



City Council Chamber
735 Eighth Street South
Naples, Florida 34102

City Council Regular Meeting – March 4, 1998 – 9:00 a.m.

Mayor Barnett called the meeting to order and presided.

ROLL CALLITEM 1

Present: Bill Barnett, Mayor
Bonnie R. MacKenzie, Vice Mayor

Council Members:
Fred Coyle
Joseph Herms
John Nocera
Fred Tarrant
Peter H. Van Arsdale

Also Present:

Dr. Richard Woodruff, City Manager
Kenneth Cuyler, City Attorney
William Harrison, Assistant City Manager
Missy McKim, Planning Director
Don Wirth, Community Services Director
Kevin Rambosk, Chief of Police and
Emergency Services
Dan Mercer, Utilities Director
William Overstreet, Building Official
Jon Staiger, Natural Resources Manager
Flinn Fagg, Planner
George Archibald, Traffic Engineer
Corey Ewing, Planner
Pat Rambosk, Legal Assistant
Molly Reed, Recording Specialist

Father Bob Tabbert
Charles Andrews
Fred Sullivan
Amy Rego
Werner "Duke" Haardt
Charles Kessler
Darrell Bresee
Kathleen Passidomo
J. Dudley Goodlette
Bill Boggess
Dennis Cronin
John Garbo
Michael Ryan
Cheryl Coyle
Arlene Guckenberger
Rusty Moore
Abas Asly
Bill Flynn
Walter Giel
Other interested citizens and visitors

Media:

Dave Taylor, Media One
Marc Caputo, Naples Daily News

INVOCATION AND PLEDGE OF ALLEGIANCEITEM 2

Father Robert Tabbert, St. Ann Catholic Church

ANNOUNCEMENTSITEM 3

Mayor Barnett read a proclamation declaring March 15-21, 1998 Juvenile Justice Week. Council Member Nocera and other members of the Juvenile Justice Council accepted the proclamation.

ITEMS TO BE ADDEDITEM 4

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

- Item 16 Request for City Council to approve payment to Pat Masters, Inc., for reimbursement of roadway improvements along the SW corner of Fifth Avenue South and Ninth Street South.
- Item 17 Council approval of payment by the owner of the Merrill Lynch building for 116 spaces in the parking garage as required by Resolution 92-6711.
- Item 18 A resolution regarding right-of-way parking in Old Naples.
- Item 19 A resolution adopting the work program for the Naples Bay Project Committee.

MOTION by Van Arsdale to SET AGENDA adding items 16, 17, 18, and 19 and removing items 5b, 5c and 5d from the Consent Agenda for separate discussion; seconded by Nocera and unanimously carried, all members present and voting (Coyle-yes, Herms-yes, MacKenzie-yes, Nocera-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes).

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

1. Naples Kiwanis Seafood Festival – 3/13-15
2. Naples at the Millennium – 4/18
3. Taste of Collier – 4/19
4. Great Dock Canoe Race – 5/9
5. Mother's Day Weekend on Fifth – 5/8-10

Vice Mayor MacKenzie noted that the Mother's Day Weekend on Fifth requested closing Fifth Avenue on a Friday as well as Saturday and Sunday and she inquired whether the Staff Action Committee (SAC) had agreed to permit this. Planning Director Missy McKim responded that she did not recall this item going before SAC.

Public Input: None (9:07 a.m.)

MOTION by Van Arsdale to CONTINUE Item 5b(5); seconded by MacKenzie and unanimously carried, all members present and voting (Coyle-yes, Herms-yes, MacKenzie-yes, Nocera-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes).

MOTION by Herms to APPROVE Item 5b (1-4) and adopting the recommendations of staff to not co-sponsor Item 5b(2); seconded by Coyle and unanimously carried, all members present and voting (Coyle-yes, Herms-yes, MacKenzie-yes, Nocera-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes).

.....ITEM 5c
AUTHORIZE A \$1,000.00 SPONSORSHIP FOR BAY DAYS WATERWAY CLEANUP FUNDING: WASTEWATER FUND. (9:09 a.m.)

John Garbo, founder of the Bay Days Waterway Cleanup, reported that this will be the fifth year to confer scholarships on students who successfully compete in the Science Fair with projects dealing with water-quality and bay issues. In response to Council Member Herms for an itemization of the City's \$1000 sponsorship, Council learned that the committee awards three scholarships of \$300, \$250, and \$150 with the remaining \$300 used to send the first-prize winner to regional and state-wide competition and for a cash award to the student artist who designs a winning logo for the Bay Days event.

Public Input: None (9:15 a.m.)

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

**RESOLUTION 98-8193.....ITEM 5d
A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A QUIT-CLAIM DEED AND AN "AS IS" BILL OF SALE TO RE-CONVEY TO THE HALSTATT PARTNERSHIP ALL PROPERTY INTERESTS THAT THE CITY MAY HAVE IN THE GREY OAKS SUBDIVISION, EXCEPT THOSE UTILITY FACILITIES WHICH SHOULD HAVE BEEN CONVEYED TO THE CITY OF NAPLES IN APRIL 1997; AND PROVIDING AN EFFECTIVE DATE. Title not read. (9:15 a.m.)**

Council Member Herms asked whether the City owned the streets or the easements shown. Attorney Kathleen Passidomo explained that the utility easements are located within the platted streets, that water lines are deeded to the City and the sewer lines to the County; therefore, the City does not hold title to the streets, but merely receives easements within the streets. She further explained that originally both water and sewer lines were deeded to the County, but upon discovery that the City owns the water lines, they were returned via quit claim deed. The resolution, she said, is to correct the recorded legal description that erroneously conveyed the entire Grey Oaks subdivision to the City rather than simply the water lines. Council Member Herms received further clarification from Attorney Passidomo that only the water lines are owned by the City, not the streets, and Mr. Herms requested that staff obtain copies of Official Records Book 2301, pages 1362 through 1365 for his review.

Public Input: None (9:20 a.m.)

MOTION by Van Arsdale to APPROVE Resolution 98-8193; seconded by Nocera and unanimously carried, all members present and voting (Coyle-yes, Herms-yes, MacKenzie-yes, Nocera-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes).

CONSENT AGENDA

**APPROVAL OF MINUTES.....ITEM 5a
February 4, 1998 Regular Meeting; February 16, 1998 Workshop Meeting**

RESOLUTION 98-8194.....ITEM 5e
A RESOLUTION AUTHORIZING THE CITY MANAGER AND CITY CLERK TO EXECUTE AN AGREEMENT, IN SUBSTANTIALLY THE FORM ATTACHED HERETO, WITH AVATAR UTILITY SERVICES, INC., TO PROVIDE METER READING SERVICES TO THE CITY FOR THE PERIOD MAY 1, 1998, THROUGH APRIL 30, 2001; AND PROVIDING AN EFFECTIVE DATE. Title not read.

MOTION by Herms to APPROVE Consent Agenda Items 5a and 5e; seconded by Van Arsdale and unanimously carried, all members present and voting (Coyle-yes, Herms-yes, MacKenzie-yes, Nocera-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes).

END CONSENT AGENDA

RESOLUTION 98-8195.....ITEM 6a
A RESOLUTION GRANTING SAC WAIVER PETITION 98-2 FOR A WAIVER FROM SECTION 102-1095(b)(1-a) OF THE CODE OF ORDINANCES, FIFTH AVENUE SOUTH SPECIAL OVERLAY DISTRICT, “BUILDING PLACEMENT, FIRST STORY,” IN ORDER TO PERMIT A CHAMFERED CORNER ON THE PROPOSED BUILDING AT 837 FIFTH AVENUE SOUTH, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Woodruff (9:21 a.m.)

It is noted for the record that Items 6a and 6b were read and considered simultaneously.

RESOLUTION 98-8196.....ITEM 6b
A RESOLUTION GRANTING SAC WAIVER PETITION 98-3 FOR A WAIVER FROM SECTION 102-1095(b)(1-b) OF THE CODE OF ORDINANCES, FIFTH AVENUE SOUTH SPECIAL OVERLAY DISTRICT, “BUILDING PLACEMENT, SECOND STORY,” IN ORDER TO PERMIT A SETBACK GREATER THAN 10 FEET ON THE SECOND STORY OF THE PROPOSED BUILDING AT 837 FIFTH AVENUE SOUTH, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Woodruff (9:22 a.m.)

J. Dudley Goodlette, Attorney for the petitioner, requested the waivers in order to create more visibility of the property, improve security and enhance pedestrian-friendliness. Architect Jack Williams, of Architectural Network, Inc., explained that a breezeway would be created between 837 and 841 Fifth Avenue South; the main entry to #837 proposed a chamfered corner with the second floor set back 14 feet in order to create a more inviting entry into the breezeway. In response to Council Member Herms, Mr. Williams explained that the present buildings would be razed, and the new breezeway constructed, and Attorney Goodlette further noted that the ownership is a new limited partnership which purchased both parcels. Mr. Williams clarified that six parking spaces would be purchased from the 87 unallocated spaces in the new Fifth Avenue parking garage in order to meet parking requirements.

Vice Mayor MacKenzie established that the breezeway would be made of brick pavers and the signage would be approved by the Staff Action Committee (SAC) prior to placement. Council Member Tarrant learned that the buildings would each be two stories with commercial at street level and office space on the second floor. Mr. Herms asked staff to provide a comparison of the current and proposed square footage in the Fifth Avenue district.

Public Input: None (9:31 a.m.)

MOTION by Van Arsdale to **APPROVE** Resolution 98-8195 as submitted; seconded by Nocera and unanimously carried, all members present and voting (Coyle-yes, Herms-yes, MacKenzie-yes, Nocera-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes).

MOTION by Van Arsdale to **APPROVE** Resolution 98-8196 as submitted; seconded by Nocera and unanimously carried, all members present and voting (Coyle-yes, Herms-yes, MacKenzie-yes, Nocera-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes).

RESOLUTION 98-8197.....ITEM 7
A RESOLUTION GRANTING VARIANCE PETITION 98-V5 FROM SECTION 102-176 OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES, WHICH REQUIRES A 25-FOOT FRONT YARD SETBACK IN ORDER TO PERMIT THE CONSTRUCTION OF A SWIMMING POOL WHICH WILL ENCROACH 9.5 FEET INTO THE REQUIRED FRONT YARD SETBACK AT 1630 BONITA COURT, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Woodruff (9:33 a.m.)

Planner Flinn Fagg explained that the property is located in Royal Harbor, noting that the Planning Advisory Board (PAB) had recommended denial of the variance by a vote of 6 to 1. Petitioner Louis Girardin said that a telephone conversation with the City Building Division led him to conclude that a pool could be built on the property; therefore, he purchased it. Then, he said, he had learned that a variance would be required as the pool would encroach 9.5 feet into the front yard setback. Mayor Barnett received clarification that Mr. Girardin's realtor had not explored the possibility of a pool but had merely expressed the opinion that there would be sufficient room.

MOTION by Tarrant to **APPROVE** Resolution 98-8197; seconded by Nocera and carried 4-3 (Coyle-no, Herms-no, MacKenzie-no, Nocera-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes).

RESOLUTION 98-8198.....ITEM 8
A RESOLUTION GRANTING VARIANCE PETITION 98-V2 FROM SECTION 110-94 OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES, WHICH REQUIRES A 7.5-FOOT SIDE YARD SETBACK, IN ORDER TO PERMIT THE CONSTRUCTION OF BOAT DOCKS AT SIDE PROPERTY LINES WITH NO SETBACK AT 1555 - 1595 CURLEW AVENUE, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Woodruff (9:39 a.m.)

Planner Flinn Fagg reported that the Planning Advisory Board (PAB) had recommended approval.

Public Input: None (9:39 a.m.)

MOTION by Herms to **APPROVE** Resolution 98-8198 as submitted; seconded by Nocera and unanimously carried, all members present and voting (Coyle-yes, Herms-yes, MacKenzie-yes, Nocera-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes).

RESOLUTION 98-8199.....ITEM 9
A RESOLUTION GRANTING VARIANCE PETITION 98-V4 FROM SECTION 110-45 OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES, WHICH PERMITS SWIMMING POOLS TO ENCROACH A REAR YARD SETBACK WITHIN 15 FEET OF A PROPERTY LINE, IN ORDER TO PERMIT A SWIMMING POOL WITHIN 10 FEET OF THE REAR PROPERTY LINE AT 540 SEVENTH STREET NORTH, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.
Title read by City Manager Woodruff (9:42 a.m.)

City Manager Richard Woodruff reported this variance was due to issuance of an incorrect building permit resulting in a swimming pool being placed three feet into the required setback. Council Member Coyle asked whether this type of error could be prevented. Building Official William Overstreet described the approval process, but noted that the survey drawing for this property seemed to indicate that two of the boundary lines are at side yards, which would place the pool within code; in fact, several experienced plan reviewers had accepted this interpretation. Mr. Overstreet said however that additional training had been held.

Vice Mayor MacKenzie learned that this pool had not been enclosed and that residential pools are not required to be fenced. Council Members Tarrant and Nocera supported modifying the fence exemption.

Public Input: None (9: 47 a.m.)

MOTION by Van Arsdale to APPROVE Resolution 98-8199 amended to state that this variance will not apply in the future to another pool on this site; seconded by Nocera and unanimously carried, all members present and voting (Coyle-yes, Herms-yes, MacKenzie-yes, Nocera-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes).

RESOLUTION 98-8200.....ITEM 10
A RESOLUTION REQUESTING CITY COUNCIL TO APPROVE THE EXISTING LOWDERMILK PARK CONCESSION CONTRACT TO BE EXTENDED THROUGH MARCH 1, 1999, IN ORDER THAT BOTH THE LOWDERMILK PARK AND PIER CONCESSION CAN BE REBID TO PROVIDE AN EFFECTIVE DATE FOR A NEW CONTRACT FOR BOTH CONCESSIONS ON MARCH 1, 1999; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Woodruff (9:48 a.m.)

City Manager Richard Woodruff reviewed the results of the privatization of the concessions at both the Naples Pier and Lowdermilk Park (a report on the effects of the parking reconfiguration at Lowdermilk would be forthcoming). Since the beginning of privatization in 1995, each concession has returned revenue to the City. (See Attachment 1). Dr. Woodruff explained that the purpose of the resolution was to allow simultaneous bidding for these concessions. In further discussion it was noted that the concessions could either be bid as a package or separately. It was learned that the Pier is staffed by City employees from 10:00 a.m. to 3:00 p.m. daily. The County Health Department inspects the food concession, and Dr. Woodruff said he would determine the frequency of inspector reports.

Public Input: 9:55 a.m.

Fred Sullivan, 1608 Murex Lane, expressed concern that simultaneous bidding nevertheless suggests that a concessionaire must bid for both and opposed the resolution since each concession is unique and should be considered separately. Council Member Van Arsdale said he envisioned more bidders if the expiration dates were the same; however Council Member Tarrant

said he agreed with Mr. Sullivan. **Abas Asly, 473 Banyan Boulevard**, requested that Council not combine the concession contract dates because the concession operations are very different. He, therefore, asked that the contract in question not be extended.

City Manager Woodruff pointed out that if Council preferred to not extend the contract for a year, it would be necessary to extend it at least until June 1st in order to adequately advertise and receive responses from bidders. He described elements of the criteria used to select the concessionaire, which included hours of operation, staffing, quality of service, and experience. Community Services Director Don Wirth explained that, in addition to City specifications, the bidder can offer additional services that are not part of the bidding matrix.

MOTION by Herms to APPROVE Resolution 98-8200 amended to extend the contract through June 1, 1998 while staff conducts a survey of park users and residents regarding expanded services; seconded by Tarrant and carried 6-1 (Coyle-yes, Herms-yes, MacKenzie-yes, Nocera-yes, Tarrant-yes, Van Arsdale-no, Barnett-yes).

RESOLUTION 98-8201.....ITEM 11
A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE INTERLOCAL AGREEMENT ATTACHED HERETO, TO ALLOW THE CITY OF NAPLES, COLLIER COUNTY SCHOOLS, AND COLLIER COUNTY GOVERNMENT TO EXTEND A PREVIOUSLY EXECUTED AGREEMENT FOR JOINTLY SHARED FACILITIES; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Woodruff (10:12 a.m.)

City Manager Richard Woodruff addressed City and school system cooperation resulting in common development and utilization of school facilities; namely, the athletic facilities at Gulfview Middle School, Naples High School and Seagate Elementary. City Attorney Kenneth Cuyler pointed out that the change to this agreement, though minor, would require legal review and, inasmuch as his firm also represents the School Board, he said there would be no cost to the City to have another firm review the resolution. Dr. Woodruff explained that management of Seagate Park, adjoining Seagate Elementary, became the City's responsibility with annexation in 1989. Mr. Herms requested a copy of the changes to the interlocal agreement.

Public Input: None (10:16 a.m.)

MOTION by Nocera to APPROVE Resolution 98-8201 pending legal review and amended to specify Seagate School Park; seconded by Coyle and unanimously carried, all members present and voting (Coyle-yes, Herms-yes, MacKenzie-yes, Nocera-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes).

ORDINANCE (Second Reading) Continued.....ITEM 12
AN ORDINANCE AMENDING SECTION 50-336 AND SUBSECTION (2) OF SECTION 50-337 OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES FOR THE PURPOSE OF AMENDING THE FIREFIGHTERS' PENSION AND RETIREMENT SYSTEM TO SET FORTH REQUIREMENTS FOR EMPLOYEES RETIRING AFTER FEBRUARY 1, 1998; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title not read. (10:17 a.m.)

Public Input: None (10:17 a.m.)

MOTION by Nocera to CONTINUE the Second Reading of this ordinance; seconded by Van Arsdale and unanimously carried, all members present and voting (Coyle-yes, Herms-yes, MacKenzie-yes, Nocera-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes).

.....ITEM 13
**AWARD A BID FOR CONSTRUCTION OF THE UTILITIES OPERATION CENTER **
CONTRACTOR: LODGE CONSTRUCTION, INC., FORT MYERS, FLORIDA \ BID
AMOUNT: \$1,345,000.00 \ FUNDING: VARIOUS CAPITAL IMPROVEMENT
PROJECTS. (10:17 a.m.)

Public Input: (10:17 a.m.)

Darrell Bresee, 177 South Clara Drive, noted that Lodge Construction had delivered a special presentation to Council and questioned why his company, Highpoint General Contracting, had not been given the same opportunity. City Manager Richard Woodruff clarified that Lodge Construction had been asked to respond to a number of questions similar to those previously addressed to Mr. Bresee by Council Member Herms. Mr. Bresee countered, however, that as low bidder for the project, he was now before Council to defend his professional reputation. **Bill Flynn, 995 9th Avenue South**, a Collier County inspection supervisor, recommended Highpoint General Contracting which, he said, had performed a number of construction projects for the County. Council Member Nocera however clarified that Mr. Flynn had not reviewed the scope of the Utilities Operation Center. **Rusty Moore, 1351 Curlew Avenue**, stated that the accusations against his employer, Highpoint General Contracting, were not accurate, and urged award to Highpoint as the low bidder. Council Member Tarrant asked whether there were any outstanding legal actions against Mr. Moore's company, and Mr. Moore responded that there were none.

Council Member Herms reported that the proposed structure required complex concrete work and must adhere to codes more stringent than normal, noting that Lodge Construction would be using Tatum Concrete which works exclusively in that discipline. He stated his understanding that Highpoint, however, planned to perform the concrete work without a subcontractor; Mr. Bresee countered that the City would, in fact, receive a better job if his company did the work. Mr. Herms then pointed out that the masons would have to be of high quality since the building was exposed block. Vice Mayor MacKenzie noted that the building would become crucial to City operation during an emergency and stated that she was not willing to take any chances with its construction. Council Member Coyle asked for a clarification of Highpoint's status regarding job completions, and Dr. Woodruff explained that when a certificate of occupancy (CO) has not been issued, it is the City's view that the job was not completed; that there continued to be unissued Highpoint COs as of February 18th.

In further discussion, Council Member Coyle emphasized an overriding need for a concrete specialist, but Council Member Tarrant noted that this was not in the bid specifications. Further, Mr. Tarrant said he considered it significant that there were no judgements against Highpoint. Following a technical discussion regarding the inspection process and concrete pouring, Mayor Barnett said he felt Highpoint would perform a good job. Dr. Woodruff, however, reminded Council of their responsibility to assure the lifetime utilization of the building, which, he said, was a design too complex for Highpoint since they primarily build metal structures. He stated that it would be a mistake to issue the contract to the low bidder.

Dr. Woodruff also explained that specifications cannot require a subcontractor and reiterated that the issue pertained to experience, adding that should the low bidder be chosen, City staff would reconsider moving forward with the project. Mr. Tarrant learned from the City Attorney that the City cannot exclude bidders but that Council has the right to determine the best level of responsibility to bring the project to a successful completion. Council Member Herms expressed discomfort with the low bidder similar to the staff's reservations and pointed out the need for oversight by the City inspection team.

MOTION by Van Arsdale to AWARD THE BID TO LODGE CONSTRUCTION; seconded by MacKenzie and carried 4-3 (Coyle-no, Herms-no, MacKenzie-yes, Nocera-yes, Tarrant-no, Van Arsdale-yes, Barnett-yes).

A prior motion by Tarrant to accept the low bidder, seconded by Nocera, failed 3-4 (Coyle, Herms, MacKenzie and Van Arsdale dissenting).

**RESOLUTION (Denied)ITEM 14
A RESOLUTION ENDORSING THE SECOND GORDON RIVER BRIDGE CORRIDOR PROJECT AND RECOMMENDING THE METROPOLITAN PLANNING ORGANIZATION (MPO) AND THE FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) INCLUDE THE PROJECT AS A FUNDED PRIORITY IN THE FDOT'S FIVE YEAR WORK PROGRAM; AND PROVIDING AN EFFECTIVE DATE.** Title read by City Manager Woodruff (10:51 a.m.)

Council Member Herms said that because he owns property in the bridge corridor, it was determined that he has a conflict of interest and, therefore, could not vote on this resolution. Further, he said he would not participate in the discussion even though permitted to do so.

Vice Mayor MacKenzie referred to Traffic Engineer George Archibald's memo proposing a Kimley-Horn street traffic modeling, and noted a lack of reference to the cost or specific streets. Mr. Archibald responded that the area from 10th Street west to Gulf Shore Boulevard would be included with specific streets selected by Council although the cost was likely to be less than the estimated \$10,000 since staff would participate. In response to Council Member Van Arsdale, Mr. Archibald made the following recommendations for modeling:

- 7th Avenue North between Goodlette Road and Gulf Shore Boulevard:
- 4th Avenue North from 10th to Gulf Shore Boulevard
- Fifth Avenue North from Goodlette Road to 10th Street
- Central Avenue from Goodlette Road to Gulf Shore Boulevard
- 3rd Avenue South from US41 to 3rd Street
- Fifth Avenue South from US41 to Gulf Shore Boulevard
- All of 10th Street, north to Fleischmann Boulevard
- 9th Street to Broad Avenue
- 8th Street from Broad Avenue to 7th Avenue North
- 3rd Street from Broad Avenue to 7th Avenue North
- 2nd Street South between Fifth Avenue South and Broad Avenue
- Gulf Shore Boulevard between Broad Avenue to Banyan Boulevard

He noted that 6th Avenue South is not included since redevelopment plans would not be implemented for several years.

After confirming that Mr. Archibald recommended the study, Council Member Tarrant confirmed that Mr. Archibald also works as a private traffic consultant for clients located outside Collier County. Mr. Tarrant therefore questioned the ethical implications of accepting recommendations from a staff member who had a private consulting business. City Manager Richard Woodruff stated that his own 20-year acquaintance with Mr. Archibald had led him to acquire his professional engineering skills for the City, which, he said, enable the City to avoid outside private consultants costing three to four times more than Mr. Archibald is paid. He pointed out that the issue related to current and prior Councils' request for information regarding the impact of an additional Gordon River bridge on residential neighborhoods, adding that he had reviewed each of Mr. Archibald's private contracts and had determined no conflict with his City work. Other City employees are also permitted to engage in outside work, he said. Mr. Tarrant, however, reiterated that he disapproved of City professionals making their expertise available elsewhere, adding that the issue would be determined by the Council.

Vice Mayor MacKenzie said it was clear that the study should be done and expressed her support. Council Member Coyle clarified that Mr. Archibald had no contractual relationship with Kimley-Horn.

Public Input: (11:09 a.m.)

Amy Rego, 1060 6th Street South, asked whether the Comprehensive Plan anticipated a second Goron River bridge within Old Naples as her recollection was that it did not. Dr. Woodruff said he would refer the question to the Planning Director and obtain a written response for her. Mr. Tarrant expressed similar concerns regarding compatibility between the bridge and residential areas. Ms. Rego commended Council for conducting a traffic study, noting that traffic on Fifth Avenue South now backs up to Davis Boulevard. **Bill Boggess, 1100 8th Avenue South**, stated that the February 3rd straw vote regarding a second bridge would have had a different result if it had taken place other than when the current bridge was under construction.

MOTION by MacKenzie to PROCEED with the traffic study as recommended;
seconded by Van Arsdale and carried 5-1 (Coyle-yes, Herms-abstain,
MacKenzie-yes, Nocera-yes, Tarrant-no, Van Arsdale-yes, Barnett-yes).

A prior motion by Council Member Nocera and seconded by Mr. Van Arsdale to approve this Item as submitted and authorizing \$10,000 for a traffic study, failed 3-3 (Coyle-no, Herms-abstain, MacKenzie-no, Nocera-yes, Tarrant-no, Van Arsdale-yes, Barnett-yes).

RESOLUTION 98-8202.....ITEM 15
A RESOLUTION URGING THE 1998 FLORIDA LEGISLATURE TO PASS HB 3427 AND
SB 882 WHICH PROVIDE A DEDICATED FUNDING SOURCE FOR STATEWIDE
BEACH MANAGEMENT; AND PROVIDING AN EFFECTIVE DATE. Title read by City
Manager Woodruff (11:13 a.m.)

Natural Resources Manager Dr. Jon Staiger explained that former funding sources for Florida beaches had allocated funds to a variety of entities, but the current legislation would, instead, designate funds specifically for an environmental trust fund exclusively for Florida beaches. He expressed optimism for passage since it will not raise taxes. Further, he responded to Vice Mayor MacKenzie that the funds are primarily for erosion control rather than creation of beach access. However, Council Member Tarrant said he considered this a misuse of governmental power since these funds would be raised from documentary stamps instead of the tourist tax.

Council Member Coyle suggested that funds might, however, be used to achieve beach access parking, observing that there is no guarantee of funds to Collier County. Dr. Staiger, however, reported that Collier County has been very successful receiving funds and reimbursements from the State. In response to Council Member Herms regarding the financial condition of tourist tax funds to support a bond issue, Dr. Staiger clarified that a short term loan from a local bank was used rather than a bond and would be repaid in less than two years. Council Member Tarrant also learned that, although the tourist tax fund was healthy, any surplus would probably be used to dredge Gordon and Wiggins Passes.

Public Input: None (11:22 a.m.)

MOTION by Nocera to APPROVE Resolution 98-8202 as submitted; seconded by Van Arsdale and carried 6-1(Coyle-yes, Herms-yes, MacKenzie-yes, Nocera-yes, Tarrant-no, Van Arsdale-yes, Barnett-yes).

RESOLUTION 98-8203.....ITEM 17

A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO SIGN THE RELEASE OF DEVELOPER'S PROPERTY (WESTBURY EMERALD GREENS, INC., AS SUCCESSOR TO STUART KAYE) AS PROVIDED IN THE DEVELOPER'S AGREEMENT DATED NOVEMBER 9, 1992; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Manager Woodruff (11:24 a.m.)

City Manager Richard Woodruff explained that the development agreement regarding the Merrill Lynch Building included holding the parking lot on the corner of 3rd Avenue South and 8th Street as security to be released when the parking garage plans were formalized. The 1992 development agreement also stipulated that 116 spaces in the new parking garage would be purchased in 1999 for \$975,000 by the Merrill Lynch building developers; however, to receive immediate payment, the City would agree to release the parking lot.

Vice Mayor MacKenzie learned from the developer's attorney Dennis Cronin that the property value of the parking lot had not been determined. Following a discussion of cost comparisons between the current parking garage plans and those proposed in 1992, Vice Mayor MacKenzie proposed, as more advantageous, negotiating for the entire lot rather than cash. Assistant City Manager William Harrison noted, however, that the original agreement would have to be followed, adding that the funds are required to build the garage. City Manager Woodruff also emphasized that the agreement tied the developer to the 1992 plans even though the City had subsequently altered the design.

Public Input: None (11:38 a.m.)

MOTION by Nocera to APPROVE Resolution 98-8203 as submitted; seconded by Van Arsdale and unanimously carried, all members present and voting (Coyle-yes, Herms-yes, MacKenzie-yes, Nocera-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes).

Prior to the vote, Council Members Tarrant and Herms took the position that they would approve no above-ground parking facilities in the future. Mr. Tarrant added that he is not comfortable when attorneys, such as Mr. Cronin who also sit on City advisory boards, represent petitioners before Council.

(Continued).....ITEM 16
CONSIDER REIMBURSING PAT MASTER, INC. \$28,143.50 FOR ROADWAY IMPROVEMENTS ALONG THE SOUTHWEST CORNER OF Fifth Avenue SOUTH AND 9TH STREET SOUTH. \ FUNDING: CIP #98-V11 STORMWATER/FOUR CORNERS. (11:39 a.m.)

Public Input: None (11:39 a.m.)

MOTION by Herms to **CONTINUE THIS ITEM TO MARCH 18, 1998** Regular Meeting; seconded by Van Arsdale and unanimously carried, all members present and voting (Coyle-yes, Herms-yes, MacKenzie-yes, Nocera-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes).

It is noted for the record that Council Member Nocera left the meeting at 11:40 a.m.

RESOLUTION (Continued)ITEM 18
A RESOLUTION OF THE MAYOR AND COUNCIL REGARDING RIGHT-OF-WAY PARKING IN OLD NAPLES; AND PROVIDING AN EFFECTIVE DATE. (11:41 a.m.)

Mayor Barnett explained that this resolution was designed to resolve some of the parking issues facing residents in the Old Naples area, but would not preclude property owners from making improvements in the right-of-way adjacent to their property. City Manager Richard Woodruff explained that the City would thereby be prevented from paving grassed rights-of-way to create beach parking in Old Naples. Council Members Coyle and Herms suggested that the resolution include all areas of the City. Further, Mr. Coyle objected to the implication that property owners could remove rights-of-way for parking. Mayor Barnett said his goal was to present a simple, specific solution for residents in Old Naples. Council Member Van Arsdale, however, pointed out that some paved rights-of-way, too, are labeled private parking, calling beach parking a separate issue. It was determined to hold a workshop on the subject prior to the April 1st Regular Meeting.

Public Input: None (11:48 a.m.)

MOTION by MacKenzie to **CONTINUE** this item to April 1, 1998, Regular Meeting; seconded by Van Arsdale and carried 6-0 (Coyle-yes, Herms-yes, MacKenzie-yes, Nocera-absent, Tarrant-yes, Van Arsdale-yes, Barnett-yes).

RESOLUTION 98-8204.....ITEM 19
A RESOLUTION OF THE MAYOR AND CITY COUNCIL ADOPTING THE WORK PROGRAM FOR THE NAPLES BAY PROJECT COMMITTEE; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Woodruff (11:49 a.m.)

Public Input: None (11:49 a.m.)

MOTION by MacKenzie to **APPROVE** Resolution 98-8204; seconded by Coyle and carried 6-0 (Coyle-yes, Herms-yes, MacKenzie-yes, Nocera-absent, Tarrant-yes, Van Arsdale-yes, Barnett-yes).

OPEN PUBLIC INPUT
11:50 a.m.

Walter Giel, 225 8th Avenue South, called for a professional engineering report on the shuffleboard courts. City Manager Richard Woodruff responded that there is no written report, adding that three Council Members had visited the site and approved the construction. Further, he said that additional staff time would not be devoted to this issue unless Council ordered a written report.

MOTION by Van Arsdale to ACCEPT the shuffleboard courts as built with no written report; seconded by Barnett and carried 6-0 (Coyle-yes, Herms-yes, MacKenzie-yes, Nocera-absent, Tarrant-yes, Van Arsdale-yes, Barnett-yes).

Bill Boggess, 1100 8th Avenue South, suggested a City resolution to the Department of Environmental Protection (DEP) insisting that the original specifications to the County for removal of rocks from the beach be strictly observed. City Manager Woodruff reported that Council had requested letters to that effect to both the County and the DEP. Copies of this correspondence will be provided to Mr. Boggess.

CORRESPONDENCE AND COMMUNICATION.....

11:56 a.m.

Council Member Tarrant urged the City to settle a pending lawsuit filed by residents of the Wilderness Country Club regarding a proposed hotel development on annexed property adjacent to the Wilderness. City Manager Richard Woodruff noted that the Planned Development (PD) document expires on April 28th, and City Attorney Kenneth Cuyler observed that this was most likely the reason the lawsuit had not gone forward. After further discussion, it was determined that a decision relative to this matter would be made when the PD expires.

Council Member Herms sought clarification on the following issues: 1) whether a property owner may act as his own contractor; 2) when Council workshops, like regular meetings, could be carried on the Media One cable TV system; and 3) whether an advertised public hearing might be scheduled so that he and Council Member Tarrant could examine in detail the proposed zoning for the 41-10 redevelopment area. In further discussion of the committee being chaired by Council Member Coyle regarding 41-10, it was noted that all meetings held in the Council Chamber would be tape recorded and minutes kept. Mr. Coyle also indicated that he was considering scheduling committee interviews with individual Council Members.

It is noted for the record that Mayor Barnett left the meeting at this time. 12:22 p.m.

Due to calls he said he had received from citizens, Council Member Herms expressed concern that studies and projects requested by Council of staff were interfering with efforts to maintain City facilities. Council Member Van Arsdale disagreed, stating that he had found the staff to always be responsive to contacts from Council Members and citizens, encouraging Council Members to first work through the staff rather than raising such issues at Council meetings. City Manager Woodruff pledged staff's prompt attention.

MOTION by Herms to ask the City Manager to DETERMINE whether Council requests for staff time would adversely affect other responsibilities; seconded by Coyle and carried 5-0 (Coyle-yes, Herms-yes, MacKenzie-yes, Nocera-absent, Tarrant-yes, Van Arsdale-yes, Barnett-absent).

ADJOURN
12:39 p.m.

Bill Barnett, Mayor

Tara A. Norman, City Clerk

Prepared by:

Molly Reed, Recording Specialist

Minutes Approved: 4/15/98