



City Council Chamber
735 Eighth Street South
Naples, Florida 34102

City Council Regular Meeting –October 21, 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 (Arrived at 9:02 a.m.)
John Nocera
Fred Tarrant
Peter H. Van Arsdale

Also Present:
Richard L. Woodruff, City Manager
Kenneth B Cuyler, City Attorney
Ron Lee, Acting Planning Director
Don Wirth, Community Services Director
George Archibald, Traffic Engineer
Tara Norman, City Clerk
Virginia Neet, Deputy City Clerk
Duncan Bolhover, Admin. Specialist
Bill Taylor, Plans Examiner
John Barkley, Police Officer
Joan Phalen, Police Volunteer
Robin Williams, Executive Secretary
Werner "Duke" Haardt
Philip McCabe
Reverend Charles Mann
John Passidomo

Media:
Mike McCormick, Naples Daily News
Eric Staats, Naples Daily News
Denes Husty, Fort Myers News Press
David Taylor, Media One

**Prior to commencement of the agenda,
the public was notified of procedures to
be followed by speakers and petitioners.**

INVOCATION and PLEDGE OF ALLEGIANCE (8:59 a.m.)ITEM 2
Reverend Charles Mann, St. John Episcopal Church.

ANNOUNCEMENTS (9:00 a.m.).....ITEM 3
Mayor Barnett read a proclamation designating October 23-31, 1998, as "Red Ribbon Week". Executive Secretary Robin Williams and Police Officers John Barley, Brian Wingo, and Joe Whitehead were also recognized as the staff coordinators in this community-based program to prevent alcohol and drug abuse.

It is noted for the record the Council Member Herms arrived at the meeting at 9:02 a.m.

ITEMS TO BE ADDED (9:02 a.m.).....ITEM 4
City Manager Richard Woodruff requested that the following items be added to the agenda:

Item 13 Consider a change order in the amount of \$33,322.11 with State Contracting & Engineering Corporation, for additional work in Cambier Park Phase I redevelopment, and authorize a transfer from the 1998 Capital Improvements Program Fund in order to provide the balance required for this change order.

Item 14 Consider creating an Intergovernmental Affairs Coordinating Committee with the City of Marco Island and appointing a member(s) to the committee.

Item 15 Consider appointing one member to the Code Enforcement Board.

Dr. Woodruff also requested that Council delete Item 5-e from the agenda due to the unavailability of grant funds for this purchase.

MOTION by Herms to SET AGENDA and ADD ITEMS 13, 14, and 15, and DELETE ITEM 5-e; 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)

CONSENT AGENDA

APPROVAL OF MINUTESITEM 5-a
October 5, 1998 Workshop Meeting.

.....ITEM 5-c
AWARD AN ANNUAL BID FOR EQUIPMENT RENTAL FOR USE BY UTILITIES AND COMMUNITY SERVICES DEPARTMENTS \ Various Contractors \ Est. Annual Expenditures: \$50,000.00 \ Funding: Departmental Rental and Leases Budget.

RESOLUTION 98-8388..... ITEM 5-d
A RESOLUTION AUTHORIZING THE CITY MANAGER TO DRAFT AND EXECUTE AN AGREEMENT, TO BE REVIEWED AND APPROVED BY THE CITY ATTORNEY, BETWEEN THE CITY OF NAPLES AND FRED TOBIAS TO WRITE AND DIRECT

THE 1998-99 MUSICAL REVIEW AT THE NORRIS CENTER; AND PROVIDING AN EFFECTIVE DATE. Title not read.

(Deleted from the Agenda)ITEM 5-e
**AUTHORIZE A PURCHASE ORDER FOR COMMUNICATIONS EQUIPMENT TO IMPLEMENT POLICE & EMERGENCY SERVICES DEPARTMENT'S CONVERSION TO COLLIER COUNTY'S 800 MHZ SYSTEM ** Vendor: Ericsson, Inc., Naples, Florida \ Cost: \$57,448.25 and Vendor: Communications, Inc., Naples, Florida \ Cost: \$7,540.06 \ Funding: CIP #99H21.

MOTION by Nocera to APPROVE Consent Agenda Items 5-a, 5-c, and 5-d, and REMOVE ITEM 5-b FOR SEPARATE DISCUSSION; 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)

SPECIAL EVENT (9:05 a.m.).....ITEM 5-b(1)
APPROVE THE FOLLOWING SPECIAL EVENT: Dodge Celebrity Invitational Golf Tournament - 11/3-8.

City Manager Richard Woodruff noted that future Special Events requests would be accompanied by a monthly Special Event Calendar.

Council Member Coyle commented that a portion of the golf tournament's proceeds will benefit the Southwest Florida Land Preservation Trust and suggested that Council, in its approval, encourage reallocation of some proceeds to the Naples Land Preservation Trust.

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

MOTION by Coyle to APPROVE ITEM 5-b(1) CONTINGENT UPON THE SPONSORS AGREEING TO PROVIDE SOME PORTION (any amount) OF THE PROCEEDS TO THE NAPLES LAND PRESERVATION TRUST; seconded by Herms. After the discussion that appears below, this motion carried 6-1. (Coyle-yes, Herms-yes, MacKenzie-yes, Nocera-yes, Tarrant-yes, Van Arsdale-no, Barnett-yes).

Council Member Van Arsdale took issue with Council basing its approval on the receipt of a donation and suggested that it would instead be more appropriate to apply this request to next year's event. Council Member Coyle, however, maintained that sponsors of City-based events should in some way contribute to the preservation of City resources. Vice Mayor MacKenzie also observed that the motion did not specify a required minimum contribution, only that a contribution is made.

At this time, Council returned to the Announcements portion of the meeting and City Manager Richard Woodruff recognized Police & Emergency Services volunteer Joan Phalen who will be relocating to Texas. Dr. Woodruff praised Mrs. Phalen's years of service to the City and described her as a driving force behind the City's volunteer program.

SPECIAL EVENTS (9:13 a.m.).....ITEMS 5-b (2)(3)

APPROVE THE FOLLOWING SPECIAL EVENTS:

- (2) 2nd Annual Greyhound Promenade - 11/21
- (3) Old Naples TUBA CHRISTMAS - 12/8

Council Member Tarrant commented on prior difficulties attributable to special events in the downtown area wherein Post Office property is used for overflow parking, occasionally to the extent that it causes this Post Office branch to close on Saturday. He then suggested requiring that the event sponsors hire an off-duty police officer in order to safeguard parking for Post Office customers. City Manager Richard Woodruff said staff is currently gathering information on this issue and would submit recommendations, including the one suggested by Mr. Tarrant.

Public Input: None. (9:13 a.m.)

MOTION by Herms to APPROVE ITEMS 5-b(2) AND 5-b(3); 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).

ORDINANCE 98-8389.....ITEM 6

AN ORDINANCE AMENDING SUBSECTIONS (2) AND (3) OF SECTION 106-239(b) IN ORDER TO CLARIFY THE REGULATIONS REGARDING HOURS OF OPERATION FOR TREE TRIMMING AND TREE REMOVAL ACTIVITIES; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.

Title read by City Manager Richard Woodruff. (9:16 a.m.)

Public Input: None. (9:16 a.m.)

MOTION by MacKenzie to ADOPT ORDINANCE 98-8389; seconded by Nocera. After the discussion that appears below, this motion was 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 prohibiting all contractors from trimming trees on Sundays; however, City Attorney Cuyler cautioned that such an ordinance may not be enforceable if applied solely to contractors. Further applications of the ordinance were discussed and Council Member Herms noted that this prohibition could affect private property owners who merely trim landscaping on Sundays. Dr. Woodruff, however, explained that a violation to this ordinance would be determined by the type of trimming equipment used and not the type of vegetation.

ORDINANCE 98-8390.....ITEM 7

AN ORDINANCE AMENDING SUBSECTION (7) OF SECTION 102-532 AND ADDING SUBSECTION (9) TO SECTION 102-533 OF THE CODE OF ORDINANCES TO REQUIRE CONDITIONAL USE APPROVAL FOR CHARTER BOATS WITH A CARRYING CAPACITY OF ONE HUNDRED FIFTY (150) OR MORE PERSONS; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title read by City Manager Richard Woodruff. (9:24 a.m.)

Council Member Herms relayed citizens' suggestions to reduce the 150-passenger threshold and to also include a prohibition against gambling. City Attorney Cuyler, however, responded that

because this ordinance's intent is unrelated to gambling, Council should address that issue separately. He cautioned, however, that the City may not have the jurisdiction to control gambling activities offshore. Council Member Van Arsdale noted that gambling could likewise be regulated by capacity limits and suggested additional study into the average passenger volume of gambling vessels. Dr. Woodruff also explained that there is presently no City-licensed charter vessel that carries more than 150 passengers. Council reviewed the current Code definition for a charter boat and Council Member Nocera observed that a gambling operation could circumvent this definition by not charging their passengers for the trip. Vice Mayor MacKenzie reminded Council that this is the first attempt to address this issue since denial of the Buquebus ferry in February 1997. City Attorney Cuyler also verified for Council that this ordinance would be defensible since it is not arbitrary in the way it achieves its stated goal.

In further discussion, it was noted that water taxis are not considered charter boats under the Code and Council Member Herms pointed out that the Code also fails to specifically define ferries as charter boats. Likewise, Council Member Coyle noted that the current ordinance could conceivably permit a 150-passenger (or more) water taxi operation. It was the consensus of Council, however, that any amendments to the charter boat and water taxi definitions would be addressed by separate ordinance. Additionally, Council Member Coyle urged additional research into regulating the frequency, and not just the size, of this type of traffic on Naples Bay.

Vice Mayor MacKenzie recommended adjusting the definition of water taxis as carrying ten or fewer passengers and adding ferries to the definition of a charter boat. Additionally, the City will explore possible regulation of docking and parking facilities as a method of controlling commercial vessels. Council Member Tarrant, however, maintained that the ordinance would ultimately prove ineffective and Council Member Van Arsdale suggested workshop discussions on this issue with the Naples Bay Project Committee.

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

MOTION by Nocera to ADOPT ORDINANCE 98-8390; seconded by MacKenzie and carried 6-1, all members present and voting. (Coyle-yes, Herms-yes, MacKenzie-yes, Nocera-yes, Tarrant-no, Van Arsdale-yes, Barnett-yes).

Staff will research additional Code amendments in order to define water taxis as carrying 10 or fewer people and to add ferries to the definition of charter boat. Additionally, alternative legislation regulating dock size and parking will be explored as a means of controlling charter boats.

**ORDINANCE 98-8391.....ITEM 8
AN ORDINANCE GRANTING REZONE PETITION 98-R7 IN ORDER TO AMEND THE
PLANNED DEVELOPMENT DOCUMENT FOR LITTLE HARBOUR, MORE
PARTICULARLY DESCRIBED HEREIN, IN ORDER TO PROVIDE STANDARDS FOR
DEVELOPMENT OF HOMES ON A LOT AND ONE-HALF; AND PROVIDING AN
EFFECTIVE DATE. Title read by City Manager Richard Woodruff. (9:48 a.m.)**

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

MOTION by Nocera to **ADOPT ORDINANCE 98-8391**; 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).

RESOLUTION 98-8392.....ITEM 9-a
A RESOLUTION RATIFYING CHANGES TO ARTICLE 18, EDUCATION, OF THE CURRENT CONTRACT BETWEEN THE CITY OF NAPLES AND THE INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, LOCAL 2174; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Richard Woodruff. (9:49 a.m.)

RESOLUTION 98-8393.....ITEM 9-b
A RESOLUTION RATIFYING CHANGES TO ARTICLE 18, EDUCATION, OF THE CURRENT CONTRACT BETWEEN THE CITY OF NAPLES AND THE INTERNATIONAL ASSOCIATION OF FIRE LIEUTENANTS, LOCAL 2174; AND PROVIDING AND EFFECTIVE DATE. Title read by City Manager Richard Woodruff. (9:49 a.m.)

It is noted for the record that Items 9-a and 9-b were discussed concurrently.

Public Input: None. (9:49 a.m.)

MOTION by Nocera to **APPROVE RESOLUTIONS 98-8392 AND 98-8393 AS SUBMITTED**; 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).

RESOLUTION 98-8394.....ITEM 10
A RESOLUTION AUTHORIZING THE RENEWAL OF THE PREFERRED PROVIDER PAYOR CONTRACT WITH COMMUNITY HEALTH PARTNERS (NAPLES PHO) TO PROVIDE MANAGED CARE SERVICES; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Richard Woodruff. (9:50 a.m.)

City Manager Woodruff reviewed various aspects and costs associated with the City's health insurance program and noted that a former employee may pay the full premium and retain this coverage for up to 18 months after leaving the City's employ. Similarly, City retirees may retain this coverage until such time as they are eligible for Medicare. In response to Council Member Herms, Human Resources Director Susan Wiesing confirmed that Cleveland Clinic had indeed expressed an interest in providing medical services within the current parameters of the City's health plan; however, the City has not received a formal proposal. Ms. Wiesing further explained that the proposal before Council is a contract for network services, which will provide access to the Community Health Partners Network of physicians and health providers, the same network utilized by Collier County and the school system. Dr. Woodruff, however, pointed out that the City's goal to work with Naples Community Hospital whenever possible may be different than that of other governmental agencies such as the School Board and Collier County. Council Member Herms cautioned against a contract that would preclude the City from

accepting future proposals from Cleveland Clinic; however, Dr. Woodruff stressed that the City is free, under this non-exclusive contract, to consider alternative proposals for health services. Ms. Wiesing added that this network, available to City employees since 1994, has resulted in considerable costs savings (approximately \$250,000.00 annually) to the City. Although Council discussed a shorter-term contract in order to offer employees the option of another network, Dr. Woodruff clarified that the City pays for the total number of employees in the plan and should this number decrease, the City's cost would likewise decrease.

Public Input: None. (10:00 a.m.)

MOTION by Herms to APPROVE RESOLUTION 98-8394 AS SUBMITTED;
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).

A prior motion by Council Member Herms to approve this provider for a one-year contract ending 12/31/99, in order to consider alternatives that may be submitted by Cleveland Clinic, was later amended to the above approval of the plan as submitted. (based on the understanding that the number of employees in the plan may be modified if an alternative plan is obtained).

After the vote, Vice Mayor MacKenzie pointed out that combining with the Naples Airport Authority's 68 employees might result in lower rates.

.....**ITEM 11**
CONSIDER AN ANNUAL BID AWARD, UNDER COLLIER COUNTY BID 98-2837, FOR WATER AND WASTEWATER TREATMENT CHEMICALS \ Various Vendors \ Est. Annual Expenditures: \$561,800.00 (Pebble Quick Lime), \$85,425.00 (Polymer), \$16,760.00 (Sodium Fluoride), \$98,610.00 (Chlorine), \$24,300.00 (Sodium Hydroxide) \ Funding: Water and Wastewater Operating Accounts. (10:03 a.m.)

City Manager Richard Woodruff referred to the staff report and confirmed that these costs are projected for the entire fiscal year. (A copy of this material is contained in the file for this meeting in the City Clerk's Office.)

Public Input: None. (10:04 a.m.)

MOTION by Van Arsdale to APPROVE ITEM 11 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 98-8395.....ITEM 13
A RESOLUTION THAT AUTHORIZES A CHANGE ORDER TO STATE CONTRACTING & ENGINEERING CORPORATION, TO PROVIDE ADDITIONAL CONTRACTED WORK AS DESCRIBED IN THE ATTACHED CHANGE ORDER #3 AND ACCOMPANYING MEMORANDUM, WHICH IS ATTACHED HERETO AND MADE A PART HEREOF, FOR CAMBIER PHASE I; AND PROVIDING AN EFFECTIVE DATE. Title not read. (10:05 a.m.)

City Manager Richard Woodruff provided background information regarding this first phase of Cambier Park's redevelopment and relayed staff's position that this final change order of \$33,322.11 is the total amount due the contractor. Dr. Woodruff informed Council, however, that the contractor holds the City responsible for project delays and, as such, believes this change order should be increased by approximately \$80,000.00 based upon the per diem compensation specified in the contract.

Community Services Director Don Wirth reviewed the original contract price and subsequent change orders and explained that since only \$10,000.00 remains in the initial project budget, Council must also authorize a transfer from the Capital Improvement Program Fund for the balance. Council Member Nocera noted that this change order was less than 5% of the original contract and Council Member Tarrant likewise commented on the extent of the various work projects accomplished through this phase of Cambier Park's redevelopment.

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

MOTION by Van Arsdale to APPROVE RESOLUTION 98-8395 AS SUBMITTED; *seconded by Nocera and carried 6-1, all members present and voting. (Coyle-yes, Herms-no, MacKenzie-yes, Nocera-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes).*

RESOLUTION 98-8396.....ITEM 14

A RESOLUTION OF THE MAYOR AND CITY COUNCIL CREATING AN INTERGOVERNMENTAL AFFAIRS COORDINATING COMMITTEE WITH THE CIYT OF MARCO ISLAND AND APPOINTING MEMBERS, AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Richard Woodruff. (10:16 a.m.)

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

MOTION by MacKenzie to APPROVE RESOLUTION 98-8396 AND APPOINTING COUNCIL MEMBER HERMS AS THE CITY'S REPRESENTATIVE; *seconded by Coyle. After the discussion that appears below, this motion carried 6-1, all members present and voting. (Coyle-yes, Herms-yes, MacKenzie-yes, Nocera-yes, Tarrant-no, Van Arsdale-yes, Barnett-yes).* Council Member Tarrant explained that his dissenting vote was based on his objection to City Attorney Cuyler representing both Naples and Marco Island.

Council Member Tarrant reminded Council that he did not actively participate in a recent joint meeting of the two City Councils because of the aforementioned issue regarding the City Attorney. City Attorney Cuyler, however, stated that no conflict exists when a majority of both governmental bodies' consents to this representation and the circumstances of the meeting are non-adversarial. He noted, however, that he could not represent both entities in discussions pertaining to topics such as Marco Island's potential purchase of City of Naples' water. Mr. Tarrant, nevertheless, stated for the record that although he may attend a joint meeting, he would continue to abstain from participating. In response, Council Member Van Arsdale noted that Mr. Tarrant would nevertheless be required by law to vote if present.

RESOLUTION 98-8397.....ITEM 15
A RESOLUTION APPOINTING ONE MEMBER TO THE CODE ENFORCEMENT BOARD FOR A THREE-YEAR TERM; WAIVING THE CANDIDATE INTERVIEW PROCESS; AND PROVIDING AN EFFECTIVE DATE. Title not read. (10:23 a.m.)

Public Input: None. (10:23 a.m.)

MOTION by MacKenzie to APPROVE RESOLUTION 98-8397 APPOINTING JAMES DEAN TO THE CODE ENFORCEMENT BOARD; seconded by Barnett 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
REPORT AND RECOMMENDATION REGARDING BICYCLE LANES AND SIDEWALKS FROM 12TH AVENUE SOUTH TO GORDON DRIVE. (10:24 a.m.)

City Manager Richard Woodruff explained that at the request of Council Member Coyle, staff researched the possibility of installing bicycle paths south of the fishing pier. City Traffic Engineer George Archibald explained that based upon existing roadways and rights-of-way, staff is recommending that this path continue south on Gulf Shore Boulevard to 18th Avenue South and along Gordon Drive southward to Kings Town Drive. (A copy of the staff report outlining these recommendations is contained in the file for this meeting in the City Clerk's Office.) After reviewing various options contained in the report, Mr. Archibald recommended a sidewalk from the pier south to 18th Avenue South, located on either side of the roadway, and the re-striping of 18th Avenue to provide bike lanes on both sides. No change is recommended on Gordon Drive, due to the existing 8-foot pathway; a sidewalk is suggested, however, for the east side of the roadway from Kings Town Drive south. Additionally, Mr. Archibald recommended that Council establish a preference for sidewalks on Gulf Shore Boulevard, and he reviewed the costs associated with the various options. (A copy of this information is contained in the staff report already referred to as on file.) Dr. Woodruff then requested Council's direction as to whether staff should proceed in designing the sidewalks, researching possible expansion of the roadway, or leave the roadway as is. He added, however, that this any work on this project could not be funded during the current fiscal year.

Existing conditions for the referenced portion of Gulf Shore Boulevard and Gordon Drive were discussed and Council Member Van Arsdale stressed the importance of accompanying landscape design in sidewalk construction. He also recommended a general policy to narrow vehicle travel lanes as much as possible in order to accommodate pedestrians and cyclists but cautioned against two-way bike lanes, which encourage riding against traffic. In further discussion, Council Member Van Arsdale recommended extending the travel lane which currently terminates at 12th Avenue South (the pier) along Gulf Shore Boulevard to Gordon Drive and direct staff to develop a sidewalk program from 5th Avenue South to Gordon Drive.

The City's potential for liability in striping a path, nine feet from the centerline of the road, was discussed and Mr. Archibald pointed out that this striping would qualify and conform to State standards as an edge line. City Attorney Cuyler further explained that since City will not

encourage use of this edge line and it conforms to State standards, a pedestrian or biker would be assuming the risk caused by using this portion of the roadway.

Council Member Coyle endorsed staff's proposal and suggested that sidewalks and/or bike paths be constructed outside the valley gutter whenever possible, but Vice Mayor MacKenzie noted that the Code requires a sidewalk to abut a property line. After further discussion and after hearing recommendations of Council and staff, Council Member Coyle made the following motion:

Public Input: None. (10:56 a.m.)

MOTION by Coyle to DIRECT STAFF TO EXTEND THE STRIPING OF THE ROADWAY ON GULF SHORE BLVD; PROCEED WITH LINKING GULF SHORE BLVD. SOUTH WITH GORDON DRIVE SOUTH (WITH THE EXCEPTION OF GORDON DRIVE FROM 18TH AVENUE SOUTH TO KINGS TOWN DRIVE); AND DEVELOP A SIDEWALK AND STRIPING ON GORDON DRIVE, SOUTH OF KINGS TOWN DRIVE. IN ADDITION, RE-STRIP GULF SHORE BLVD. (FROM 12TH AVENUE SOUTH TO 21ST AVENUE SOUTH) AND GORDON DRIVE (SOUTH OF KINGS TOWN DRIVE) TO A 9-FOOT WIDTH; WHENEVER THE CITY RESURFACES EITHER OF THESE SECTIONS, THEY WILL BE REBUILT TO 9-FOOT TRAVEL LANES WITH APPROPRIATE WIDTHS FOR BIKE PATHS ON BOTH SIDES. THE DESIGN OF THE SIDEWALK ON GULF SHORE BLVD. SOUTH IS TO EXTEND FROM 5TH AVENUE SOUTH TO 18TH AVENUE SOUTH; 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).

CORRESPONDENCE and COMMUNICATIONS (10:57 a.m.)

Mayor Barnett informed Council that Attorney William Povlitz, who represents the City in its current litigation with Shannon Development Company (re: Naples Landing), would provide a status report on the case during the 11/2/98 Workshop Meeting. Mayor Barnett also relayed that Attorney Povlitz will file the City's response in this litigation, which is due 10/26/98.

Council Member Tarrant then took issue with City Attorney Cuyler's presence during an introductory meeting between Vice Mayor MacKenzie and Attorney Povlitz maintaining that this may have compromised the City's position. City Attorney Cuyler explained that his presence was merely as a courtesy to Vice Mayor MacKenzie. Mrs. MacKenzie confirmed this and added that Mr. Cuyler did not offer any advice during this meeting.

At the request of Council Member Coyle, the City's representative to the Southwest Florida Regional Planning Council, an alternate representative was chosen in order to ensure quorums in the event Mr. Coyle is unavailable.

MOTION by Van Arsdale to APPOINT COUNCIL MEMBER NOCERA AS THE ALTERNATE CITY REPRESENTATIVE TO THE SOUTHWEST FLORIDA REGIONAL PLANNING COUNCIL; seconded by Tarrant and

unanimously carried, all members present and voting. (Coyle-yes, Herms-yes, MacKenzie-yes, Nocera-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes).

Council requested a status report from the Naples Bay Project Committee at the 11/16/98 Workshop and a discussion of issues such as building heights in the waterfront district.

Council Member Herms offered a motion directing staff to allow Key Island Partnership to use the Naples Landing facility in a manner permitted for any other marine contractor (loading and unloading and repair of any dock facilities). Mr. Herms explained that this motion was intended to avoid any discrimination against the Keewaydin Island developers, which could possibly enhance their position in current litigation against the City. Mr. Herms also suggested that staff amend their recent written denial to the developers to specifically stipulate that they may use Naples Landing as any other marine contractor. Mayor Barnett and Council Member Van Arsdale, however, suggested that such action be taken only at the recommendation of Attorney William Povlitz, and it was the consensus of Council that staff would seek Mr. Povlitz' direction as soon as possible.

MOTION by Herms to DIRECT STAFF TO SEEK ATTORNEY WILLIAM POVLITZ' DIRECTION RELATIVE TO USE OF THE NAPLES LANDING FACILITY, BY KEEWAYDIN ISLAND DEVELOPERS, IN A MANNER PERMITTED FOR ANY OTHER MARINE CONTRACTOR (LOADING AND UNLOADING AND REPAIR OF ANY EXISTING DOCK FACILITIES);
seconded by Tarrant and unanimously carried, all members present and voting. (Coyle-yes, Herms-yes, MacKenzie-yes, Nocera-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes).

City Manager Richard Woodruff, however, clarified that the Keewaydin developer's request was denied because they intended to use Naples Landing for development activities, not for repair of existing docks, bulkheads, or seawalls.

In response to Council Member Herms, Dr. Woodruff provided an update regarding the recent 41-10 Special Committee meeting where it was determined that structures only would be used to compute average building heights on U.S. 41 and between 9th and 10th Avenues. Height averaging between 8th and 9th Avenues, however, could include parking lots. Council Member Coyle added that parking lots on the avenues would be counted as a one-story building and included in the averaging for the entire frontage process (in terms of four-story construction). Joint discussions with the 41-10 Special Committee will take place during the 11/2/98 Workshop Meeting (2:00 p.m.) in order to address Council, Planning Advisory Board and citizen concerns and questions.

Council Member Herms sought the status of an ordinance that will, under certain conditions, allow a commercial property owner to obtain a construction permit.

Vice Mayor MacKenzie informed Council that the City's first 30-minute television program (Channel 10) had been taped and asked for recommendations regarding future topics. Mrs. MacKenzie also commented on the availability of North Naples United Methodist Church property (600 Seagate Drive) and requested a consensus of Council as to whether the City should

pursue acquisition of this property (or portion thereof) for use as a City park. Potential financing/funding sources for this purchase were discussed, including donations and contributions from homeowners' associations. Dr. Woodruff, however, noted that the immediately adjacent church had also expressed interest in purchasing a portion of the property in the hope that the City or the School Board of Collier County would purchase the remainder. Council Member Coyle referred to the recent purchase of the Wilkinson House and maintained that it would be counterproductive to initiate such fundraising efforts simultaneously. Council Member Nocera recommended establishment of a land trust account wherein neighborhoods could donate funds for this purpose. Council Member Van Arsdale, however, said he supported further research into the possible City acquisition of all or part of the property and suggested an additional one-cent on the utility tax as a revenue source. Member Tarrant recommended that the City establish priorities regarding such property acquisition initiatives.

It was determined that no action would be taken until the adjacent church communicates its intent in writing relative to acquisition.

OPEN PUBLIC INPUT

Philip McCabe, 699 Fifth Avenue South, requested Council's assistance in order to permit a day spa and beauty salon, open to the public, on the third floor of the Inn on Fifth. Mr. McCabe contended that this spa/exercise facility was always contemplated in the approved hotel plans and always intended to be open to the public, as are the other hotel facilities. He also explained that he had leased this space to the operators of the spa; however, the Building Department denied a permit since this use does not comply with the Fifth Avenue South Special Overlay District regulations. City Manager Richard Woodruff relayed staff's position that this space was permitted for exercise rooms only (not a beauty salon) and subsequent requests for modifications applied to the rest rooms only. Dr. Woodruff disagreed that the plans had always contemplated a day spa and beauty salon and further noted that the Code prohibits third-floor commercial uses in this district. As such, a waiver is required. Plans Examiner Bill Taylor further relayed that Mr. McCabe had indicated to him that the exercise rooms would not have showers since they were intended for hotel guests.

Council Member Tarrant urged Council to take whatever action necessary to settle this issue since the hotel's viability is important to the community. Council then discussed various aspects of the building plans and current permits and Dr. Woodruff reminded Council that a spa is no longer an accessory use when open to the public. Council Member Herms questioned whether Council, in its approval of the hotel, actually granted a third-floor commercial use and suggested that the City Attorney review the record. Mayor Barnett took the position that Mr. McCabe should follow the formal waiver process, but Mr. McCabe said this would unduly delay hotel operations. Mr. McCabe conceded, however, that the beauty salon could be a separate issue. Council Member Coyle questioned the wisdom of the operating this business on the same floor as guest rooms, and Council Member Nocera suggested a compromise which would permit the day spa and require the petitioner to comply with the formal waiver process for the proposed beauty salon.

MOTION by Nocera to PERMIT A WAIVER AS IT RELATES TO THE PROPOSED DAY SPA (OPEN TO THE PUBLIC); HOWEVER, REQUIRE THAT THE PETITIONER COMPLY

WITH THE CITY'S WAIVER APPROVAL PROCESS FOR THE PROPOSED BEAUTY SALON; *seconded by Tarrant and carried 4-3, all members present and voting. (Herms-yes, Coyle-no, Nocera-yes, Van Arsdale-yes, MacKenzie-no, Tarrant-yes, Barnett-no).* In his dissenting vote, Council Member Coyle commented that the City staff has complied with the Code in this case and the petitioner should follow the proper waiver approval process. Vice Mayor MacKenzie concurred and stated that the waiver process is required since the operations will be open to the public. Council Member Van Arsdale, however, contended that Council had anticipated this type of activity as a normal function of the hotel. Council Member Herms reiterated his request for more information regarding Council's vote in approving the hotel.

ADJOURN.....
11:51 a.m.

Bill Barnett, Mayor

Tara A. Norman, City Clerk

Prepared by

Virginia A. Neet, Deputy City Clerk

Minutes Approved: 11/4/98.