



City Council Chamber
735 Eighth Street South
Naples, Florida 34102

City Council Regular Meeting – November 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:
Richard L. Woodruff, City Manager
Kenneth B Cuyler, City Attorney
Ron Lee, Interim Planning Director
Ann Walker, Planner II
Dr. Jon Staiger, Natural Resources Mgr.
Virginia Neet, Deputy City Clerk
Jessica Rosenberg, Recording Specialist
Duncan Bolhover, Admin. Specialist
Corey Ewing, Planner I
Molly Reed, Planning Technician
Werner "Duke" Haardt
Virginia Corkran
Bob Wallace
Jane Wallace
Pastor David Mallory
Father Tim Navin
Helen Stevens

Cheryl Coyle
Angie Brewer
John Passidomo
Dr. Leslie Norins
Rainey Norins
Leo Salvatori
Dr. Ron Benson
Paul Slater
William Gunlicks
Bruce Selfon

Media:

Denes Husty, Fort Myers News Press
Mike McCormick, Naples Daily News
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 (9:02 a.m.) **ITEM 2**
Father Tim Navin, St. Peters Catholic Church.

ANNOUNCEMENTS (9:03 a.m.) **ITEM 3**
City Manager Richard Woodruff recognized the C.A.S.E students (City Action Seminars for Education) who were in the audience. Molly Reed, coordinator, noted that the students had toured Naples Bay, the City landfill, and the 41-10 and Fifth Avenue South Redevelopment Districts. The three schools represented were Naples, Lely, and Barron Collier High Schools.

Mayor Barnett read a proclamation designating November 1st through 7th as Naples Garden Club Week in recognition of the club's 45th year anniversary. Formed with 30 people in 1953, it now has 210 members. The club has donated funds, labor and material for landscaping many public facilities and has awarded scholarships to students who chose to study horticulture, landscape design or environmental studies.

Mayor Barnett also designated November 22nd through 29th 1998, as Naples Traditional Family Values Week on behalf of The Greater Naples Ministerial Association and the Collier County Evangelical Ministerial Association.

Landscape architect Ellen Goetz presented the Mayor and City Manager Richard Woodruff, on behalf of the Florida Nurserymen and Growers Association, the 1998 Award of Excellence for the revitalization of the Fifth Avenue South streetscape designed by the Goetz firm.

ITEMS TO BE ADDED (9:13 a.m.) **ITEM 4**
City Manager Richard Woodruff requested that the following items be added to the agenda:

Item 17 Consider a waiver from the 5th Avenue South Special Overlay District in order to permit an anodized aluminum window frame finish at 837 5th Avenue South.

Item 18 Consider a waiver from the 5th Avenue South Special Overlay District in order to permit a blue-green color for steel columns and arched bridge structure at 837 5th Avenue South.

Item 19 Review of topics for upcoming broadcasts of the City television program "Naples Reports".

MOTION by Herms to SET AGENDA and ADD ITEMS 17, 18, 19; 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 5-c**
AUTHORIZE AN ANNUAL PURCHASE ORDER, BASED ON A COLLIER COUNTY REQUEST FOR QUOTATIONS, FOR TIRES AND TIRE SERVICE \ Vendors: Collier Tire & Auto Repair, Naples, Florida and Production Tire, Bonita Springs, Florida \ Est. Annual Expenditures: \$80,000.00 \ Funding: Equipment Services 52-06 Fund. (9:14 a.m.)

Vice Mayor MacKenzie expressed concern that one of the two vendors had not bid on all items and City Manager Richard Woodruff suggested a continuance in order to obtain additional information.

Public Input (on continuance): None. (9:14 a.m.)

MOTION by MacKenzie to CONTINUE ITEM 5-c TO THE 11/18/98 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)

CONSENT AGENDA

APPROVAL OF MINUTES.....ITEM 5-a
10/7/98 Regular Meeting; 10/19/98 Workshop Meeting; 10/19/98 Workshop Tour (Big Cypress Basin); 10/21/98 Regular Meeting.

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

- (1) Naples Art Association Art Shows - 11/7 & 12/5
- (2) Naples Artcrafters Art Shows - 11/14, 2/27/99 & 3/37/99
- (3) 5th Avenue South Association
Christmas Parade and Celebration Under the Stars - 12/1

- (4) 3rd Street South Association Christmas Parade & Evening of Entertainment - 12/1

If it is determined that a downtown special event will impact Post Office parking, the event holder is required to hire an off-duty police officer to ensure that this parking lot is available to Post Office customers.

..... **ITEM 5-d**
AUTHORIZE A CHANGE ORDER IN THE AMOUNT OF \$66,024.10 TO BETTER ROADS, INC., FOR ADDITIONAL WORK ASSOCIATED WITH THE CONSTRUCTION OF AN INTERSECTION AT GOODLETTE-FRANK ROAD AND 3RD AVENUE SOUTH \ Funding: Special Assessment, CIP #99L02 (Water Transmission Mains), and property owners.

RESOLUTION 98-8398..... ITEM 5-f
A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONSENT AND JOINDER TO MUTUAL USE AGREEMENT BETWEEN THE CITY OF NAPLES AND COLLIER COUNTY FOR UTILITY RELOCATION, OPERATION AND MAINTENANCE AT THE INTERSECTION OF LIVINGSTON ROAD AND GOLDEN GATE PARKWAY; AND PROVIDING AN EFFECTIVE DATE. Title not read.

MOTION by Herms to APPROVE CONSENT AGENDA ITEMS 5-a, 5-b, 5-d, AND 5-f and REMOVE ITEM 5-e FOR SEPARATE DISCUSSION; 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 98-8399.....ITEM 16
A RESOLUTION AUTHORIZING APPLICATION FOR A STATE REVOLVING FUND LOAN, PROVIDING ASSURANCES, ESTABLISHING PLEDGED REVENUES,

DESIGNATING THE CITY MANAGER AS AN AUTHORIZED REPRESENTATIVE; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Richard Woodruff. (9:20 a.m.)

City Manager Woodruff explained that this resolution authorizes an application for state revolving loan funds, which could potentially, result in a 3% interest savings over the municipal bond market. Consultant Angie Brewer, of Angie Brewer and Associates, compared the State Revolving Loan Program to the current loan program for wastewater projects. The new program, she explained, provides subsidized loans for municipal water capital projects with no tax penalty for prepayment and at a 3.05% interest rate.

Dr. Ron Benson, of Hole, Montes, and Associates, Inc., then reviewed the individual projects contained in the Water Facilities Plan. (A copy of this material is contained in the file for this meeting in the City Clerk's Office.) Dr. Benson noted how existing wellfields could be modified as a cost-effective method of increasing their capacities. Potential modification to the Water Plant Residuals Management Facility (Water Treatment Plant) was discussed as a means to reduce impact on the water treatment process and to produce better quality water. Other water projects, Dr. Benson explained, pertained to color removal, construction of a new pumping station to improve water pressure, and relocation of raw water transmission lines.

Ms. Brewer then provided additional information regarding submission of the State Revolving Fund Loan application and stated for the record that there are no long-term adverse environmental impacts as a result of these projects. She confirmed that both the projects and the Water Facilities Plan were consistent with the City's Comprehensive Plan and added that these projects would not impact the current utility rate structure. The annual debt service is estimated to be \$691,726.00, which is based on the total project costs. Council Member Tarrant commended former Council Member Alan Korest for identifying this funding source but added that he thought the 3.05% interest was excessive since taxpayers are actually funding this program. He further stressed that water management and land development issues should be closely linked. Other aspects of the loan program were discussed and Ms. Brewer explained that the federal government provides 80% of the grant while the state provides the remaining 20%. It was also noted that this program could be further expanded to fund stormwater projects. In response to Council Member Herms, Ms. Brewer explained that the Department of Environmental Protection appropriates these funds; she described the program as a return on local tax dollars. Mr. Herms, however, requested additional information regarding the exact source of these taxes.

Public Input: None. (9:42 a.m.)

MOTION by Nocera to APPROVE RESOLUTION 98-8399 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) After the vote, Dr. Woodruff noted that one of the projects, the Port Royal booster station was nearing completion.

ORDINANCE 98-8400.....ITEM 6-a
AN ORDINANCE GRANTING REZONE PETITION 98-R5, IN ORDER TO REZONE
THE CITY BLOCK BOUNDED ON THE EAST BY U.S. 41 NORTH, ON THE SOUTH BY

FIFTH AVENUE NORTH, ON THE WEST BY EIGHTH STREET NORTH, AND ON THE NORTH BY SIXTH AVENUE NORTH TO “PD,” PLANNED DEVELOPMENT, FROM “C2,” GENERAL COMMERCIAL DISTRICT, AND “R3-12,” MULTIFAMILY DISTRICT, IN ORDER TO PERMIT A MIXED-USE DEVELOPMENT WITH COMMON PARKING, SAID PROPERTY MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Richard Woodruff. (9:43 a.m.)

**RESOLUTION 98-8401..... ITEM 6-b
A RESOLUTION GRANTING ALLEY VACATION PETITION 98-AV2, TO VACATE THE REMAINDER OF THE EAST/WEST ALLEYWAY WITHIN THE CITY BLOCK BOUNDED ON THE EAST BY U.S. 41 NORTH, ON THE SOUTH BY FIFTH AVENUE NORTH, ON THE WEST BY EIGHTH STREET NORTH, AND ON THE NORTH BY SIXTH AVENUE NORTH, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.** Title read by City Manager Richard Woodruff. (9:43 a.m.)

It is noted for the record that Items 6-a and 6-b were considered concurrently.

City Manager Woodruff noted that at the first reading, Council had requested a comparison of the 41-10 Special Committee's recommendations and the proposed development. This comparison was accomplished at a special meeting of the 41-10 Special Committee wherein all aspects of the proposed development were reviewed.

Planner Ann Walker noted that the development met a majority of the proposed regulations, however, three issues remained: height averaging, the proposed curved awnings, and the three gable-end projections which enter the spatial perception setback. Ms. Walker relayed, however, that the 41-10 Special Committee had endorsed the project as proposed. In their discussions regarding height averaging, the Committee determined that the average would be based on the four-story section of the tallest building, not the entire building length and the dimensions of the lower elements. Ms. Walker then referred to the rendering (a copy of this material is contained in the file for this meeting in the City Clerk's Office) and noted that if a portion of the parking lot (handicap parking) were covered, it would meet the height averaging requirement of the Committee.

City Attorney Kenneth Cuyler explained that being a quasi-judicial proceeding, Council Members must disclose ex parte communications with the petitioner or other parties regarding this item. Council Member Herms stated that he received correspondence from the petitioners and had had conversations with the petitioner's attorney. Council Member Nocera relayed that he had spoken with the petitioner regarding the project, and Vice-Mayor MacKenzie stated that she had also spoken to the petitioner and other interested parties. Mayor Barnett and Council Member Van Arsdale relayed conversations with the petitioner and architects, while Council Member Coyle stated that he had also met with the petitioner. Likewise, Council Member Tarrant stated that he had also spoken to the petitioner regarding the project. A voluntary oath was then administered to those intending to offer testimony on this issue.

The basis for the height averaging aspect of the proposed 41-10 regulations was discussed at length. In response to concerns expressed by Council Member Herms, Dr. Woodruff clarified that, it is the dimension of the fourth floor that should be averaged, not the exterior dimensions of the total building. It is also the intent of the 41-10 Special Committee to encourage architectural enhancements. Aesthetics of the suggested covered parking component was also discussed, and Council Member Van Arsdale observed that the proposed location for the parking might interfere with existing trees.

Petitioner, Dr. Leslie Norins, emphasized that his project is a Planned Development (PD) independent of the proposed regulations which are as yet uncertain and should not determine whether this project proceeds. He said he felt everything feasible had been done to comply with all reasonable recommendations and offered to modify the awning design in order to receive unanimous Council support. Dr. Norins also agreed to include the covered parking component, if necessary, and confirmed that every tree possible would be preserved.

Other components discussed include the fact that the new and existing sidewalks would align and there would be a landscape buffer between the new sidewalk and US 41. Although architect Janice McBride, of McWard Architects, Inc., assured Council that the sign plan would reflect the conservative attitude of the building, Dr. Woodruff suggested that signage be required to comply with the new 41-10 regulations. Council Member Coyle stated that although he did not agree with all aspects of height averaging, he felt the proposed development sufficiently reduced the massing effect, but he recommended against attached covered parking solely to meet the requirements.

Attorney Leo Salvatori, representing the petitioners, used aerial renderings to illustrate the present alleyways which, he observed, bisect the block and extend east from Eight Street North into approximately the center of the site. Dead-end alleyways were necessary prior to common ownership of the site in order to access utilities and for garbage collection, but not necessary under unified ownership. A utility easement would be granted although a public access easement would not be included, Mr. Salvatori said.

Public Input: None for Items 6a and 6b (11:00 a.m.)

MOTION by Herms to ADOPT ORDINANCE 98-8400 (Item 6-a) AMENDED AS FOLLOWS: 1) SIGNAGE WILL REFLECT THE EXACT SIGNAGE REGULATIONS APPLIED TO THE COMPLETE 41-10 DOWNTOWN DISTRICT; 2) THE SIX PARKING SPACES ON THE SOUTHWEST CORNER OF THE EXISTING MULTI-FAMILY AREA WILL BE DELETED FROM THE PROJECT; 3) THE 8TH STREET PARALLEL PARKING MUST MEET OR EXCEED THE LANDSCAPING AND LAYOUT REQUIREMENTS ESTABLISHED BY THE 41-10 SPECIAL COMMITTEE; 4) IF ANY NEW PARKING SPACES ARE CREATED ON THE NORTH SIDE OF 5TH AVENUE NORTH, 50% MUST BE ALLOCATED TO RESIDENTIAL PURPOSES; 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 98-8401 (Item 6-b) AMENDED TO REQUIRE RE-ESTABLISHMENT OF THE PUBLIC ALLEYS (RIGHTS-OF-WAY) IF THE PROPERTY IS SUBDIVIDED (ALLEYS' CONFIGURATION WOULD BE DETERMINED AT THE TIME THEY ARE RE-ESTABLISHED) AND TO BE CONTINGENT UPON ADOPTION OF UTILITY EASEMENTS ACROSS THE PROPERTY;
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)

Recess 11:00 a.m. - 11:07 a.m. It is noted for the record that the same Council Members were present when the meeting reconvened.

RESOLUTION 98-8402.....ITEM 7
A RESOLUTION GRANTING SUBDIVISION PLAT APPROVAL PETITION 98-SD2 FOR PRELIMINARY AND FINAL SUBDIVISION PLAT APPROVAL TO RE-PLAT TRACTS "A", "B", AND "C" OF THE CHAMPNEY BAY SECTION OF PORT ROYAL, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Richard Woodruff. (11:08 a.m.)

Dr. Woodruff explained that this petition concerns at 3400 Gordon Drive being relocated across the street. Attorney John Passidomo, on behalf of the petitioners, related that there had been no objections from the adjacent property owners, nor would there be any development in the rear access easement area. The purpose of the petition, he explained, would be to move the lot line in order to accommodate a new home and pool, the setback in this case being measured from the rear property line. Lastly, he stated that approval has been given for a statement on the plat clarifying that the pre-existing easement does nothing to constitute a public dedication of those pre-existing private rights nor does it do anything to reinstate those pre-existing private rights.

Public Input: None (11.20 am)

MOTION by Nocera to APPROVE RESOLUTION 98-8402 and seconded by Van Arsdale and unanimously carried, all members present and voting. (Coyle-yes, Hermes-yes, MacKenzie-yes, Nocera-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes)

RESOLUTION 98-8403.....ITEM 8
A RESOLUTION GRANTING CONDITIONAL USE PETITION 98-CU20 IN ORDER TO ALLOW EXPANSION OF SHELTON IMPORTS, INC. LOCATED AT 850 NINTH STREET NORTH, TO THE PROPERTIES LOCATED AT 900 AND 950 NINTH STREET NORTH, MORE PARTICULARLY DESCRIBED HEREIN, SUBJECT TO VARIOUS CONDITIONS; PROVIDING FOR THE CITY CLERK TO RECORD SAID CONDITIONAL USE; AND PROVIDING AN EXPIRATION DATE AND AN EFFECTIVE DATE. Title read by City Manager Richard Woodruff: (11:21 a.m.)

City Manager Woodruff requested that approval include the conditions recommended by staff. (A copy of this material referred to is contained in the file for this meeting in the City Clerk's Office.) Council Member Van Arsdale noted his opposition to pole signs, and Dr. Woodruff proposed this prohibition be included among them. A brief discussion followed regarding prohibiting loudspeakers; however, petitioner's agent Len Berlin, assured Council that the

dealership does not currently use loudspeakers and that there were no plans to do so in the future. The Council then debated the efficacy of extending beyond the 12-months in which a conditional use must commence, since the petitioner is requesting a five-year period before expiration. Petitioner's attorney John Passidomo explained that the extension is necessary in order for the Sheltons to purchase this property and proceed with the development. He further assured Council that the petitioner is not a speculator but cannot risk the conditional use lapsing prior to acquisition of other adjacent properties.

Public Input: None (11:36 a.m.)

MOTION by Van Arsdale to APPROVE RESOLUTION 98-8403, AMENDED AS FOLLOWS: 1) STAFF RECOMMENDED CONDITIONS WILL BE INCLUDED, 2) THERE WILL BE A FIVE YEAR TIME LIMIT FOR THE CONDITIONAL USE TO COMMENCE, AND 3) NO NEW SIGN POLES WILL BE CONSTRUCTED; *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 98-8404.....ITEM 9a
A RESOLUTION GRANTING VARIANCE PETITION 98-V24 FROM SECTIONS 102-144 AND 102-145 OF THE CODE OF ORDINANCES, WHICH REQUIRE A MINIMUM LOT AREA OF 15,000 SQUARE FEET AND A MINIMUM LOT WIDTH OF 100 FEET, RESPECTIVELY, FOR PROPERTIES IN THE “R1-15” RESIDENCE DISTRICT, IN ORDER TO PERMIT CONSTRUCTION OF A SINGLE FAMILY RESIDENCE ON A 12,800 SQUARE FOOT, 64 FOOT LOT AT 950 GULF SHORE BOULEVARD SOUTH, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Richard Woodruff (11:37 a.m.)

RESOLUTION 98-8405.....ITEM 9b
A RESOLUTION GRANTING ALLEY-ONLY ACCESS APPROVAL FOR PROPERTY LOCATED AT 950 GULF SHORE BOULEVARD SOUTH, MORE PARTICULARLY DESCRIBED HEREIN, AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Richard Woodruff (11:37 am)

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

City Manager Woodruff explained that the petitioners wish to demolish the current structure and potentially build another residence. Although the property was split in 1972, it did not meet minimum lot width and area requirements despite the fact that a building permit was issued in 1975 for the existing residence, he said. Since the government never technically created this lot, a variance is now required. Likewise, the alley-only access should also be formally approved. Dr. Woodruff stated that the petitioners wish merely to create a government record of the approved property configuration. Council Member Van Arsdale observed that there are several properties in Naples which have been created through changes to the zoning code and suggested a more comprehensive approach in dealing with the issue. After further discussion, it was determined that staff and the City Attorney would research amending the code accordingly.

Public Input: None (11:42 a.m.)

MOTION by Herms to APPROVE RESOLUTION 98-8404 (Item 9-a) 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)

MOTION by Herms to APPROVE RESOLUTION 98-8405 (Item 9-b) 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)

**RESOLUTION 98-8406ITEM 10
A RESOLUTION GRANTING EASEMENT VACATION PETITION 98-EV3 FOR VACATION OF A TEN-FOOT WIDE DRAINAGE EASEMENT AT 584 BANYAN BOULEVARD, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Richard Woodruff (11:43 a.m.)**

City Manager Woodruff explained that an easement exists between Lots 70 and 71. The petitioners wish to combine the lots in order to create lot and one-half configuration. A new property line and the replacement drainage easement would be located in the middle of lot 70. Dr. Woodruff confirmed that there are currently no utilities in the subject easement and it serves no purpose, although staff is recommending the petitioner provide a replacement easement along the west side of the easterly one-half of Lot 70. **Council Member Nocera then recommended a policy whereby property owners, who benefit from the vacation of City property, be required to donate to Naples Land Trust; City Attorney Cuyler said he would research the possibility.**

Public Input: None (11:46 a.m.)

MOTION by Van Arsdale to APPROVE RESOLUTION 98-8406 AS SUBMITTED; 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)

**RESOLUTION 98-8407.....ITEM 11
A RESOLUTION GRANTING VARIANCE PETITION 98-V23 FROM SECTION 106-35(a)(1) OF THE CODE OF ORDINANCES, WHICH PERMITS ONE WALL SIGN PER STREET FRONTED UPON FOR SINGLE-TENANT PARCELS, IN ORDER TO PERMIT TWO WALL SIGNS AT 250 NINTH STREET SOUTH, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.**

Title read by City Manager Richard Woodruff (11:47 a.m.)

Petitioner Paul Slater, of Naples Downtown Corporation (owner of the Lemon Tree Inn) explained that when the permit was obtained for the existing *Lemon Tree* sign on the north building façade, the sign contractor failed to secure a permit for an identical south façade sign. Since that time, the City's sign ordinance was amended and the south façade sign is now prohibited; consequently, only a generic *Inn* shows on this side of the building. To correct the situation, Mr. Slater requested a variance in order to include the name of the establishment on the south facade as well.

Public Input: None. (11:57 a.m.)

MOTION by Herms to APPROVE RESOLUTION 98-8407 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)

ORDINANCE (First Reading).....ITEM 12
AN ORDINANCE REZONING CERTAIN PROPERTIES, MORE PARTICULARLY
DESCRIBED HEREIN, TO BE CONSISTENT WITH THE CITY’S ADOPTED
COMPREHENSIVE PLAN; AND PROVIDING A SEVERABILITY CLAUSE, A
REPEALER PROVISION, AND AN EFFECTIVE DATE. Title read by City Manager Richard Woodruff. (11:58 a.m.)

City Manager Woodruff explained that this ordinance will rezone certain properties for consistency with the City’s newly adopted Comprehensive Plan. Dr. Woodruff stated that Bayview Park would be rezoned from “R1-7.5” Residence District to “PS” Public Service and the area just to the south would be rezoned to “C” Conservation. Further, Interim Planning Director Ron Lee stated for the record that Parcel 1 is the portion of Keewaydin Island purchased by the State in the early 1990’s; Parcels 2 and 3 are owned by Collier Development Corporation; Parcel 4 (Bayview Park) is owned by Collier County, Parcel 5 (which was already rezoned) is Champney Bay; and Parcel 6 is owned by the City. **Council Member Nocera observed that Parcel 3 could facilitate a fuel dock in this area and it was determined that Dr. Woodruff and Natural Resources Manager Jon Staiger would research this possibility and report back to Council.**

Public Input: None. (12:01 p.m.)

MOTION by Coyle to APPROVE THIS ORDINANCE ON FIRST READING;
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 (First Reading).....ITEM 13
AN ORDINANCE AMENDING SUBSECTION (f)(3) OF SECTION 102-784; DELETING
SUBSECTION (e)(4) OF SECTION 102-788 AND ADDING SUBSECTION (F) TO
SECTION 102-788 OF THE CODE OF ORDINANCES IN ORDER TO REQUIRE
CONDITIONAL USE APPROVAL FOR MARINAS LOCATED IN CLASS II AND
CLASS III WATERS; AND PROVIDING A SEVERABILITY CLAUSE, A REPEALER
PROVISION AND AN EFFECTIVE DATE. Title read by City Manager Richard Woodruff (12:02 p.m.)

Interim Planning Director Ron Lee explained that this ordinance is intended to simplify the zoning process for marinas in both Class II and Class III waters by requiring conditional use approval instead of the present requirement for Planned Development zoning which leaves potential marina properties without underlying zoning, even when the marina is a permitted land use. There is also a conflict between wording for the Waterfront Commercial (C2-A) and the Conservation districts since the code holds that any submerged lands abutting C-2A zoning shall have the same zoning as the upland; another part of the code, however, requires rezoning to Planned Development. The conditional use process, Mr. Lee explained, is intended to reconcile

this inconsistency. It was also noted that this ordinance could improve the City's legal position in the control of Naples Bay as it relates to conservation and quality. **Vice Mayor MacKenzie, however, expressed concerns that the affected marina owners had not been notified of this amendment; therefore, it was determined that the proposed ordinance would be reviewed by the Naples Bay Project Committee prior to Second Reading.**

Public Input: None (12:10 p.m.)

MOTION by Nocera to **APPROVE THIS ORDINANCE ON FIRST READING**; 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 98-8408.....ITEM 14
A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDMENT TO THE AGREEMENT WITH WARNER ARCHITECTS, INC. IN SUBSTANTIALLY THE FORM ATTACHED HERETO WITH CHANGES APPROVED BY THE CITY ATTORNEY, IN AN AMOUNT NOT TO EXCEED \$3,000.00, FOR DEVELOPMENT OF A BUILDING PROGRAM AND COST ESTIMATE FOR THE WATERFRONT OPERATION CENTER (CITY DOCK); AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Richard Woodruff (12:11 p.m.).

City Manager Woodruff provided background information regarding the selection of Warner Architects, Inc., for the design of the new Waterfront Operations Center and explained that authorization would provide for a building program (basic floor plan and schematics) for Council review prior to proceeding. Vice Mayor MacKenzie commented that although Warner is the top-ranked firm, Council strongly recommended that Suboceanic Consultants, Inc., be part of the design team. In response, Dr. Woodruff confirmed that Suboceanic would be contacted during the final design process.

Public Input: None (12:13 p.m.)

MOTION by Nocera to **APPROVE RESOLUTION 98-8408) 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 15
WILKINSON HOUSE - SUPPORT FOR FUNDRAISING ACTIVITIES (Requested by Council Member Herms) (12:14 p.m.)

Council Member Herms requested Council's concurrence in order to broadcast a 30-second public service announcement promoting fundraising activities for the Wilkinson House during a 30-minute program on the Wilkinson House produced by the Collier County Historical Society on Channel 54 and MediaOne. Council then viewed the announcement and Council Member Herms stressed that this is purely a public service issue and would not be funded by the City. (A copy of this public service announcement is contained in the file for this meeting in the City Clerk's office.)

Dr. Woodruff then noted potential delays in the establishment of a City-designated cable channel and Council Member Coyle suggested workshop discussions with MediaOne representatives (preferably management) regarding this postponement.

MOTION by Nocera to ALLOW A 30-SECOND PUBLIC SERVICE ANNOUNCEMENT AND 30-MINUTE PROGRAM REGARDING THE WILKINSON HOUSE TO RUN ON CHANNEL 54 (OR CITY CHANNEL) THREE TIMES PER WEEK; 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 98-8409.....ITEM 17
A RESOLUTION GRANTING SAC WAIVER PETITION 98-9 FOR A WAIVER FROM SECTION 102-1095(E)(11)(A) OF THE CODE OF ORDINANCES, FIFTH AVENUE SOUTH SPECIAL OVERLAY DISTRICT, IN ORDER TO PERMIT AN ANODIZED ALUMINUM FINISH ON THE WINDOW FRAMES AT 837 FIFTH AVENUE SOUTH, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE. (See related Item below.)

RESOLUTION 98-8410.....ITEM 18
A RESOLUTION GRANTING SAC WAIVER PETITION 98-10 FOR A WAIVER FROM SECTION 102-1095(e)(2) OF THE CODE OF ORDINANCES, FIFTH AVENUE SOUTH SPECIAL OVERLAY DISTRICT, IN ORDER TO PERMIT A BLUE-GREEN COLOR FOR STEEL COLUMNS AND ARCHED BRIDGE STRUCTURE AT 837 5TH AVENUE SOUTH, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Titles were not read (12:22 p.m.)

It is noted for the record that Items 17 and 18 were considered concurrently.

City Manager Richard Woodruff explained that this is a request for two waivers from the Fifth Avenue South Special Overlay District in order to allow for colors and finishes that are not specifically permitted for a new building at 837 Fifth Avenue South. The Staff Action Committee on October 27th voted unanimously to deny the anodized window finish and the blue-green arch grid support and steel columns; however SAC did recommend that Council grant a waiver for the arch grid support and columns.

Public Input: None (12:23 p.m.)

MOTION by Tarrant to APPROVE RESOLUTION 98-8409 (Item 17) 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)

MOTION by Tarrant to APPROVE RESOLUTION 98-8410 (Item 18) 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 5-e
APPROVE AN AFTER-THE-FACT PURCHASE ORDER FOR SIDEWALK, CURB, AND DRAINAGE IMPROVEMENTS FOR PORTIONS OF THE FIFTH AVENUE SOUTH ALLEY AND PARK STREET AS PART OF THE CAMBIER PARK MASTER PLAN\Contractor: Kraft Construction, Inc., Naples, Florida\ Amount \$38,000.00 (not to exceed)\Funding: CIP #99G14 (Cambier Phase II).

City Manager Richard Woodruff explained that this is a request for an after-the-fact purchase order for the installation of curbing, sidewalks, and drainage as part of the Fifth Avenue and Park Street reconstruction project (near the Art Center). In response to Council Member Herms, Dr. Woodruff provided additional detail regarding relocation of drainage and noted that the new sidewalks would eventually connect to the sidewalks at the baseball field.

Public Input: None (12:26 p.m.)

MOTION by Nocera to APPROVE ITEM 5-e 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 19
REVIEW OF TOPICS FOR UPCOMING BROADCASTS OF THE CITY-TELEVISION PROGRAM “NAPLES REPORTS” (Request by Vice Mayor MacKenzie)

Vice Mayor MacKenzie asked Council Members for input regarding topics for upcoming broadcasts of the City’s new “Naples Reports” program. The list of potential subjects was provided by Carl Loveday, the moderator of the program, and was presented at a previous workshop. Council members then suggested various topics. In response to a suggestion that the show list the Council’s accomplishments, Council Member Tarrant stressed that this should apply only to things actually achieved. He also stated that they should truly reflect Council as a whole and not just an individual Council Member’s work. After further discussion, the following agenda of topics was set.

MOTION by Herms to APPROVE THE FOLLOWING SCHEDULE OF TOPICS: 1) DECEMBER, 1998 – THE COMMUNITY THEATER AND THE ARTS CENTER, 2) JANUARY, 1999 – ANNUAL REPORT/SUMMARY OF THIS COUNCIL’S ACCOMPLISHMENTS DURING THE PRIOR YEAR, 3) FEBRUARY, 1999 – UPDATE ON GORDON RIVER BRIDGE RECONSTRUCTION AND GATEWAY BEAUTIFICATION PROJECT; 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)

OPEN PUBLIC INPUT (12:33 p.m.).....

Bruce Selfon, 71 12th Avenue South, distributed a time-line regarding his attempts to acquire a building permit for what he described as minor repairs to his guesthouse. (Attachment 1) To repair termite damage and enclose the porch, he said that he had been unable to secure a permit due to a determination that these repairs are deemed a major remodeling and, according to FEMA (Federal Emergency Management Agency) worksheets, valued at \$25,000.00. Mr.

Selfon, however, contended that the actual costs for these repairs are below \$5,000.00. He also complained about being obligated to hire an appraiser merely to confirm the minor value of the repairs, while at the same time, the City may hire another appraiser who might disagree. He then asked Council to accept the stamped drawings as prepared by his architects, which meet all codes requirements, and therefore grant the permit. Council Member Herms said that he had visited the property and that the repairs were indeed minor. Council Member Van Arsdale, however, took the position that more information from the Building Department is needed. Council Member Tarrant stated that he too had visited the site and agreed that Mr. Selfon had been troubled unnecessarily. City Manager Richard Woodruff then provided additional information regarding FEMA flood elevation requirements and noted that building permit applications submitted after-the-fact are penalized at four times the normal permit fee. In further discussions, Council Member Coyle suggested that Mr. Selfon provide an appraisal to verify that the repairs are indeed minor.

Public Input: None (12:48 p.m.)

MOTION by Herms to APPROVE THE IMMEDIATE ISSUANCE OF A BUILDING PERMIT TO BRUCE AND LOIS SELFON, 71 12TH AVENUE SOUTH, FOR THE MINOR REPAIR WORK (\$4,000.00) TO THEIR GUEST HOUSE; seconded by Nocera and carried 6-1, all members present and voting (Van Arsdale-no, Nocera-yes, Tarrant-yes, Coyle-yes, Herms-yes, MacKenzie-yes, Barnett-yes)

It is noted for the record that Council Member Van Arsdale left the meeting at 12:49 p.m. and returned prior to adjournment. He was not present during the next vote.

MOTION by Herms to DIRECT THE BUILDING DEPARTMENT TO CHARGE THE SELFONS' THE NORMAL BUILDING PERMIT FEE (AS OPPOSED TO 4 TIMES THE NORMAL FEE FOR AN AFTER-THE-FACT PERMIT); seconded by Tarrant and carried 6-0. (Van Arsdale-absent, Nocera-yes, Tarrant-yes, Coyle-yes, Herms-yes, MacKenzie-yes, Barnett-yes)

CORRESPONDENCE and COMMUNICATIONS (12:49 p.m.).....

City Manager Richard Woodruff referred to Council's prior approval of an agreement with the Florida Department of Transportation pertaining to handrail/lighting upgrades for the Gordon River Bridge Project and noted that the FDOT would not agree to City ownership of the new light fixtures. The City may purchase them and maintain them, but when installed on the bridge, they become FDOT property.

Dr. Woodruff also reported on the recent structural failure of certain water and sewer lines in the Gordon River Bridge reconstruction project and stated that a third party engineer would be consulted. However, he noted scheduling constraints in that this line, which presently services all of East Naples, is on the bridge that will be torn down soon.

Dr. Woodruff then read a memorandum regarding Mr. & Mrs. Perry Andrews who are intending to sell their property at 111 12th Avenue South on the northeast corner of Gulf Shore Boulevard. Because this land is close to the City's fishing pier parking lot, Dr. Woodruff asked for a

consensus of Council whether this property should be considered for additional pier parking. It was the consensus of Council not to investigate the purchase of this property.

Council Member Tarrant reiterated his concerns regarding City Attorney Kenneth Cuyler's representation of both the cities of Naples and Marco Island and asked for consensus as to whether this dual representation should be permitted to continue. City Attorney Cuyler stated that he would not represent both cities on adversarial issues and referred to the statements he made during his interview for the City Attorney position when he advised Council that Naples might not be his only client. He also assured Council that he would be very sensitive to circumstances where potential conflict of interest may arise. Council Member Tarrant then noted upcoming joint issues, such as distribution of tourist tax revenues and Council Member Herms suggested that City Attorney Cuyler provide options regarding legal representation on joint Naples/Marco Island issues.

It was the consensus of Council that Attorney Cuyler provide (in advance) an alternate method of legal representation in joint Naples/Marco Island issues.

ADJOURN
1:11 p.m.

Bill Barnett, Mayor

Tara A. Norman, City Clerk

Prepared by:

Jessica R. Rosenberg, Recording Specialist

Virginia A. Neet, Deputy City Clerk

Minutes Approved: 12/2/98.