he and Mayor Barnett commended.

**MOTION by Nocera to APPROVE the 1997 Annual Investment Report; seconded by Van Arsdale and unanimously carried, all members present and voting (MacKenzie-yes, Nocera-yes, Prolman-yes, Sullivan-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes).**

**RESOLUTION (Continued to 1/7/98).....ITEM 8a**  
**A RESOLUTION GRANTING SUBDIVISION PLAT PETITION 97-SD2 TO APPROVE A COMBINATION OF LOTS 13, 14, AND 15 OF THE GREEN DOLPHIN SECTION OF PORT ROYAL WITH AN ADJOINING UNPLATTED TRACT TO FORM TWO SINGLE-FAMILY PARCELS AT 3272 GREEN DOLPHIN LANE AND THE ADJACENT PROPERTY, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title not read. (9:18 a.m.)**

**Public Input: (on continuance) None (9:18 a.m.)**

**MOTION by Van Arsdale to CONTINUE Item 8a to January 7, 1998; seconded by Nocera and unanimously carried, all members present and voting (MacKenzie-yes, Nocera-yes, Prolman-yes, Sullivan-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes).**

**RESOLUTION (Continue to 1/7/98).....ITEM 8b**  
**A RESOLUTION GRANTING SUBDIVISION PLAT PETITION 97-SD2 TO APPROVE A COMBINATION OF LOTS 13, 14 AND 15 OF THE GREEN DOLPHIN SECTION OF PART ROYAL WITH AN ADJOINING UNPLATTED TRACT TO FORM TWO SINGLE-FAMILY PARCELS AT 3272 GREEN DOLPHIN LANE AND THE ADJACENT PROPERTY, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title not read. (9:18 a.m.)**

**Public Input: (on continuance) None (9:18 a.m.)**

**MOTION by Van Arsdale to CONTINUE Item 8b to January 7, 1998; seconded by Sullivan and unanimously carried, all members present and voting**

*(MacKenzie-yes, Nocera-yes, Prolman-yes, Sullivan-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes).*

**RESOLUTION 97-8134.....ITEM 9**

**A RESOLUTION APPOINTING A CITY RESIDENT TO THE CITY/COUNTY AFFORDABLE HOUSING COMMISSION; AND PROVIDING AN EFFECTIVE DATE.**

Title read by City Manager Woodruff. (9:19 a.m.)

**Public Input:** None (9:19 a.m.)

***MOTION*** by Nocera to ***APPOINT*** Casey Wolff to the City/County Affordable Housing Commission for a term expiring December 2, 2000; seconded by Van Arsdale and unanimously carried, all members present and voting (MacKenzie-yes, Nocera-yes, Prolman-yes, Sullivan-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes).

**RESOLUTION 97-8135.....ITEM 11a**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF NAPLES AND COLLIER COUNTY TO SUBSIDIZE THE REDESIGN OF THE RAW WATER LINE LOCATED ON GOLDEN GATE BOULEVARD; PROVIDING FOR RECORDING OF SAID AGREEMENT IN THE PUBLIC RECORDS OF COLLIER COUNTY, FLORIDA; AND PROVIDING AN EFFECTIVE DATE.** Title read by City Manager Woodruff. (9:19 a.m.)

The situation being addressed, City Manager Richard Woodruff explained, is the County's widening of Golden Gate Boulevard places the road in the path of the City's raw water line. The cost to City rate-payers to relocate this line would be approximately \$3.5-\$5 million and, therefore, alternatives had been explored. Development Services Director Richard Gatti had determined that since the City's pipeline would likely remain serviceable for up to 70 years, altering the configuration of the road appeared more feasible. Traffic Engineer George Archibald reported that the costs to redirect the road would entail subsidizing relocation of equipment, land condemnation, possible pipeline repair, and other miscellaneous expenses, for an initial total to the City rate payers of only \$450,469. Mr. Archibald noted that the agreement with the County acknowledged potential risks should certain repairs be needed, which would be funded by the City.

Regarding condemnation costs, Mr. Archibald said the draft agreement specified that the City and County would share equally in any costs exceeding 40% of condemnation cases, however, differential costs between 20% and 40% would be paid by the City. On balance, he observed, the solution was acceptable to the three groups affected by the agreement; namely, water users who include both County and City residents; those who need the road for transportation; and the property owners along the roadway. Council Member Tarrant questioned why the County did not bear the entire financial responsibility. Dr. Woodruff responded that the County has the primary right to use the roadway easement which is not a right-of-way; the City, on the other hand, had been given a secondary easement for installation of the water line. City Attorney Kenneth Cuyler confirmed that he had advised staff in this matter and concurred with the draft agreement. Dr. Woodruff also related that failure to reach an agreement would result in a 7% rate increase for the water users who must bear the cost to relocate the water line, and he expressed confidence that the County Commissioners would approve the agreement at their meeting on December 9<sup>th</sup>.

In response to a question from Council Member Tarrant, Dr. Woodruff said that if the water line were damaged during road construction, the City would be responsible for the cost of repair so long as it was clear that the contractor had taken all precautions to protect the line. Vice Mayor Prolman confirmed with Mr. Archibald that he had experience in condemnations of multiple properties, although he noted that it's difficult to predict the exact number of properties finally condemned. He added that the City would be responsible for the condemnation process cost rather than the cost of acquiring land for rights of way. Dr. Woodruff also elucidated that in the affected three-mile stretch, the land was primarily vacant but confirmed that the City's agreement to pay \$17,425 for County staff time between May 12<sup>th</sup> and October 31<sup>st</sup> was a concession to promote the agreement and would be funded by utilities and gas tax.

**Public Input:** None (9:36 a.m.)

**MOTION by Van Arsdale to APPROVE Resolution 97-8135; seconded by Sullivan and unanimously carried, all members present and voting (MacKenzie-yes, Nocera-yes, Prolman-yes, Sullivan-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes).**

.....ITEM 11b  
**CONSIDER A CHANGE ORDER IN THE AMOUNT OF \$25,000.00 TO WILSON, MILLER, BARTON & PEEK, INC., FOR ENGINEERING SERVICES RELATIVE TO ABOVE PROJECT \ FUNDING: CIP #98L02. (9:36 a.m.)**

**Public Input:** None (9:36 a.m.)

City Manager Richard Woodruff stated that Wilson, Miller, Barton & Peek had been instrumental in demonstrating the advantages of moving Golden Gate Boulevard rather than the water line, but, in addition, had successfully demonstrated significant cost savings to the County.

**MOTION by Sullivan to APPROVE; seconded by Van Arsdale and unanimously carried, all members present and voting (MacKenzie-yes, Nocera-yes, Prolman-yes, Sullivan-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes).**

**RESOLUTION 97-8136.....ITEM 12  
A RESOLUTION AUTHORIZING SETTLEMENT OF A LAWSUIT THROUGH THE PAYMENT OF SEVENTY THOUSAND DOLLARS (\$70,000.00) COLLECTIVELY TO WESLEY LEON, NATHANIEL KEITH, JEFFREY STOCKNER, JAMES GAVIN, AND WILLIE SHOEMAKER INCLUDING LEGAL FEES FOR JACOB A. ROSE, ESQUIRE, WITHOUT ANY ADMISSION OF LIABILITY, IN FULL AND COMPLETE SETTLEMENT OF ALL CLAIMS FOR DAMAGES AND RELEASING THE CITY FROM ALL FURTHER DEMANDS FOR DAMAGES; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Woodruff. (9:36 a.m.)**

City Manager Richard Woodruff told Council that this settlement would clear claims by five of the seven litigants. He cautioned that if a settlement were not made, the City would be required to pay all damages above \$70,000, which is an insurance-based decision apart from the merits of the case. The attorneys also felt this settlement would improve the City's defense against the remaining two plaintiffs, he added.

**Public Input:** None (9:37 a.m.)

**MOTION by Sullivan to APPROVE Resolution 97-8136; seconded by MacKenzie and unanimously carried, all members present and voting (MacKenzie-yes, Nocera-yes, Prolman-yes, Sullivan-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes).**

.....ITEM 13  
**CONSIDER AUTHORIZING STAFF TO NEGOTIATE A CONTRACT WITH DYEHOUSE & GESHAY, INC. FOR ARCHITECTURAL SERVICES REGARDING A PRELIMINARY DESIGN FOR AN EXPANDED NORRIS CENTER.** (9:41 a.m.)

Assistant City Manager William Harrison noted that Council had directed staff to hire an architect to execute the preliminary design work for the expansion and possible rebuild of the Norris Center in Cambier Park. The design would include a new Girl Scout House adjacent to the Norris Center, he said, noting that one architectural firm had responded to the City's request for qualifications. Since there is some urgency for developing an acceptable design, Mr. Harrison reported, staff recommended Council's authorization to negotiate a contract with Dyehouse & Geshay, Inc. Vice Mayor Prolman expressed concern that the agreement failed to mention the possibility of placing the Girl Scout House at the Norris Center, and Council Member MacKenzie recollected that the Girl Scout House was to be adjacent to, but independent of, the Norris Center. Council Member Van Arsdale commented that the architect's task would be to design a facility based on the requirements of the users of the center; he suggested Council therefore not limit the architect's design possibilities. It was determined that the architect would attend Council's December 15<sup>th</sup> Workshop Meeting.

**Public Input: None** (9:48 a.m.)

***MOTION by MacKenzie to APPROVE; seconded by Van Arsdale and carried 6-1 (MacKenzie-yes, Nocera-yes, Prolman-yes, Sullivan-yes, Tarrant-no, Van Arsdale-yes, Barnett-yes).***

**RESOLUTION 97-8137.....ITEM 10**  
**A RESOLUTION CONCEPTUALLY ADOPTING THE NAPLES 41-10 PLAN, PREPARED BY UDA ARCHITECTS, DATED OCTOBER 1997, PROVIDING A VISION FOR THE FUTURE OF THE DOWNTOWN AREA; AND PROVIDING AN EFFECTIVE DATE.** Title read by City Manager Woodruff. (9:48 a.m.)

Mayor Barnett asked City Attorney Kenneth Cuyler to address the issue of whether or not Council Member Nocera had a conflict of interest in the 41-10 Plan as a business owner in the area. Mr. Cuyler responded that he had carefully explored the issue and had determined that Florida Statutes specified a conflict of interest occurs when a public official would experience a special private gain or loss. Further, he said, the Florida Commission On Ethics had stated that a percentage of interest (1% or less) accruing to the voting official, and apart from the total affected class, must be considered in order to determine conflict. He continued that in the case of the 41-10 redevelopment plan, Council Member Nocera's interest is .38%, which is well under the aforementioned threshold and would not constitute a voting conflict. In addition, Attorney Cuyler explained that Mr. Nocera is not in a class apart from persons in the area and would experience no additional benefit or loss from the results of the 41-10 project. Council Member Tarrant requested the record reflect his opposition to Mr. Cuyler's opinion, and nevertheless urged Mr. Nocera to refrain from voting.

Mr. Tarrant then requested a legal opinion regarding City Manager Richard Woodruff's acknowledgement that the City had contributed \$1,000 toward the one block scale model in the 41-10 area because, he said, any group spending over \$500 in a referendum process was required to form a Political Action Committee (PAC); he also asked to therefore know the identity of the PAC treasurer. Attorney Cuyler responded that the issue of the scale model had no affect on Council's consideration or vote on the issue before them. He offered however to examine the

question, and Council Member Tarrant requested he do so, observing that state election law would not permit him, as a Council Member, to make such a contribution.

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**Recess: 9:54 a.m. to 10:04 a.m. It is noted for the record that the same Council Members were present when the meeting reconvened.**

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City Manager Woodruff again read the resolution title, and explained that staff would review each recommendation of the plan individually. Planning Director Missy McKim would deliver an overview presentation, followed by public input, he explained, and Council would then vote on each specific recommendation. He acknowledged that the process would be laborious, but pointed out that it was important for the record to reflect the items which Council approved, denied or postponed.

Ms. McKim described the two-and-a-half-year process culminating in the 41-10 master plan, which, she said, is simply conceptual and that would ultimately require updated zoning provisions in order to be implemented. She noted that the recommendations in Part III had been translated into a new zoning district for the entire area. She then pointed out that although the formation of properties in the area exhibited differing ownership patterns, many blocks were in the “H” configuration, which is the example that prevails in the conceptual plan. Other important parts of the plan included the need to reestablish the street grid system between 10<sup>th</sup> Street and Goodlette Road and to enhance pedestrian safety for crossing US41, she added. (A copy of the 41-10 Plan referred to by Ms. McKim is contained in the file for this meeting in the City Clerk’s office.)

**Public Input:** (10:19 a.m.)

**Franklin Starks Jr., 1717 Gulf Shore Boulevard North**, representing the Gulf Shore Property Owners Association, stated his association’s support of the 41-10 redevelopment plan, but said they were opposed to building heights in excess of three stories.

Regarding the four-minute limit for speakers, Council Member Tarrant stated that the Old Naples Association should be permitted to deliver a 15-minute presentation; Mayor Barnett polled Council, and the consensus was to allow 15 minutes.

**Amelia Rego, 1060 Sixth Street South**, representing the Old Naples Association, said her group believed growth could be achieved within the present zoning ordinances. **Joseph Herms, 167 Third Avenue North**, contended that a 20-block area in the 41-10 redevelopment area would require as many as 11,000 additional parking spaces to accommodate the proposed master plan. He then presented a street-by-street slide presentation and asserted that trees and grass areas would be removed for paved parking. **Kim Case** presented slides of buildings in the 41-10 area as examples of attractive structures that were recently built or renovated under current zoning ordinances, concluding, therefore, that the area is not blighted. In conclusion, **Ms. Rego** urged Council to oppose the master plan and to postpone action pending the outcome of the February 3<sup>rd</sup> referendum.

In response to Council Member MacKenzie, Mr. Herms confirmed his view that current zoning required a conditional use to build a parking garage, whereas the master plan allows parking garages as a permitted use without Council approval. Dr. Woodruff clarified that, under the master plan, a parking facility that was built as an accessory structure to support a building it would be a permitted use. However, he said, a parking garage, built as an independent, for-profit structure, would require a conditional use under current zoning and under the proposed master



plan as well. Mrs. MacKenzie then pointed out that the City encourages attractive cinderblock pavers within grassed areas for parking without sacrifice of green space, and Mr. Herms countered that more intense building occurred when public space was used for parking. Council Member Tarrant noted that additional parking also meant additional traffic which, he said, is already increasing at the rate of 4% per year.

Council Member Van Arsdale, citing the successful Fifth Avenue redevelopment plan which had evolved to include a number of amenities not in the master plan, said the 41-10 plan is conceptual only and would certainly differ in its final result. He referred to the plan as a road map rather than a construction plan, emphasizing that it would not result in the loss of trees. In fact, he said, the Council had a record of enhancing landscaping with every project it had undertaken. Responding to Mr. Tarrant, Mr. Van Arsdale said he had voted against the four-story limitation because he believed the question of five stories needed more consideration and review.

Vice Mayor Prolman expressed concern that adoption of the master plan would allow property owners to remove public green space and asked City Attorney Cuyler for his opinion. Mr. Cuyler responded that a master plan is generally a conceptual plan that is further modified with specific zoning regulations, deferring to the Planning Department for a more detailed explanation of the role of the 41-10 master plan. Dr. Woodruff clarified that there would be a series of procedures by staff, Redevelopment Area Design and Review Committee (RADAR) and Council regarding the use of public rights of way. Further, he remarked that Council's specific motions on the 41-10 zoning recommendations would serve to clarify public understanding of the plan's intent. Mrs. Prolman said a plan that was conceptual only would not result in harm to the City, although this plan seemed more than basically conceptual. Dr. Woodruff maintained that approval of a consultant conceptual plan resulted in an endorsed, elected official-endorsed plan that then becomes specific by action of Council, but is not a construction plan. Council Member Van Arsdale emphasized that even Council's vote on recommendations would not be final until an actual construction proposal is presented. Council Member MacKenzie, however, said that approval of the conceptual master plan, to the exclusion of alternative plans, would eliminate all future options in the 41-10 area, which constitutes 7% of the City. She then expressed her preference for developing US 41 as a boulevard rather than an urban shopping and residential district.

**Public Input (continued): 11:07 a.m.**

**Peter Gerbosi, 1708 Gulf Shore Boulevard North**, director of the Gulf Shore Property Owners Association, conveyed the group's support for improving the 41-10 corridor, but opposed a number of specific aspects of the plan as outlined in his letter to Council. (A copy of this referenced letter in contained in the file of this meeting in the City Clerk's office.) **Duke Turner, 899 10<sup>th</sup> Street South**, said that every time change is proposed, there is fear that it will ruin Naples, but, in fact, change does occur and each change improves the City. As a 60-year resident, he urged Council to support the 41-10 master plan and commended Council and the Planning Department. He pointed out that incentives would encourage property owners to proceed with change in an area that needs improvement and noted that a four-story building is not objectionable.

Mayor Barnett then called on representatives of the 41-10 Steering Committee, offering them 24 minutes for a presentation since that had been the duration of the Old Naples presentation.

**Public Input (continued):** 11:13 a.m.

**Mark Weakley, 880 8<sup>th</sup> Street South**, chronicled the 41-10 project which now included over 250 members, many of whom had participated in nearly 90 meetings. He said he would refute each assertion of the Old Naples Association, using a scale model of the area to demonstrate the addition of trees and landscaping under the plan. He emphasized that the area is a “downtown” where parking is appropriate. The plan includes incentives for property owners to assemble land in order to construct a structure large enough to provide an investment return. The area, he said, is blighted and needs people with disposable income living, working and shopping there. Further, he stated that the plan is conceptual and Council would be treating each street individually following recommendations by the City’s engineering and utilities departments.

**Rainey Norins, 4301 Gulf Shore Boulevard North**, recounted the long-term efforts of the property owners in an area she characterized as desperately in need of redevelopment. She reminded Council that the Community Redevelopment Agency Advisory Board (CRAAB) and the Planning Advisory Board (PAB) were in unanimous support of the master plan, including selected areas for four stories. She urged Council’s approval of the plan which, she said, also has the endorsement of major segments of the community.

Mayor Barnett, asked whether Council preferred to discuss the plan as a whole or piecemeal and it was determined to first review the overall plan and then discuss the plans separate sections.

Council Member Tarrant questioned the feasibility of evacuating residents from upper stories in the event of a natural disaster. City Manager Woodruff reported that the State had studied the concept of vertical evacuation to upper floors with the understanding that it is not practical for all residents to evacuate their homes or apartments and, therefore, all structures built in a high hazard area are required to sustain a category 3 hurricane. The larger issue, he remarked, is whether Council agrees that residential is a viable component of the 41-10 master plan. Vice Mayor Prolman referred to a letter entitled “Minority Comments” from members of the 41-10 Steering Committee citing concerns with the master plan and requesting Council consider each major proposal of the plan. (A copy of the above referenced letter is contained in the file for this meeting in the City Clerk’s office.)

Council Member MacKenzie said that although there were aspects of the master plan she liked, she felt there had not been adequate analysis addressing specific assets or liabilities in the area, specific needs in both the area and county-wide. She contended that the reductions in parking standards should be studied more carefully and marketing data assembled in order to avoid overbuilding. In addition, she stated that there had been no analyses related to the impact of the redeveloped area on the City’s overall level of service, roadway system, traffic buffering, and related costs. Preferred businesses and services had not been targeted for the area, which could then be offered maximum incentives, she continued. Mrs. MacKenzie said she approved of the master plan concepts to improve the roadway grid, the landscape requirements, and the introduction of residential into the area; however, she expressed reluctance about bringing in people from outside the City to support the businesses, services, and residences in the redevelopment area and, therefore, reasoned that it should be determined whether the area would be locally self-sustaining. Zoning, she observed, already existed to permit three stories and parking garages.

Mayor Barnett questioned Mrs. MacKenzie regarding her interpretation of “conceptual,” and she responded that by accepting the conceptual plan, all other alternative plans would be excluded without specific consideration. Mayor Barnett, however, said countered that he perceived conceptual as not foreclosing Council choices, but allowing the option to effect change. Council Member MacKenzie observed, however, that the minority position seldom receives attention and Mayor Barnett responded that the minority does not control the final determination. Council Member Nocera cited the example of the Second Avenue North test block, noting that the property owners had requested a landscaping change and Council had agreed. This, he said, demonstrated Council’s ability to constantly change prior approved plans and concepts. Planning Director Missy McKim related that the architects’ maps in the master plan are not considered final and, in fact, Council had made significant changes on the test block.

Council Member Van Arsdale urged acknowledgment of the reason for the redevelopment plan, which he said was decades of blight and the general consensus that the area needed improvement. He explained that most of the buildings were nonconforming, and that its suburban zoning code had relegated the area to nonconformity forever. By hiring the world’s best urban design firm, the goal, he noted, had been to bring the area up to a higher standard. He reasoned that the choices were clear: improve the City where it is clearly needed, or be content with what now exists. Council Member Tarrant stated, however, that he felt the master plan needed to be reexamined., but Mr. Van Arsdale said the 41-10 plan mimicked the Fifth Avenue redevelopment plan and was therefore acceptable on that basis alone. Council Member MacKenzie called for an analytical review from City departments regarding the impact and costs of the plan. Mr. Van Arsdale said the plan had already undergone an in-depth review process during countless meetings over a two-and-a-half-year period.

Mayor Barnett then proposed three alternatives: do nothing and require more analysis; adopt the plan conceptually; or approve the plan section-by-section. However, he reiterated his opinion that conceptual merely means acceptance of the general concept.

Council Member Sullivan asked whether the airport master plan is a conceptual plan, and Dr. Woodruff responded that since it was not a construction drawing, it was, in that regard, conceptual. Mr. Sullivan then stated his concern with approval of the conceptual master plan based on the results of having approved conceptual master plans for the airport and Cambier Park, which Council was later expected to adhere to. He said he would only approve clearly defined specifics that cannot later be subject to interpretation. Council Member Van Arsdale referred to the roundabout that was included in the approved conceptual plan for Fifth Avenue, but which had since been deleted, remarking that history did not support Mr. Sullivan’s example. Vice Mayor Prolman, however, agreed with Mr. Sullivan supporting approval of the plan point-by-point in order to prevent future multiple interpretations. Mr. Van Arsdale asserted that the 41-10 proposal was a 40-50 year plan that would always require specific decisions by Council, and he said he feared that the plan would be scuttled. Mrs. Prolman expressed her reluctance to see the plan abandoned, but Mrs. MacKenzie indicated that disapproval with aspects of the plan was not tantamount to discarding it, only approving favored parts and, though imperfect, it would become a better plan as conflicts were resolved. Mr. Van Arsdale countered that previous Councils had been courageous in the spirit of change.

Planning Director McKim pointed out that regardless of Council's action on the master plan, Chapter III would be translated into zoning regulations that would proceed through the PAB process and come before Council at a public hearing. The actual zoning district, therefore, is a separate document and not within the conceptual master plan. Once approved, it would come before Council for review every six months for a two-year period, following the same procedures that were followed for Fifth Avenue redevelopment. There would not be a zoning ordinance governing the right-of-way, she said, which was included in the master plan and, hence, a point of concern for Council. However, she reported that Council would be called upon to approve funding to develop all rights of way just as that for the Second Avenue North pilot project. She suggested that Council approve the conceptual plan with the specific proviso that zoning, and any changes in the rights of way, would be considered separately.

Dr. Woodruff maintained that the 41-10 document is a menu from which Council can select approved features. As a general document, he suggested Council Members indicate whether or not they support the overall direction of the plan and determine individual features with the complete understanding that each can be modified at a later date. He pointed out that Council holds an important middle ground enabling them to tailor the particulars of the plan to Naples' unique standards. He then recommended that the details of the plan be dealt with soon in order for the public, developers and property owners to learn what Council had approved. Council Member Tarrant maintained, however, that the density that would result from the 41-10 plan ran counter to the wishes of the public.

**MOTION by MacKenzie to CONCEPTUALLY APPROVE RESOLUTION 97-8137 SUBJECT TO FURTHER REVIEW, REVISION, AND AMENDMENT; seconded by Sullivan and carried 6-1 (MacKenzie-yes, Nocera-yes, Prolman-yes, Sullivan-yes, Tarrant-no, Van Arsdale-yes, Barnett-yes).**

Prior to the vote, Council Member MacKenzie clarified that her motion provided for obtaining answers to basic questions regarding market and traffic evaluations; Council Member Van Arsdale said the plan merely provides direction for improving the area. It was further clarified that Mrs. MacKenzie's motion did not make reference to the February 3<sup>rd</sup> referendum questions, although she announced that this would be contained in a follow-up motion.

***It was the consensus of Council to consider staff's specific recommendations of the 41-10 report at 2:00 p.m.***

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**Recess: 12:40 p.m. to 2:02 p.m. It is noted for the record that Mayor Barnett was absent and Vice Mayor Prolman reconvened the meeting. Council Member Nocera returned at 2:05 p.m.**

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When the meeting reconvened Council Member Tarrant made a motion that no action regarding zoning should take place prior to the February 3<sup>rd</sup> election, but Vice Mayor Prolman announced that Council would first vote on the 41-10 report recommendations after which Council would accommodate such a motion. She pointed out, however, that approval of a recommendation did not indicate action regarding an item was imminent. City Manager Richard Woodruff explained that any changes Council voted in favor of could be set aside since their votes indicated only that Council supports that recommendation.

**Please see Exhibit A for the results of each vote taken by Council. Note also that Council Member Nocera was absent for the first vote only and, with the exception of this first vote, Council Member Tarrant dissented all.**

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Following the above voting process, which concluded at 3:21 p.m., Dr. Woodruff noted that supported aspects of the 41-10 report had been identified along with those Council wished to set aside for future consideration, or preferred to deny. Council Member Van Arsdale requested a summary of Council's votes with an analysis of how the voting would impact the plan and, further, that Dr. Woodruff meet with the Old Naples Association to alleviate some of their concerns.

Council Member Tarrant requested that the record reflect his understanding that to abstain from voting could be in violation of election law and, therefore, his consistent "no" vote throughout the motions was intended to demonstrate his dissatisfaction with the process since he had received no assurance that zoning recommendations would not be deferred until after the February 3<sup>rd</sup> election.

**OPEN PUBLIC INPUT.....**

(3:23 p.m.) **Peter Gerbosi, 1708 Gulf Shore Boulevard North**, described his understanding that if a developer's plans entailed use of public land, the process would include approval by the PAB and Council. However, if the construction is to occur on wholly private property and the plans are within approved zoning and the approved conceptual, the project would never come before Council and, therefore, the conceptual plan becomes the master plan. City Attorney Kenneth Cuyler clarified that if the plans conformed to the conceptual plan, it would be due to its first having complied with zoning. Further, he explained that the conceptual plan is approved only so far as it agrees with current zoning, but if it would require a rezoning to implement it, then the developer could not proceed. Vice Mayor Prolman observed that any conceptual plan requires zoning in order to be implemented.

**MOTION by Tarrant NOT TO GO FORWARD WITH APPROVAL OF THE 41-10 MASTER PLAN OR ANY OF THE ZONING ELEMENTS OF THE MASTER PLAN UNTIL AFTER FEBRUARY 3, 1998; seconded by MacKenzie and carried 4-2 (MacKenzie-yes, Nocera-no, Prolman-yes, Sullivan-yes, Tarrant-yes, Van Arsdale-no, Barnett-absent)**

Prior to the vote, Council Member Van Arsdale observed that the 41-10 document and the proposed zoning changes were extensive documents with which the electorate should become familiar. Council Member Tarrant, however, contended that the referendum questions on the February 3<sup>rd</sup> ballot related only to building height, density and parking, enabling the voters to guide these issues in the future.

**CORRESPONDENCE AND COMMUNICATIONS.....**

(3:31 p.m.) Council Member Tarrant objected to the developers of Key Island intervening as defendants in a lawsuit initiated against the City by the Charter Club regarding developments in Naples Landing Park. He requested the Council protest to the court regarding the actions of the Key Island developers, but Council Member Sullivan said such a letter would violate the legal rights of the developers. City Attorney Kenneth Cuyler explained that the attorney for the

developers were petitioning the court in a separate action and indicated that his sympathies were nevertheless not for the plaintiff who was suing the City. Dr. Woodruff clarified that the City is the defendant in the case and the plaintiffs had rejected a settlement mediation offer.

City Manager Woodruff announced that Media One had initiated a rate increase in violation of their franchise agreement with the City and that the City would be taking appropriate action.

**ADJOURN** .....  
3:40 p.m.

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Bill Barnett, Mayor

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Tara A. Norman, City Clerk

Prepared by:

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Molly Reed, Recording Specialist

Minutes Approved: 1/7/98