



City Council Chamber  
735 Eighth Street South  
Naples, Florida 34102

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**City Council Regular Meeting – March 18, 1998 – 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  
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  
Anne Middleton, Budget and Investment  
Manager  
Missy McKim, Planning Director  
Ralph Lacivita, Comptroller  
Dr. Jon Staiger, Natural Resources Mgr.  
Flinn Fagg, Planner  
Susan Golden, Planner  
Molly Reed, Recording Specialist  
Mae Davis, Secretary to Mayor/Council  
Keeth Kipp, Utility/Solid Waste Coord.

Werner “Duke” Haardt  
Charles Andrews  
Donald Jones  
Cheryl Coyle  
Arlene Guckenberger  
Bill Boggess  
Mary Brett  
Odilie Tarrant  
Arlene Arsenault  
Paul Arsenault  
Scott Cameron  
Amy Rego  
Other interested citizens and visitors

**Media:**

Marc Caputo, Naples Daily News

**INVOCATION AND PLEDGE OF ALLEGIANCE.....ITEM 2**  
Pastor Elwood Kern of the Naples Church of God

**ANNOUNCEMENTS .....ITEM 3**

Mayor Barnett presented framed certificates to City Employees who had completed 5, 10, 15, 20 and 25 years of service. (Attachment 1)

Mayor Barnett presented a proclamation to Police and Emergency Services Chief Kevin Rambosk in honor of “Love Our Kids, Lock Your Guns” Day. Chief Rambosk announced that for 30 days, the Police Department will be providing free gun locks to all citizens who request them. He commended Police Officer Joe Whitehead and others for developing the program.

**ITEMS TO BE ADDED .....ITEM 4**

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

Item 15 Consider a resolution establishing a land conservation trust fund to finance the acquisition of conservation land within the City

Item 16 Consider a bid award for 7<sup>th</sup> Avenue North landscaping and irrigation (Withdrawn by Dr. Woodruff for consideration on April 1<sup>st</sup>)

Council Member Herms said he objected to additions to the agenda, requesting more time to assess added Item 16, and citing City Charter provisions requiring a 5/7 vote to add an item. City Attorney Kenneth Cuyler clarified that additions may be made to the agenda with a 5/7 vote, which is normally the case; however, if one Member requests a continuance, the policy of Council has been to do so. City Manager Woodruff noted Council’s February 16<sup>th</sup> discussion wherein it was agreed that land use issues only would not be added, noting however that Council had the option to revise this policy.

***MOTION by Nocera to SET AGENDA ADDING ITEM 15; 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).***

#### **CONSENT AGENDA**

**APPROVAL OF MINUTES .....ITEM 5a**  
February 18, 1998, Regular Meeting

.....ITEM 5b

#### **APPROVE THE FOLLOWING SPECIAL EVENTS:**

Naples Beach Hotel & Golf Club Summer Jazz Series – 5/16, 6/20, 7/18, 8/15, 9/19

4<sup>th</sup> of July Parade – 7/4

4<sup>th</sup> of July Fireworks – 7/4

Mother’s Day Weekend on Fifth Avenue South – 5/9-10

**RESOLUTION 98-8205.....ITEM 5c**

**A RESOLUTION ACCEPTING A GRANT OF EASEMENT FROM THE COUNTRY CLUB OF NAPLES; AND PROVIDING AN EFFECTIVE DATE. Title not read.**

.....ITEM 5d

**WAIVE COMPETITIVE BIDDING AND ISSUE AN ANNUAL PURCHASE ORDER TO REBUILD HIGH SERVICE PUMPS AT THE WATER TREATMENT PLANT \**

**CONTRACTOR: REGIONAL ENGINEERING & SERVICE, INC., SARASOTA, FLORIDA \ EST. ANNUAL EXPENDITURE: \$30,000.00 \ FUNDING: CIP #98K38.**

.....ITEM 5e  
**AWARD A BID FOR SUBMERSIBLE WATER PUMPS AND MOTORS FOR USE AT THE EAST GOLDEN GATE AND COASTAL RIDGE WELLFIELDS \ VENDORS: ATLANTIC ENVIRONMENTAL SYSTEMS, INC., LANTANA, FLORIDA AND COAST PUMP & SUPPLY CO., INC., NAPLES, FLORIDA \ TOTAL PRICE: \$46,328.00 \ FUNDING: CIP #98X01.**

.....ITEM 5f  
**AUTHORIZE \$1,500.00 EXPENDITURE OF LAW ENFORCEMENT TRUST FUNDS TO SUPPORT “TRIAD” CRIME PREVENTION PROGRAMS FOR SENIOR CITIZENS.**

**END CONSENT AGENDA**

***MOTION by Nocera to APPROVE the Consent Agenda 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).***

.....ITEM 14  
**CONSIDER REIMBURSING PAT MASTERS, INC. \$28,143.50 FOR ROADWAY IMPROVEMENTS ALONG THE SOUTHWEST CORNER OF 5<sup>TH</sup> AVENUE SOUTH AND 9<sup>TH</sup> STREET SOUTH. \ FUNDING: CIP #98V11 STORMWATER/FOUR CORNERS. (9:26 a.m.)**

City Manager Richard Woodruff said that Council had reviewed the redesign plans for the Four Corners, including relocating the curb and gutter and Fifth Avenue modifications and had given staff direction to proceed. It was more cost effective and efficient to use one contractor rather than dividing the work between a private contractor and the City, he said. Council Member Tarrant questioned the advisability of proceeding prior to Council’s approval of the expenditure. Dr. Woodruff, however, recalled that Council had authorized the work but not the actual construction cost, which he said is not unusual, citing as an example drainage work budgeted annually not requiring item-by-item approval. Council Member Herms received clarification that expenditures \$10,000 may not be made without Council approval unless the purchase had both been pre-approved in the Capital Improvement budget and it was from a competitive bidder. Dr. Woodruff emphasized, however, that staff could not proceed unless the project had been approved by Council in the Capital Improvement budget or was an emergency.

Council Member Herms said he considered the costs for the project to be reasonable, but asked whether any Council Members recalled approving it. Council Member Van Arsdale said he remembered reviewing plans for that specific block, including the original 5<sup>th</sup> Avenue plan. Council Member Tarrant expressed disapproval for the authority of the Staff Action Committee (SAC) and asked whether SAC had approved the funding or expense of the project; he learned that SAC approves neither funding nor expenses for any project.

**Public Input:** None (9:33 a.m.)

***MOTION by Van Arsdale to APPROVE; seconded by Nocera and carried 5-2 (MacKenzie-yes, Herms-no, Coyle-yes, Nocera-yes, Tarrant-no, Van Arsdale-yes, Barnett-yes).***

.....**ITEM 6**  
**PRESENTATION OF ANNUAL FINANCIAL REPORT BY CITY AUDITORS KPMG PEAT MARWICK. (9:34 a.m.)**

City Manager Richard Woodruff noted that auditors are hired by and work for Council, independent of the staff. Further, Mayor Barnett said that the auditors would meet individually with Council Members to address questions. Assistant City Manager William Harrison then presented an award from the Government Finance Officers Association to Comptroller Ralph LaCivita for the City's excellence in financial reporting.

Donald Jones, of KPMG Peat Marwick, delivered highlights of the 1997 Audit, noting that his presentation would track the past four or five years in order for Council to understand trends in the City's finances. (A copy of this report and the City's Comprehensive Annual Financial Report (CAFR) are contained in the file for this meeting in the City Clerk's Office.) He pointed out that the transmittal letter in the CAFR is an excellent summary document for understanding all aspects of the City's financial affairs and emphasized that the undesignated fund of \$2.7 million represents a reserve to be held in anticipation of tax revenue receipts or to supply needed funds in the event of a City-wide emergency.

Mr. Jones said that the City's ad valorem tax rate of 1.18 mills accounts for only 20% of total revenue, noting that the general government debt is very low and not secured by ad valorem. He clarified that because the City's investment strategy had been conservative, a change in the accounting standard from cost to market value had been insignificant. In conclusion, he stated that the audit had proceeded without event and invited Council's questions.

Council Member Tarrant requested clarification regarding Tax Increment Financing (TIF). Mr. Harrison explained that when property is within a TIF district, such as Fifth Avenue and the 41-10 redevelopment corridor, the assessed ad valorem tax is frozen at the current value for a period of 20 or 30 years. The tax levy of 1.18 mills to the City and 3.5 mills to the County will continue to be paid to each respective government based on the amount of the frozen assessment. However, as redevelopment increases the value of the property and higher property taxes are assessed, the increased taxes paid by the property owner become TIF funds that can only be used to upgrade services in that redevelopment district.

Council Member Coyle asked whether the cost of redevelopment is therefore borne by residents and merchants outside the TIF district and City Manager Woodruff responded that the advantage of a diverse revenue stream, including franchise fees and user fees, which facilitates a consistent tax base not affected by funding for redevelopment. Redevelopment, therefore, pays for itself by recouping increases in ad valorem taxes rather than an escalating sum going to Collier County. Mr. Tarrant expressed concern that the public was under the impression that TIF funds were free money. Dr. Woodruff, however, pointed out that the City's struggle for tax equity would in fact benefit greatly if the entire City became a TIF district thereby limiting the amount of taxes which are paid by City property owners to the County. Mr. Harrison observed that approximately 75% of the money used to fund redevelopment is taxes withheld from County coffers.

Dr. Woodruff clarified that the Community Redevelopment Area included both Fifth Avenue and the 41-10 district, would expire in 30 years, and could not be renewed unless the original, blighted conditions continued to exist in the area. Council Members Herms and Tarrant, however, inquired about the procedures necessary to abolish a redevelopment district. City Attorney Kenneth Cuyler explained that a redevelopment district is created for a specific period of time and continues even though blight has been eliminated. Vice Mayor MacKenzie requested a future workshop discussion devoted to TIF.

Council Member Tarrant requested an explanation of the five year percentage increase in user and franchise fee revenue, and Mr. Jones responded that the growth in the revenue from sources besides property taxes is attributable to the growth in the City. Mr. Harrison also noted that sewer rates had increased 24%, and that water rates increased, although for the first time since 1982, and solid waste charges had recently increased, but for the first time since 1987. Dr. Woodruff said he would supply Mr. Tarrant with a detailed report on these fees. Mr. Tarrant inquired about the total amount of debt service. Mr. Harrison said that while he would provide an exact figure, debt service was estimated at \$2.6 million. He also noted that the City had successfully secured favorable, low interest rates through state revolving loan funds.

A discussion ensued regarding various methods for assessing governmental efficiency and it was decided to request the audit committee to develop outcome measures. As is customary, Mr. Jones affirmed that he had not received neither pressure nor special requests from management or staff in preparation of Council's audit.

**Public Input:** None (10:09 a.m.)

***MOTION by Van Arsdale to APPROVE the audit 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 98-8206.....ITEM 7  
A RESOLUTION GRANTING SAC WAIVER PETITION 98-4 FROM SECTION 102-1095(e)(1), "FIFTH AVENUE SOUTH SPECIAL OVERLAY DISTRICT, ARCHITECTURAL STANDARDS," OF THE CODE OF ORDINANCES WHICH REQUIRES THAT THE EXTERIOR FINISH MATERIAL ON ALL FACADES SHALL BE LIMITED TO SMOOTH STUCCO AND/OR STONE VENEER IN ORDER TO PERMIT TILE ON THE FAÇADE OF THE BUILDING LOCATED AT 793 FIFTH AVENUE SOUTH, AND SECTION 102-1095(f)(2), "SIGNAGE STANDARDS," WHICH REQUIRES THAT A SINGLE SIGN BAND OR ZONE MAY BE APPLIED TO THE FAÇADE OF EACH BUILDING PROVIDED THAT IT SHALL NOT EXCEED 2 FEET IN VERTICAL DIMENSION BY ANY LENGTH, IN ORDER TO PERMIT A SIGN WHICH IS LOCATED OUTSIDE OF THE PREVIOUSLY DESIGNATED SIGN BAND FOR THE BUILDING LOCATED AT 793 FIFTH AVENUE SOUTH, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.**

Title read by City Manager Woodruff. (10:10 a.m.)

Planner Flinn Fagg reported that this resolution was the result of tile artwork at the entry to Wind in the Willows located at 793 Fifth Avenue South. He then submitted a letter from Tom Low of Duany Plater-Zyberk and Company, consultants on the Fifth Avenue redevelopment project,

suggesting amendment to allow variances based on artistic merit. Council Member Tarrant asked what had necessitated this variance and who had reported it. Dr. Woodruff explained that the Planning Department is obliged to report any nonconforming sign.

Mr. Tarrant also learned that the Staff Action Committee (SAC) had denied this variance. Mr. Tarrant took the position that this situation exemplified reasons to either disband SAC or place it under Council's control. Council Member Van Arsdale, however, pointed out that not only had SAC not created the problem, it could not approve any variance that did not comply with the Code. Mr. Tarrant, however, cited an instance where a Fifth Avenue property owner was ordered to repaint a building to an approved color at a cost of \$15,000, although Council had granted a three-year grace period. He characterized this instance as egregious and said it should be overturned. Mayor Barnett requested a memorandum from Council Member Tarrant setting forth this proposal.

In further discussion of regulations applicable to the Fifth Avenue area, Vice Mayor MacKenzie observed that since the regulations are self-imposed by the Fifth Avenue Association, a review should be considered. Planner Fagg noted that this had, in fact, taken place approximately five months before. Mr. Van Arsdale expressed the position that the Code had in fact been responsible for the success of the redevelopment. Council Member Tarrant said that former City Attorney Chiaro had informed him that SAC was merely an advisory committee. Council Member Herms stated that a similar building decoration would, however, be permitted elsewhere, such as the artwork on the Planned Parenthood building. Dr. Woodruff confirmed that so long as the artwork was not interpreted as signage, it would be permitted. Planner Fagg explained, however, that because the artistic tiles in question included the name of the store, it is a sign and does not meet the code since it places too many signs on the building. Mr. Herms proposed a Council workshop to review the codes that are applicable to Fifth Avenue in order to arrive at a consensus; he referred to the codes as an embarrassment to the community.

City Manager Woodruff then explained that prior governmental regulation had contributed to the problems of Fifth Avenue whereas the current codes had allowed the merchants and property owners to make their own decisions. He recommended, therefore, that if Council finds the current situation unsatisfactory, the Fifth Avenue Association be allowed to determine the remedies.

**Public Input:** None (10:33 a.m.)

**MOTION by Van Arsdale to APPROVE Resolution 98-8206; seconded by Nocera and unanimously carried, all members present and voting (MacKenzie-yes, Herms-yes, Coyle-yes, Nocera-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes).**

**MOTION by Coyle to REQUEST MERCHANTS AND PROPERTY OWNERS TO REEVALUATE the 5th Avenue Overlay codes as well as the function of the Staff Action Committee (SAC) and return recommendations to Council for changes to SAC; 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 98-8207.....ITEM 8**  
**A RESOLUTION GRANTING SAC WAIVER PETITION 98-5 FROM SECTION 102-1095(e)(2) OF THE CODE OF ORDINANCES, “FIFTH AVENUE SOUTH SPECIAL OVERLAY DISTRICT, ARCHITECTURAL STANDARDS,” WHICH LIMITS FAÇADE COLOR TO WHITE OR CREAM TO CORAL AND REQUIRES UNIFORM FAÇADE COLOR ON A BUILDING OF SINGLE OWNERSHIP, IN ORDER TO PERMIT A NONCONFORMING COLOR AT 680 FIFTH AVENUE SOUTH, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.**  
Title read by City Manager Woodruff. (10:34 a.m.)

**Public Input:** None (10:34 a.m.)

***MOTION by MacKenzie to APPROVE Resolution 98-8207; seconded by Herms and carried 6-1, all members present and voting (Coyle-yes, Herms-yes, MacKenzie-yes, Nocera-yes, Tarrant-yes, Van Arsdale-no, Barnett-yes).***

**RESOLUTION (Denied) .....ITEM 9**  
**A RESOLUTION APPROVING THE CREATION OF A LOT AT 545 CENTRAL AVENUE THAT FRONTS ONLY ON THE PUBLIC ALLEY, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.** Title read by City Manager Woodruff (10:35 a.m.)

Planner Flinn Fagg noted a lack of criteria with which to evaluate this request, although density conforms to the zoning standards for the block and the subdivision would meet the minimum standard lot widths for that area. However, because the newly created lot would have only alley access, approval would create a setback nonconformity on the lot occupied by the existing home. City Manager Richard Woodruff observed that homes with entries off alleyways are not the norm and asked the City not be responsible for alley improvements east of the property.

In questioning by Council, it was also learned that : 1) Planning Advisory Board (PAB) review is not required; 2) this proposal is not for a subunit but creates a new, legal property with access only from a 14-foot wide alley; and 3) if the lot were subdivided north-south to front on Central, two lots below minimum permitted widths would result.

**Public Input:** 10:42 a.m.

**Brian Elliott, 501 Goodlette Road North**, petitioner, took the position however that with vacation, the 20-foot unimproved alley to the east would provide enough additional land for two conforming lots running north-south. City Manager Woodruff, however, said that this would only add 10 feet to the property since the alley would be divided so that the other 10 feet would go to the property owner to the east. Vice Mayor MacKenzie confirmed that the petitioner’s intent was to purchase the property and build two houses to be sold to persons unrelated to Mr. Elliott. Council Member Nocera made a motion to deny the petition and Vice Mayor MacKenzie seconded it (see below). Prior to the vote, however, it was also learned that, although none had been approved in recent years, at least three homes have alley access only, most likely because they had been guest houses sold separately.

***MOTION by Nocera to DENY this resolution; seconded by MacKenzie and carried 6-1, all members present and voting (Tarrant-yes, Herms-no, MacKenzie-yes, Nocera-yes, Coyle-yes, Van Arsdale-yes, Barnett-yes).***

.....ITEM 10  
CONSIDER ISSUING A PURCHASE ORDER, BASED ON BIDS SUBMITTED IN MIAMI/DADE COUNTY AND HOLLYWOOD, FLORIDA, TO RELINE AND REHABILITATE VARIOUS SECTIONS OF THE CITY'S SANITARY SEWER SYSTEM AS PART OF THE WATER/SEWER CAPITAL IMPROVEMENT PROGRAM \ CONTRACTOR: MADSEN/BARR ALLWASTE, INC. \ PRICE: \$280,000.00 (NOT TO EXCEED) \ FUNDING: CIP #98N04. (10:48 a.m.)

Public Input: None (10:48 a.m.)

*MOTION by MacKenzie to APPROVE; 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 (Continued) .....ITEM 11  
A RESOLUTION ACCEPTING AN UNDERGROUND UTILITY EASEMENT FROM PHILIP J. MCCABE, AS TRUSTEE UNDER TRUST AGREEMENT DATED MAY 1, 1986, AND FIFTH AVENUE ASSOCIATES OF NAPLES, INC.; AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A QUIT-CLAIM DEED TO PHILIP J. MCCABE, AS TRUSTEE UNDER TRUST AGREEMENT DATED MAY 1, 1986, AND A QUIT-CLAIM DEED TO FIFTH AVENUE ASSOCIATES OF NAPLES, INC. FOR THE PREVIOUSLY VACATED ALLEY ADJACENT TO THE INN ON FIFTH; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Woodruff (10:49 a.m.)

City Manager Richard Woodruff relayed a request to continue while the property owners resolve placement of the dumpster.

Public Input (on continuance): None (10:50 a.m.)

*MOTION by Van Arsdale to CONTINUE TO APRIL 1, 1998; 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).*

.....ITEM 12  
CONSIDER AN AFTER-THE-FACT PURCHASE ORDER, BASED ON AN EXISTING COLLIER COUNTY CONTRACT, TO INSTALL TRAFFIC SIGNALS ON 6<sup>TH</sup> AVENUE SOUTH AT THE INTERSECTIONS OF 9<sup>TH</sup> STREET AND 10<sup>TH</sup> STREET \ CONTRACTOR: MID-CONTINENT ELECTRIC \ TOTAL PRICE: \$150,000.00 \ FUNDING: CIP #98U21 (6<sup>TH</sup> AVENUE ROADWAY IMPROVEMENT). (10:52 a.m.)

City Manager Richard Woodruff reported that Council had approved installation of the street lights at a cost of \$75,000 per intersection. However, at the time of Council approval, a specific vendor had not been named, requiring authorization to pay.

Public Input: None (10:53 a.m.)

*MOTION by Herms to APPROVE; 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).*

ORDINANCE 98-8208.....ITEM 13  
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 read by City Manager Woodruff (10:54 a.m.)

City Manager Richard Woodruff explained that this ordinance determined the dispositions of the earnings of the account and in no way authorizes expending public money.

**Public Input:** None (10:54 a.m.)

***MOTION by Van Arsdale to APPROVE Ordinance 98-8208; 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 98-8209.....ITEM 15**

**A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF NAPLES ESTABLISHING A LAND CONSERVATION TRUST FUND TO FINANCE THE ACQUISITION OF OPEN SPACE WITHIN THE CORPORATE LIMITS OF THE CITY OF NAPLES, AND URGING CITIZENS TO SUPPORT THIS PROGRAM THROUGH FINANCIAL DONATIONS; AND PROVIDING AN EFFECTIVE DATE.** Title read by City Manager Woodruff (10:56 a.m.)

City Manager Richard Woodruff said this resolution, proposed by Council Member Nocera, establishes an account to accept donations for land acquisition and is wholly separate from grants; it will also provide an estate planning tool for bequests.

**Public Input:** (10:56 a.m.)

**Scott Cameron, President of the Southwest Florida Land Preservation Trust**, reported that the organization, which had existed for over ten years, was dedicated to preserving land for public use that would otherwise be developed. He cited the Gordon River Greenway, which includes a path around the airport along the Gordon River and is included in the recently approved Airport Master Plan, and a similar pathway along Goodlette Road between Solana and Golden Gate Parkway. He urged Council to support cash donations, stating that the Trust is a 501C-3 tax-deductible entity.

In response to Council Member Tarrant it was learned that all the board members are unpaid volunteers with one part-time employee but no designated office. In response to Council Member Herms, Mr. Cameron said that the membership includes Eileen Arsenault, Rick Barber, Miles Collier, Scott Lutgert, Jack Dupres, Al French, Gus Fisher, Ellen Getz, Richard Grant, Ellie Krier, Ed Oates, Kathleen Passidomo, and Stanley Hole.

Council Member Nocera characterized the Land Trust as an important step forward and expressed hope that attorneys would encourage clients to include it as beneficiary. He urged Council's support.

Mr. Coyle received clarification that the trust would be administered by the City. Though he expressed support for the resolution, Mr. Coyle said his concern is prompted the same governmental body managing the trust and controlling zoning. He said he was also concerned that real estate interests are involved and asked that implementing legislation limit Council's role in disbursing funds.

In reply to Vice Mayor MacKenzie, City Attorney Kenneth Cuyler stated his understanding that a donation would in fact be tax-deductible if the City controlled the fund, adding that he would

nevertheless verify this. Mr. Tarrant asked that the funds be precluded from use to leverage City borrowing.

***MOTION by Coyle to APPROVE Resolution 98-8209, AS AMENDED to instruct the City Attorney to include language restricting the use of the funds for any purpose other than that for which they are intended ; 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).***

Council Member Coyle suggested the Turner Marine property for acquisition, but Council Member Nocera said he would first prefer public input. Mr. Cameron cautioned against identifying properties in advance which can create problems for a property owner whose land may not be available.

Vice Mayor MacKenzie made the following motion, which she indicated is at the petitioner's request.

**Public Input:** none (11:11 a.m.)

***MOTION by MacKenzie to POSTPONE rezoning petition 97R(A) (98-24) of the Turner Property until April 15, 1998; 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).***

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

Council Member Herms stated that he shared Mr. Coyle's concern regarding additional residential units in the 41-10 redevelopment plan because to obtain Comprehensive Plan approval, it would be necessary for staff to justify additional density; he recommended a Council workshop on the issue. City Manager Richard Woodruff clarified that he and staff would not devote time on the concept of vertical evacuation in the proposed Comprehensive Plan, pending the outcome of the recently-formed 41-10 Compromise Committee. Three other pending items concerned mixed use issues to which staff will however pursue, he said. Mr. Coyle proposed removing vertical evacuation from the Comprehensive Plan in order to obtain final approval from DCA, noting that via this concept residential units in the redevelopment area would thereby be prohibited. Vice Mayor MacKenzie, however, observed that vertical evacuation has already been established as a viable alternative according to Collier County Emergency Management. Dr. Woodruff then pointed out that passage of an amended Comprehensive Plan requires two separate ordinance readings and therefore, staff would await the outcome of the 41-10 Compromise Committee.

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

(11:22 a.m.)

**Amy Rego, 1060 Sixth Street South**, read into the record both correspondence she had received from Council Member Van Arsdale disputing a position she had taken regarding redevelopment, and her response to Mr. Van Arsdale. (Attachment 2) An interchange between Council Members Coyle, Herms and Van Arsdale then followed regarding various disputed statements made during the February election campaign. Council Member Herms indicated that his campaign statements had been based solely on Council's December 3<sup>rd</sup> vote tally sheet. He said that only after the election did he realize from listening to audio tapes that parallel parking on 4<sup>th</sup>

Avenue South between 8<sup>th</sup> and 10<sup>th</sup> Streets had actually been retained. With reference to statements in Mr. Van Arsdale's letter, Council received clarification from City Attorney Cuyler that Members are free to correspond with individuals at their discretion.

**CORRESPONDENCE AND COMMUNICATION.....**  
(11:35 a.m.)

Council discussed a prior request by Council Member Tarrant for the staff to tape record negotiations with vendors. Because a variation in Council Members' recollections in this regard, Mr. Tarrant requested a new consensus which appears as follows:

***By affirmative vote by Council Members MacKenzie, Nocera and Van Arsdale and Barnett, it was consensus of Council not to adopt a policy of tape recording negotiations between staff and vendors.***

Council Member Herms requested the City Attorney's opinion regarding placement of election signs in yards and flyers on door handles. City Attorney Cuyler explained that this would require an ordinance amendment but observed that restrictions had been imposed due to concern about an accumulation of literature drawing attention to a vacant residences.

Mr. Herms urged Council to observe the work taking place on the beach and in the surf to remove rocks.

Mr. Herms inquired whether the treated wood in the proposed playground at Cambier Park contained hazardous chemicals. Council Member Nocera assured him that there are no toxins present in that material.

Council Member Tarrant requested an opinion from the City Attorney regarding the legality of the Art Association's serving alcohol at its building in Cambier Park.

At the suggestion of Council Member Nocera ...

***...it was the consensus of Council to await the recommendations of the Naples Bay Project Committee prior to developing a plan for the park on the donated Pulling property.***

There followed a brief discussion regarding the procedures for interviewing Council Members by the 41-10 Compromise Committee and it was determined that individual interviews would be held in an open forum.

Vice Mayor MacKenzie requested a workshop on requiring a super-majority vote for rezones. City Attorney Cuyler described the issue as difficult and complicated and that thorough research would be needed because of significant impact and may have to occur through Charter amendment via referendum. In addition, he pointed out that State Statute requires only a majority of those members present at the meeting to prevail in voting.

City Manager Woodruff noted that the County is considering a 20-to-30 year contract to truck solid waste out of the County and that the City's concern in this regard is centered on a cost-effective practices and protection of the City's well fields. Further, he reported that during the

ensuing three weeks, 25 gallon-size palms and hardwood trees would be planted on a street in the 41-10 area along with 10 gallon-size trees on an alternative street so that Council could compare the effects of the two.

**ADJOURN**.....  
12:07 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: 5/6/98