



City Council Chamber  
735 Eighth Street South  
Naples, Florida 34102

It is noted for the record that this meeting convened at 9:15 a.m. following a Special Meeting to hold an attorney/client session relating to pending litigation.

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**City Council Regular Meeting – March 7, 2001 – 9:00 a.m.**

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Mayor MacKenzie called the meeting to order and presided.

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**ROLL CALL.....ITEM 1**

**Present:** Bonnie R. MacKenzie, Mayor  
Joseph Herms, Vice Mayor  
Council Members  
Gary Galleberg  
William MacIlvaine  
Fred Tarrant  
Penny Taylor  
Tamela Wiseman

**Also Present:**

Kevin Rambosk, City Manager	Pastor John Anderson	Peter Iacono
Beverly Grady, City Attorney	Arlene Guckenberger	Fred Sullivan
Tara Norman, City Clerk	John Passidomo	Edward Morton
Ron Lee, Planning Director	Bruce Anderson	Chip Jones
William Harrison, Asst. City Manager	Rich Yovanovich	William Dooley
Jon Staiger, Natural Resources Manager	Dennis Cronin	Len Berlin
Ann Walker, Planner		Steve Shelton
Cory Ewing, Planner		
Sunny Fore, Service Worker		

**Media:**

Denise Zoldan, Naples Daily News

Other interested citizens and visitors.

**INVOCATION and PLEDGE OF ALLEGIANCE.....ITEM 2**

Pastor John Anderson, Covenant Presbyterian Church

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

None.

**SET AGENDA (add or remove items).....ITEM 4**

Based on revised memoranda, City Manager Rambosk recommended removal of Item 10-b-1 (Poinciana Elementary School Walkathon) from the Consent Agenda for further clarification.

He however recommended that the Council add to the agenda other special events; namely, the Febbo birthday party as 10-b-5 and the Bordeaux Club St. Patrick's Day Party as 10-b-6. He asked for removal of the Beresh wedding (Item 10-b-4). In addition Mr. Rambosk requested that Item 23 be added to the agenda to allow for further discussion in the naming of the City's Goodlette Road campus.

**MOTION by Herms to ADD FEBBO BIRTHDAY PARTY to the agenda (Item 10-b-5); seconded by Taylor and unanimously carried, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).**

**MOTION by Herms to ADD BORDEAUX CLUB ST. PATRICK'S DAY PARTY to the agenda (Item 10-b-6); seconded by Taylor and unanimously carried, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).**

**MOTION by Herms to ADD RENAMING OF STREET AT CITY'S GOODLETTE ROAD CAMPUS to the agenda as Item 23; seconded by Tarrant and unanimously carried, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).**

**MOTION by Herms to SET AGENDA WITH ABOVE ADDITIONS AND WITHDRAWAL OF ITEM 10-b-4; seconded by Tarrant and unanimously carried, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).**

**PUBLIC COMMENT .....ITEM 5**  
None.

#### **CONSENT AGENDA**

**APPROVAL OF MINUTES ..... ITEM 10-a**  
January 1, 2001 Workshop; January 17, 2001 Regular Meeting; and January 8, 2001 Town Hall Meeting

**.....ITEM 10-b**  
**APPROVAL OF THE FOLLOWING SPECIAL EVENTS:** (1) Poinciana Elementary School Walkathon 3/31/01 (later amended to include 3/10 and 3/16/01); (2) Celebration Community Church Easter Service (Lowdermilk Park) 5/4/01 (see separate discussion below); (3) Life Network of SW Florida Youth Rally (Fleischmann Park) 5/4/01; (4) Beresh Wedding (Inn on Fifth) 5/5/01 (removed from agenda under Item 4); (5) Febbo Surprise Birthday Party 3/10/01 (added item); and (6) Bordeaux Club St. Patrick's Party 3/16/01 (added item)

**RESOLUTION 01-9105 .....ITEM 10-c**  
**A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE THE ATTACHED MUTUAL AID AGREEMENT AND MEMORANDUM OF UNDERSTANDING WITH THE SOUTHWEST FLORIDA MULTI-AGENCY GANG TASK FORCE; AND PROVIDING AN EFFECTIVE DATE.** Title not read.

**RESOLUTION 01-9106 .....ITEM 10-d**  
**A RESOLUTION APPROVING THE 2001 TOURISM AGREEMENT BETWEEN COLLIER COUNTY AND THE CITY OF NAPLES REGARDING THE FOURTH OF**

**JULY FESTIVAL FROM JULY 4-7, 2001; AND PROVIDING AN EFFECTIVE DATE.**

Title not read.

**RESOLUTION 01-9107 ..... ITEM 10-e-1**

**A RESOLUTION CONFIRMING THE REAPPOINTMENT OF JAMES RIVARD AND JAMES McEVOY TO THE BOARD OF TRUSTEES OF THE FIREFIGHTERS' RETIREMENT TRUST FUND, EACH FOR A TWO YEAR TERM EXPIRING FEBRUARY 18, 2003; AND PROVIDING AN EFFECTIVE DATE.** Title not read.

**RESOLUTION 01-9108 ..... ITEM 10-e-2**

**A RESOLUTION CONFIRMING THE REAPPOINTMENT OF STEVEN YOUNG AND STEVEN MOORE TO THE BOARD OF TRUSTEES OF THE POLICE OFFICERS RETIREMENT TRUST FUND, EACH FOR A TWO YEAR TERM EXPIRING FEBRUARY 18, 2003; AND PROVIDING AN EFFECTIVE DATE.** Title not read.

**RESOLUTION 01-9109 ..... ITEM 10-f**

**A RESOLUTION DESIGNATING TARA A. NORMAN, CITY CLERK, AS CHIEF ELECTION OFFICIAL FOR THE CITY OF NAPLES GENERAL ELECTION OF FEBRUARY 5, 2002; AND PROVIDING AN EFFECTIVE DATE.** Title not read.

***MOTION by Herms to APPROVE CONSENT AGENDA with Item 10-b-2 removed for separate discussion; seconded by Galleberg and unanimously carried, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes). It is noted for the record that this motion was subsequently adjusted to accommodate the revisions in Poinciana Elementary School Walkathon for March 10, 16, and 31.***

**.....ITEM 10-b-2  
CELEBRATION COMMUNITY CHURCH EASTER SERVICE (LOWDERMILK**

**PARK) 4/15/01** City Manager Rambosk explained that on November 2, 2000, a conditional use had been granted for the church to hold services at Cambier Park only, said approval to expire on November 1, 2002. It was later also noted by Bruce Anderson, Celebration Community Church representative, that Lowdermilk Park was proposed only on Easter Sunday and Christmas Eve; Cambier Park would nevertheless require an additional special event permit on those two occasions. During further questioning by Council, Mr. Anderson indicated that the Easter service would be at sunrise and would include amplified music. Council Members, however, noted complaints from Lowdermilk Park area residents regarding amplified music and other noise associated with the services. Although **Vice Mayor Herms moved (seconded by Council Member MacIlvaine) to approve a sunrise service at Cambier Park**, City Attorney Grady indicated that the Council could at that juncture act only on the petition for use of Lowdermilk Park, but that the petitioner must make a request to use Cambier Park. Petitioner Anderson indicated that if the option were to use Lowdermilk Park without amplified music or Cambier Park with amplified music, he would amend the church's application to allow flexibility in choosing either location under conditions imposed by the Council. Council Member Wiseman pointed out, however, that another group had been authorized to use amplified music for sunrise services on the Fishing Pier, she therefore proffered a motion to allow Celebration Community Church to hold sunrise service at Lowdermilk Park with a public address system similar to that used by the group on the Pier but without amplified music. This motion received no second. Vice Mayor Herms then amended his initial motion as follows:

***MOTION by Herms to DENY THE SUNRISE SERVICE AT LOWDERMILK PARK AND APPROVE AT CAMBIER PARK, seconded by MacIlvaine and***

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*carried 6-1, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-no, MacKenzie-yes).*

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**(9:32 a.m.) It was announced that the KPMG auditors would be delayed due to traffic.**

**First Reading of an Ordinance.....ITEM 11  
AN ORDINANCE DETERMINING REZONE PETITION 01-R4 IN ORDER TO REZONE  
PROPERTY AT 2100 NINTH STREET NORTH FROM “PD” PLANNED  
DEVELOPMENT TO “PD” PLANNED DEVELOPMENT AND APPROVE A  
CONCEPTUAL SITE PLAN, MORE PARTICULARLY DESCRIBED HEREIN; AND  
PROVIDING AN EFFECTIVE DATE.** Title read by City Manager Kevin Rambosk (9:33 a.m.)  
(It is noted for the record that this petition involves permission to locate an indoor self-storage  
facility on the property listed in the above title.)

This being a quasi-judicial proceeding, Council Members made the following ex parte disclosures: MacKenzie/meeting with petitioner’s agent regarding merits of the petition contained in the public record and a visit to the site; MacIlvaine/meeting with the petitioner and review of the site plan; Galleberg/meeting with petitioner’s agents, viewing of the tape of the Planning Advisory Board (PAB) meeting, and review of the site; Taylor/no contact; Wiseman/meeting with petitioner and agent regarding the merits of the petition and review of the site; Herms/no contact; and Tarrant/no contact. City Clerk Tara Norman then administered an oath to all who intended to give testimony; all responded in the affirmative.

Attorney Richard Yovanovich indicated agreement with all staff recommended conditions except the relocation of the loading area which the petitioner proposes at the east side of the site rather than the rear. Mr. Yovanovich also indicated that it would not be advisable to relocate the water retention area to the front because the stormwater management plan anticipates use of the high school ball fields adjacent to the rear of the property. Council Member Galleberg then made a motion for approval, seconded by Council Member Wiseman; however, additional dialog with Mr. Yovanovich ensued.

It was indicated during this discussion that: 1) the ball fields are part of the shopping center PD where the self-storage facility will be located, this property having been owned in its entirety by the Troy family; 2) while the existing PD allows either 18,000 square feet of retail or 32,000 square feet of office, the proposed use significantly reduces traffic generation (one-third and one-fourth, respectively); 3) no interest had been expressed by the Collier County School Board to acquire the site; 4) the overhead door facing the ball fields will remain closed, will be attractively appointed, and is intended to open the building to admit one vehicle so that loading and unloading can be monitored for security; 5) the proposed structure is 68,000 square feet; 6) before rezoning to PD, the property had been zoned HC Highway Commercial; 7) the proposed facility will be self-contained with an office building exterior; 8) the project is compatible with existing uses and allows parking by adjacent restaurant patrons during off-hours; 9) no variances from Code provisions are being requested; 10) the name (Lock-Up) would not be changed but reduced in prominence; 11) construction may commence only after a specific General Development and Site Plan (GDSP) approval by the PAB has occurred; 12) care will be taken to avoid construction dust blowing onto the adjacent high school ball fields; 13) the ordinance rather than the PD document will contain the prohibition of outdoor storage; 14) specifics regarding depth of architectural embellishments will be provided in conjunction with the GDSP review; 15) runoff will first be held on-site then directed to the adjacent ball fields; and 16) while



self-storage would be approved by this PD, it is a listed use only in the Industrial zoning district, and could be permitted in Highway Commercial if determined to be no more intense than HC listed uses.

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

**MOTION** by Galleberg to **APPROVE** on First Reading (as amended to allow relocation of loading area to east side of structure and to move reference to prohibition of outdoor storage from the PD document to the ordinance); seconded by Wiseman and carried 6-1, all members present and voting (Galleberg-yes, Herms-no, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

**RESOLUTION 01-9110 .....ITEM 12**

**A RESOLUTION CONSIDERING PETITION 01-EV1 FOR VACATION OF A UTILITY EASEMENT, MORE PARTICULARLY DESCRIBED HEREIN, WHICH BISECTS THE PROPERTY LOCATED AT 300 8TH STREET SOUTH; AND PROVIDING AN EFFECTIVE DATE.** Title read by City Manager Kevin Rambosk (9:49 a.m.) This being a quasi-judicial proceeding, Council Members made ex parte disclosures; however, each indicated no contact with reference to this petition. City Clerk Tara Norman then administered an oath to all who intended to give testimony; all responded in the affirmative.

Petitioner's agent Dennis Cronin indicated concurrence with staff recommendations. He also explained that the easement in question had been retained by the City when a former alleyway was originally vacated in 1966. However, the easement had not been used in the intervening years, he said, noting letters of no objection to vacation with the City's notation that utilities nevertheless be provided to the site. It was further clarified that the petitioner would remove the existing sanitary sewer main and pay for capping the connection; that the line serves no other properties; and that there are no other utilities in the easement. Mr. Cronin additionally pointed out that the current sewer line inhibits building design and that sewer service will eventually be connected at a different location. In further discussion it was clarified that the property is zoned C-1a with no variances requested.

**Public Comment:** None. (9:53 a.m.)

**MOTION** by Wiseman to **APPROVE** Resolution 01-9110 as submitted; seconded by Galleberg and unanimously carried, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

**RESOLUTION 01-9111 .....ITEM 15-a**

**A RESOLUTION DETERMINING FINAL SUBDIVISION PLAT PETITION 01-SD5 FOR FINAL PLAT APPROVAL TO SUBDIVIDE PROPERTY KNOWN AS THE CORE ROAD AT THE ESTUARY AT GREY OAKS, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.**

**RESOLUTION 01-9112 .....ITEM 15-b**

**A RESOLUTION DETERMINING FINAL SUBDIVISION PLAT PETITION 01-SD6 FOR FINAL PLAT APPROVAL TO SUBDIVIDE PROPERTY KNOWN AS TRACT D AT THE ESTUARY AT GREY OAKS, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.**

**RESOLUTION 01-9113 .....ITEM 15-c**

**A RESOLUTION DETERMINING FINAL SUBDIVISION PLAT PETITION 01-SD7 FOR FINAL PLAT APPROVAL TO SUBDIVIDE PROPERTY KNOWN AS TRACT F AT THE**

**ESTUARY AT GREY OAKS, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.**

It is noted for the record that City Manager Kevin Rambosk read the titles to all resolutions under Item 15 (9:54 a.m.) and that the three resolutions were considered concurrently. Vice Mayor Herms received clarification that revised drawings received by the Council the prior evening had represented only a revision in the cover sheet relative to easements, dedications and mortgage signature. City Attorney Beverly Grady cautioned that the mortgagee be correctly reflected and that Tract D is not part of the second plat and should be removed. Council Member Wiseman made a motion to approve; however, additional discussion occurred. It was ascertained that pursuant to a 1989 agreement, County subdivision regulations are followed but the City's process covers preliminary and final subdivision review and approval.

**Public Comment:** None. (10:00 a.m.)

***MOTION by Wiseman to APPROVE Resolution 01-9111 as submitted (Item 15-a); seconded by Galleberg and unanimously carried (Galleberg-yes, Taylor-yes, Tarrant-yes, Wiseman-yes, Herms-yes, MacIlvaine-yes, MacKenzie-yes). (During the roll call vote on this item Council Member MacIlvaine disclosed, with reference to Items 15-a, 15-b, and 15-c, that he holds a membership in the Grey Oaks Golf Club but does not discern a conflict of interest in this regard.)***

***MOTION by Wiseman to APPROVE Resolution 01-9112 as submitted (Item 15-b); seconded by Galleberg and unanimously carried, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).***

***MOTION by Wiseman to APPROVE Resolution 01-9113 as submitted (Item 15-c); seconded by Galleberg and unanimously carried, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).***

With concurrence of City Attorney Grady, Council authorized Planning Director Ron Lee to place final plats on a subsequent Consent Agenda, although these items could still be considered separately at the Council's discretion. City Attorney Grady also advised Council that letters of credit had been filed with Development Services for the above plats.

In response to Council Member Taylor, Mayor MacKenzie explained that Grey Oaks would designate a site for the standard "Welcome to Naples" sign with placement coordinated with the City staff. Miss Taylor, however, suggested that the Council consider a design submitted by Falconer Jones at the Royal Harbor/Oyster Bay Town Meeting the prior evening. It was however clarified by City Manager Rambosk that he had advised Royal Harbor/Oyster Bay representatives that this particular design could be considered specifically for standardizing subdivision entries.

**ORDINANCE 01-9114 .....ITEM 16  
AN ORDINANCE ADDING ARTICLE III, NAPLES TELECOMMUNICATIONS  
RIGHTS-OF-WAY FEE ORDINANCE, TO CHAPTER 22 OF THE CODE OF  
ORDINANCES OF THE CITY OF NAPLES, FLORIDA, FOR THE PURPOSE OF  
ASSESSING A FEE ON TELECOMMUNICATIONS COMPANIES THAT OCCUPY  
MUNICIPAL RIGHTS-OF-WAY FOR TELECOMMUNICATIONS FACILITIES;  
PROVIDING FOR WHEN PAYMENTS ARE DUE; PROVIDING FOR INTEREST;**

**PROVIDING FOR REVIEW OF RECORDS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERANCE; AND PROVIDING AN EFFECTIVE DATE.** Title read by City Manager Kevin Rambosk (10:06 a.m.)

**Public Comment:** None. (10:06 a.m.)

***MOTION by Herms to ADOPT Ordinance 01-9114 as submitted on Second Reading; seconded by Wiseman and unanimously carried, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).***

**First Reading of an Ordinance.....ITEM 13**  
**AN ORDINANCE AMENDING SECTION 86-202(b)(2) OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES IN ORDER TO ESTABLISH PROCEDURES FOR MODIFICATIONS TO GENERAL DEVELOPMENT AND SITE PLANS; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.** Title read by City Manager Kevin Rambosk (10:07 a.m.) Council Member Wiseman moved approval, seconded by Council Member MacIlvaine; however, further discussion ensued. Council Member Taylor received clarification from Planning Director Lee that the intent is for the Council to see the plans and diagrams containing the PAB's recommendation; however, original submittals could also be made available to the Council, he said. Although Council Member Taylor and Vice Mayor Herms indicated that review of the initial plans would be helpful to them, Council Member Galleberg said that including the original version would contribute to confusion and that the measure proposed would prevent changes from being made between PAB and Council review. Council Member MacIlvaine and Mayor MacKenzie concurred that obsolete versions should not be brought forward to Council, with Mayor MacKenzie noting that the City would retain a record of all versions should a Council Member wish to review them.

**Public Comment:** None. (10:11 a.m.)

***MOTION by Wiseman to APPROVE this ordinance as submitted on First Reading; seconded by MacIlvaine and unanimously carried, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).***

**RESOLUTION 01-9115 .....ITEM 14**  
**A RESOLUTION DETERMINING CONDITIONAL USE PETITION 01-CU3 FOR APPROVAL OF TWO OFFSITE PARKING SPACES WITHIN 600 FEET LOCATED AT 1010 5TH AVENUE SOUTH, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.** Title read by City Manager Kevin Rambosk (10:12 a.m.) This being a quasi-judicial proceeding, Council Members made the following ex parte disclosures: MacKenzie/no contact; MacIlvaine/no contact; Galleberg/no contact; Taylor/a meeting with the petitioner; Wiseman/no contact; Herms/no contact; and Tarrant/no contact. City Clerk Tara Norman then administered an oath to those intending to give testimony; all responded in the affirmative.

Petitioner's agent Peter Iacono indicated the presence of the managing partner of JMG Charters . Mr. Iacono then explained that only after JMG Charters had converted from restricted to unrestricted charter boat status had it been discovered that a conditional use petition was required in order to utilize its off-site parking. This resulted in the revocation of the unrestricted license, he said, and JMG Charters had reverted to restricted status. Mr. Iacono then noted that the petitioner has a one-year lease for two off-site parking spaces within 600 feet; the City's measurement had been confirmed as less than 600 feet by the petitioner's independent surveyor.

Planning Director Ron Lee confirmed that the measurement is from lot line to lot line based on research conducted by a former City Attorney.

Council Member Galleberg recommended that the conditional use run concurrently with the lease for parking and noted contemplated amendments to charter boat regulations. Mr. Lee also pointed out that this particular charter business would not be considered displaced because its marina facility had not been closed; loss of parking would merely result in return to a restricted category. City Attorney Grady stressed that the petitioner should be aware that there are pending regulations which, if adopted prior to the October 1st occupational license deadline, could affect his operations and that the sole item being approved by the Council at that juncture was a conditional use for two parking spaces. She also noted that the conditional use would expire on January 31, 2002, along with the lease, if not extended. Vice Mayor Herms raised the issue of fairness should the Council, having granted this conditional use, then change the rules governing charter boats. Attorney Iacono, however, stipulated that JMG Charters would recognize that the unrestricted charter boat license would expire with the lease for off-site parking; if this parking is no longer available, he added, other spaces would have to be sought and application made within the regulations in effect at the time. Vice Mayor Herms proffered a motion to approve the conditional use through January 1, 2002; however, Council Member Galleberg took the position that it, like the occupational license, should expire on September 30. Mr. Galleberg nevertheless commended JMG Charters for its initiative in providing parking for its business. Council Member MacIlvaine supported the January 1, 2002, expiration date. Council Member Taylor seconded the above motion. City Attorney Grady clarified that this expiration date is the one which had been included in the resolution as submitted and would be effective unless the petitioner applies for and receives an extension.

***MOTION by Herms to APPROVE Resolution 01-9115 (extending the conditional use approval to January 1, 2002); seconded by Taylor and unanimously carried, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).***

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**Recess: 10:28 a.m. to 10:43 a.m. It is noted for the record that the same Council Members were present when the meeting reconvened.**

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**First Reading of an Ordinance.....ITEM 7**  
**AN ORDINANCE DETERMINING REZONE PETITION 01-R3 IN ORDER TO REZONE PROPERTY AT 1400 GULF SHORE BOULEVARD NORTH FROM “C1” RETAIL SHOPPING DISTRICT TO “PD” PLANNED DEVELOPMENT AND APPROVE A CONCEPTUAL SITE PLAN, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.** Title read by City Manager Kevin Rambosk (10:43 a.m.) This being a quasi-judicial proceeding, Council Members made the following ex parte disclosures: MacKenzie/meeting with petitioner’s agents regarding the merits of the petition, all of which is in the public record, attendance at a presentation by the petitioners at a property owner association meeting, visit to the site, and review of the Planning Advisory Board (PAB) tape; MacIlvaine/no contact; Galleberg/no substantive contact, a proposed meeting with the petitioner having not taken place; Taylor/conversation with the petitioner approximately one year prior regarding ideas for the site; Wiseman/no contact; Herms/no contact; and Tarrant/no contact. City Clerk Tara Norman then administered an oath to all who intended to give testimony; all responded in the affirmative.

Attorney John Passidomo represented the petitioner, Cape Town Developments, in what he described as a renovation and rehabilitation of the Gulfshore Square Shopping Center into Charleston Square. He said that the property had been acquired the prior summer with the principal interest being held by Don Love; prior owners have no continuing interest. Mr. Passidomo indicated that Mr. Love had owned property in Naples for approximately 25 years and had successfully developed and managed other properties throughout the U.S. and Canada. Objectives for the project were listed as: 1) preserve the existing low profile of Gulfshore Square and avoiding the necessity of increasing height due to the current Coastal Construction Setback Line requirements; 2) provide convenient neighborhood commercial services such as restaurants and drug stores; and 3) blend with the surrounding neighborhood of single family and multi-family residences. Mr. Passidomo reported that there are currently 53,000 square feet of commercial space which could have been expanded to as much 72,000 under existing codes. Project engineers and architects, he said, had been able to retain the existing elevation by renovating the westernmost building and constructing a landward addition. Otherwise, razing the existing western building would defeat the purpose of the 42 foot height limitation since the first floor would be elevated some 19 to 20 feet, Mr. Passidomo said, illustrating this with a graphic, a copy of which is contained in the file for this meeting in the City Clerk's Office.

Attorney Passidomo then said that the residential units would be 20 in number, each approximately 3,000 square feet. He predicted that this would afford self-policing to the complex since purchasers of units in the \$1-million range would not tolerate disturbances. Therefore, he noted, commercial uses must be compatible, not only with on-site residents but surrounding neighbors as well. By decreasing the allowed intensity, traffic and parking impacts would be better managed. Mr. Passidomo then stressed that no buildings or embellishments exceed 42 feet in height, and would be at the same or less than the height of adjacent medium density residential districts on the east side of Gulf Shore Boulevard. The third floors abutting R-1 zoned property will be limited to residential uses, he continued. (Photographs of all diagrams and scale models displayed during this presentation are contained in the file for this meeting in the City Clerk's Office.)

Mr. Passidomo then related the process by which the petitioners had provided information to surrounding property owners and groups, including meetings, answering questions, and providing scale models; many of these individuals, he said, had written to the City in support of the project. Mr. Passidomo then listed the following in relation to the project: 1) the western building will be reduced from the current 53,000 to 27,000 square feet of retail/commercial space with residential uses on the second and third floors; and 2) the eastern building (on the site of the current car sheds) will be two stories and 17,000 square feet of retail/commercial for a total of 44,000 square feet devoted to this use, 20 residential units will also occupy this structure. He concluded by indicating agreement with all conditions suggested by staff; however, he said that in conjunction with the staff he had prepared amended language to replace Condition 11 in the staff report which will describe the code authorities governing future deliberations (Attachment 1).

City Attorney Grady also noted that Conditions 9 and 10 had been removed from the PD document and placed within the ordinance. These items address lot width and lot area, and require that signage conform with the applicable Code section. This would avoid having to refer to a separate PD document for these items, she added.

Council Member Galleberg praised the project and ascertained from Mr. Passidomo that there are currently 41 surplus parking spaces identified within the project, although some could be used to increase spaces allocated to residential or designated for some of the current commercial tenants who may choose to remain in the complex. He confirmed that the First Watch Restaurant planned to stay. Mr. Passidomo also assured Council that the 20 boat slips would be limited common elements for use only by the 20 residential condominium units.

In response to Vice Mayor Herms, Planning Director Ron Lee confirmed that the only difference between this project and the existing C-1 zoning is that this project would provide three stories of residential adjacent to R-1 zoning where only two are allowed adjacent to R-1 on C-1 zoned property. Mr. Passidomo also noted that the petitioner had chosen to pursue PD zoning in order to provide a detailed description of the project; he said that other than the aforementioned third story of residential, simply a conditional use approval would have been required to permit residential uses on commercially zoned land. Vice Mayor Herms commended the petitioners on what he described as a more attractive project achieved through renovation of a portion of the existing building to avoid additional height. In further discussion, Mr. Passidomo also observed that because of single family residential adjacent to the southwest corner of the property, the zoning would have allowed only two stories if the property were looked upon as one lot, even though higher portions were at a significant distance and would have had no actual effect. Mr. Herms also received clarification from staff that the adjacent residential buildings on the east side of Gulf Shore Boulevard are allowed to build to two stories over parking, or a maximum of 50 feet, making them taller than this project. Mr. Herms also confirmed with staff that no objections to the project had been received.

**Public Comment:** (11:10 a.m.) **Fred Sullivan, 1608 Murex Lane**, urged approval of the petition which he said would result in an extremely high quality mixed-use development with less commercial usage without exceeding current height limits. He also reflected on what he described as extreme efforts of the developer to address concerns of adjacent property owners and associations. He pointed out that it is rare that objections are not heard. The philosophy of the developer is that in order to be fiscally sound, a high quality project must be provided, Mr. Sullivan concluded.

Following a motion by Council Member Wiseman which was seconded by Vice Mayor Herms, additional clarifications were received regarding lot coverage (37%). It was also requested that percentages of green space be computed for Council's information on second reading. Mr. Herms observed that the project would meet a contemplated charter amendment which would limit lot coverage to 45% and may also comport with the 15% landscaping requirement which had also been considered. In addition, it was also clarified by staff that both the PD and C-1 zoning districts contain a residential limit of eight units per acre. Mayor MacKenzie suggested that the petitioner consider compacting trash containers in deference to the residential units both on site and nearby, and that construction vehicle routes be varied among various residential streets. She said that she had received reports of trucks already using Murex to avoid the roundabout on Banyan Blvd.

City Attorney Grady recommended elimination of Conditions 2 and 4 because they are contained within the PD document; remaining conditions will be renumbered prior to second reading.

**MOTION by Wiseman to APPROVE on first reading AS AMENDED with the revised Condition 11 language submitted by the petitioner (Attachment 1) and**

*deletion of Conditions 2 and 4 as noted by the City Attorney. This motion was seconded by Herms and unanimously carried on roll call vote, all members present and voting (Taylor-yes, MacIlvaine-yes, Wiseman-yes, Galleberg-yes, Tarrant-yes, Herms-yes, MacKenzie-yes).*

During the above vote the following comments were made: Council Member Galleberg noted that this project exemplifies the interest shown by resident developers in maintaining and enhancing the community's character. Council Member Tarrant also praised the project, as did Vice Mayor Herms, who expressed appreciation for compliance with not only the height charter amendment but the proposed amendment dealing with lot coverage.

**RESOLUTION 01-9116 .....ITEM 17**  
**A RESOLUTION APPROVING AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF NAPLES AND THE NAPLES AIRPORT AUTHORITY REGARDING AIRPORT ZONING REGULATIONS; AND PROVIDING AN EFFECTIVE DATE.** Title read by City Manager Kevin Rambosk (11:19 a.m.) Council Member Taylor moved approval of this resolution, seconded by Vice Mayor Herms; however, prior to the vote clarifications were made. Council Member Wiseman ascertained from City Attorney Grady that she had suggested insertion of the following at the conclusion of Item 4: "and to update its airport zoning regulations to consider FAA review and accepted noise exposure maps." Mrs. Grady said she believed that this amendment would be acceptable to the Airport Authority.

***MOTION by Taylor to APPROVE Resolution 01-9116 as submitted; seconded by Herms and unanimously carried, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).***

**RESOLUTION 01-9122 (Added).....ITEM 23**  
**A RESOLUTION CHANGING THE NAME OF RIVERSIDE DRIVE TO RIVERSIDE CIRCLE; AND PROVIDING AN EFFECTIVE DATE.** (Title not read.) City Manager Rambosk advised that Riverside Drive previously selected by Council must be revised because Collier County Emergency 911 had indicated that a street in Everglades City had the same numbers. Engineering staff recommended against revising the City's street numbers, however, he said. Council Member Tarrant suggested Riverview Drive. (It was learned later in the discussion that this name could not be used also due to emergency response issues.) Mr. Rambosk also suggested that the chosen name apply to the entire length of the road from its intersection with Central Avenue to where it intersects with Goodlette north of the Police & Emergency Services building. After further discussion, Council indicated its concurrence with this proposal.

***Riverside Circle was then approved on a vote of 4-3 (Galleberg-yes, Herms-no, MacIlvaine-yes, Tarrant-no, Taylor-no, Wiseman-yes, MacKenzie-yes).***

***MOTION by MacKenzie to APPROVE Resolution 01-9122 naming the street Riverside Circle; seconded by Wiseman and carried 4-3, all members present and voting (Galleberg-yes, Herms-no, MacIlvaine-yes, Tarrant-no, Taylor-no, Wiseman-yes, MacKenzie-yes).***

**.....ITEM 18**  
**DISCUSSION / ACTION REGARDING THE SELECTION OF CITY REPRESENTATIVES TO THE COLLIER COASTAL ADVISORY COMMITTEE AND THE FUTURE OF THE CURRENT BEACH RENOURISHMENT / MAINTENANCE COMMITTEE.** Natural Resources Manager Jon Staiger reported that it had been determined at the last Beach Renourishment / Maintenance Committee meeting that the City should advertise for

its three representatives on the new committee. Also, Dr. Staiger said, the Beach Renourishment / Maintenance Committee recommended that it, too, be advisory to the City Council and now consist of the three City's Coastal Advisory Committee members, plus one City Council Member; it would meet for consensus on City positions in advance of the County committee meetings, he added. Dr. Staiger however noted he had discussed with City Clerk Tara Norman the possibility of having the three City representatives to the Coastal Advisory Committee merely report to the Council periodically in workshop setting. This would avoid separate public notice and committee minutes, he said, if the representatives were to speak directly to the Council. City Clerk Norman noted that the appearance at City Council meetings of one or more members of any other group governed under Chapter 286 (Sunshine Law) is published on the City Council's meeting notice. Council Member Galleberg supported this suggestion. Dr. Staiger said that he would attend the new committee's meetings although he did not at that time know the configuration of the technical advisory group. He said another Beach Renourishment / Maintenance Committee meeting would be held in April and that it had been determined that the Chairman, although a County appointee, could serve at that one session.

In further discussion it was clarified that the County Commission would appoint City representatives based on City Council recommendations as long as the candidates satisfy residency and technical requirements.

***MOTION by Wiseman to AUTHORIZE THE CITY CLERK to advertise for the three City representatives; DISBAND current Beach Renourishment/ Maintenance Committee after the April, 2001, meeting; and AUTHORIZE the City Manager to establish a regular schedule for the City's representatives to attend City Council workshops (notice to be in conformance with County Attorney's Office recommendations on advertisement of the City representatives' appearance before City Council). This motion was seconded by MacIlvaine and carried 5-2 (Galleberg-yes, Herms-no, MacIlvaine-yes, Tarrant-no, Taylor-yes, Wiseman-yes, MacKenzie-yes).***

Prior to the vote on the above motion, it was clarified that although the County was also recruiting members, the cities of Marco Island and Naples would recruit within their jurisdictions. Council Member Tarrant, however, opposed appointing City representatives to a County beach committee because of what he asserted is the County's lack of concern for the impact on residents of the City caused by intensity of beach use in the City with its attendant traffic, litter and policing problems. He also noted what he described as the County's lack of response to the issue of rocks placed on the beach as a result of renourishment. Vice Mayor Herms also observed that because the County is somewhat remote from complaints regarding beach renourishment projects, these issues are normally directed to the City; therefore, he said, a committee must be retained to overview the projects to be done within the City as well as receive citizen comment. Otherwise, the only vehicle for citizens would be a minority position on a nine-member board, he said. Mayor MacKenzie observed that although the County has control of beach renourishment funding, it is important for the City to be represented on its committee. However, she indicated that the new configuration is the least advantageous to the City, although noting that she understood why the County took such a step. Citizens can always communicate directly to the Council for immediate redress, she added. Council Member Tarrant, however, said that he felt the County had been negligent in providing adequate beach facilities for what he described as an exploding County population, while the City had provided excellent access.



..... **ITEM 6-a**  
**PRESENTATION OF ANNUAL FINANCIAL REPORT BY CITY AUDITORS KPMG**  
**LLP. (A copy of the audit report is contained in the file for this meeting in the City Clerk's Office.)**  
**RESOLUTION 01-9117 ..... ITEM 6-b**  
**A RESOLUTION APPROVING A CONTRACT IN SUBSTANTIALLY THE FORM**  
**ATTACHED HERETO, WITH CHANGES APPROVED BY THE CITY ATTORNEY,**  
**WITH KPMG LLP TO PROVIDE AUDITING SERVICES TO THE CITY OF NAPLES**  
**FOR FISCAL YEARS 2001 THROUGH 2003; AUTHORIZING THE CITY MANAGER**  
**TO EXECUTE THE CONTRACT; AND PROVIDING AN EFFECTIVE DATE.**

Assistant City Manager William Harrison noted the report received by Council for the fiscal year ended September 30, the highlights being the issuance of \$8.4-million in general obligation bonds to acquire Naples Preserve, as well as the sale of a parcel of land in the water/sewer fund in the amount of \$2.5-million. He said that the City remains in excellent financial condition, although there are concerns with the employee health plan which will be addressed in the upcoming budget process. He then presented a plaque to Comptroller Ralph LaCivita from the Government Finance Officers Association honoring the City for excellence in financial reporting the prior fiscal year; Mr. Harrison noted that the City had already received many of these awards.

Mr. Harrison then pointed out that in his career he had never before seen an auditor's management letter where no corrective measures were recommended. He also noted that the auditors report directly to Council as required by state law.

KPMG representative Chip Jones explained that government audit reporting is more extensive than in most business entities and praised the City staff and the City's audit committee for their efforts to correct issues raised in the previous audit. This action resulted, he said, in a clean opinion for the most recent fiscal year. He also said that the City has in place sound controls for its financial operations and described the fund balance as extremely healthy (\$4.6-million, of which \$3.5-million is reserved). Although there is a \$2.4-million deficit in the community redevelopment fund, this is to be repaid through tax increment financing (TIF) funds; Mr. Harrison clarified that this amount represents internal loans necessary when the Council rescinded various redevelopment assessment districts. (A copy of the highlights of Mr. Jones' presentation is contained in the file for this meeting in the City Clerk's Office.)

Mr. Jones noted that a 16% increase in ad valorem revenues had been realized due to appreciation in property values; also, investment income increased significantly over prior years. (Return on investments was 6.2% which Mr. Harrison indicated compared favorably to benchmarks.) Mr. Jones also noted a significant capital outlay for the new Police & Emergency Services building, although the City has shown its first debt in the general fund in several years for purchase of the Naples Preserve. However, enterprise debt has been consistent, Mr. Jones said, and this debit is largely represented by state revolving loan funds. In conclusion, he reiterated that the staff and audit committee had been very conscientious in fulfilling their responsibilities.

Vice Mayor Herms asked whether the auditors were aware that through annexation of Royal Poinciana Golf Club the City had not collected approximately \$10,000 in the stormwater fund, noting the approximately \$10-million in stormwater expenditures shown in the audit report. Mr. Herms also expressed concern that in decisions to annex further lands the City may also decline to collect stormwater fees, thereby causing a deficit. Mr. Jones, however, said that while the auditors examine whether revenues are being collected and recorded, if a decision had been made by the Council not to collect an assessment, this would not be questioned as part of the

audit. Mr. Herms nevertheless said that policies were not being equally applied since properties other than Royal Poinciana were retaining stormwater on site and still being assessed stormwater fees.

**Public Comment:** None. (12:08 p.m.)

***MOTION by Wiseman to ACCEPT the audit report as presented; seconded by Galleberg and unanimously carried, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).***

At this point, City Manager Rambosk read the title to the resolution under Agenda Item 6-b (12:09 p.m.).

***MOTION by Wiseman to APPROVE Resolution 01-9117 as submitted; seconded by Galleberg and carried 5-1, all members present (Galleberg-yes, Herms-abstain, MacIlvaine-yes, Tarrant-no, Taylor-yes, Wiseman-yes, MacKenzie-yes). It is noted for the record that Vice Mayor Herms filed Form 8-b, Memorandum of Voting Conflict for County, Municipal and Other Local Public Officers, disclosing that his sister-in-law is an employee of KPMG (Attachment 2).***

**Recess: 12:10 p.m. to 1:37 p.m.** it is noted for the record that all Council Members except Council Member Taylor were present when the meeting reconvened, Miss Taylor arriving at 1:38 p.m. during ex-parte disclosures on Agenda Item 8.

**First Reading of an Ordinance.....ITEM 8  
AN ORDINANCE DETERMINING REZONE PETITION 01-R5 IN ORDER TO AMEND THE PLANNED DEVELOPMENT DOCUMENT FOR THE NAPLES COMMUNITY HOSPITAL EAST CAMPUS, MORE PARTICULARLY DESCRIBED HEREIN, IN ORDER TO PERMIT REZONING FROM PD TO PD; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.** Title read by City Manager Kevin Rambosk (1:37 p.m.).

This being a quasi-judicial proceeding, Council Members made the following ex parte disclosures: MacKenzie/meeting with petitioners Morton, Ray and Ulrich regarding merits of the petition contained in the public record, visit to the site and review of the Planning Advisory Board (PAB) meeting tape; MacIlvaine/meeting with the petitioner, visit to the site and review of the site plan; Galleberg/meeting with the aforementioned petitioner's agent, review of the PAB tape, and familiarity with the site; Wiseman/meeting with petitioner's representatives regarding the merits of the petition and familiarity with the site; Herms/brief, impromptu conversation with Petitioner Morton; Tarrant/review of the PAB meeting tape and a brief telephone conversation with Petitioner Morton; and Taylor/meeting with petitioner to review drawings and discuss the project. City Clerk Tara Norman then administered an oath to all who intended to give testimony; all responded in the affirmative.

Edward Morton, Chief Executive Officer of NCH Health Care System, explained that the plan before Council had been the culmination of considerable effort and dialog between the hospital and the community. He also pointed out that although some prior approvals had been granted, the plan had been revised to conform to current height limitations. Mr. Morton also said that with the exception of the building orientation, all 41-10 district guidelines had been followed. The orientation is however toward the parking garage as previously approved by the Council and the Florida Department of Transportation (FDOT), he added, with a secondary entrance on

Fourth Avenue North to be used as a drop-off / service location. Mr. Morton further noted that the orientation features a drive-in location from Eighth Street to mitigate traffic concerns on US 41. Another effort cited by Mr. Morton is adherence to the lot coverage and green space limits which had been articulated but not yet formalized; he said that the sole exception to this is the counting of the landscaped area under the sky bridge as green space. Mr. Morton, however, assured Council that mature plantings would be utilized. In conclusion, he said that a structure now serving as the hospital's employment office would be deleted and those activities moved elsewhere on the campus.

Further discussion of Council centered around various suggestions made during the PAB review. With reference to a suggestion to divide the building into two components, Mr. Morton indicated that the orientation and configuration of the building was deemed to be a signature for the entire campus and more functionally related to the needs of patients in its present configuration. Also regarding vehicular entry, particularly from US 41, Mr. Morton indicated that the hospital's traffic engineers are continuing to soften various driveway angles; he also noted that longer working hours due to labor shortages, and the fact that most wellness patients will enter the site from Eighth, also represent fewer trips and traffic impacts. He also noted that employees would be asked to access the building from Eighth, asserting that it was not in the hospital's interest for traffic to cue at such important building. Mr. Morton indicated that he would stipulate to exterior changes to the parking garage and elsewhere in the complex so that color and architecture would be unified; this also includes signage, continuing of the landscaping theme using mature plantings, additional lighting, and traffic circulation within the campus. He then briefly reviewed plans for placement of imaging and diagnostic equipment.

Vice Mayor Herms commended the architectural detail, particularly on the elevations which face Fourth Avenue North and US 41, as mitigating the effect of reduced setbacks; he encouraged further implementation of the theme on other sides of the building. Council Member Tarrant noted the positive impact of Naples Community Hospital upon the community and praised the spirit of cooperation exemplified by NCH throughout the approval process.

**Public Comment:** None. (2:00 p.m.)

***MOTION*** by Wiseman to ***APPROVE*** this ordinance on First Reading as submitted; seconded by Galleberg and unanimously carried, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes). Prior to the vote on this motion, it was clarified that the action included specific GDSP review and approval by the PAB.

**RESOLUTION 01-9118 .....ITEM 21**  
**A RESOLUTION CONFIRMING THE RECOMMENDATION OF THE SELECTION COMMITTEE TO PROVIDE FINANCIAL UNDERWRITER SERVICES IN THE REFUNDING OF WATER AND SEWER REVENUE BONDS OF THE CITY OF NAPLES, FLORIDA SERIES 1991, 1992, AND 1992A; AND PROVIDING AN EFFECTIVE DATE.**  
Title read by City Manager Kevin Rambosk (2:03 p.m.).

**Public Comment:** None. (2:03 p.m.)

***MOTION*** by Galleberg to ***APPROVE*** Resolution 01-9118 as submitted; seconded by Wiseman and unanimously carried, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

**RESOLUTION 01-9123 .....ITEM 22**

**A RESOLUTION APPROVING AN AMENDED CONSENT AGREEMENT, IN SUBSTANTIALLY THE FORM ATTACHED HERETO, BETWEEN THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT, THE GROVES OF NAPLES, INC., AND THE CITY OF NAPLES CONCERNING THE SURFACE WATER MANAGEMENT SYSTEM AT CALUSA BAY AND GOODLETTE-FRANK ROAD, (PERMIT NO. 11-01421-P, AND RELATED APPLICATIONS); AND PROVIDING AN EFFECTIVE DATE.**

Title read by City Manager Kevin Rambosk (2:03 p.m.). Although Council Member Galleberg moved approval, seconded by Council Member Wiseman, staff responded to requests for further clarifications. City Attorney Grady indicated that the South Florida Water Management District (SFWMD) requires a separate agent to hold escrow funds, although that agent had not yet been named; she noted that the agent could however legally be a financial institution or an attorney. In addition, Mrs. Grady explained that release of funds to the respondent would be allowed only after SFWMD provides a letter to that independent escrow agent indicating that the applicable provisions of the consent agreement relating to the test wells have been satisfied (Paragraph 33 of the agreement). She indicated that, in her opinion, the City was sufficiently protected in this regard and recommended approval of the consent agreement. City Manager Rambosk also noted that if any changes to the agreement were made at that juncture, renegotiation with the other parties would be necessary. He, too, recommended moving forward.

**Public Comment:** None. (2:11 p.m.)

***MOTION by Galleberg to APPROVE Resolution 01-9123, as submitted, accepting the settlement as proposed; seconded by Wiseman and unanimously carried, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).***

**.....ITEM 20  
DISCUSSION REGARDING A PROPOSED SURVEY OF CITY WATER CUSTOMERS AS TO THE USE OF AQUIFER STORAGE & RECOVERY (ASR) SYSTEMS. (2:12 p.m.)**

Vice Mayor Herms explained that he had become increasingly concerned about the type of material which Collier County is intending to place its proposed Aquifer Storage and Recovery (ASR) wells. He suggested that the City assemble national experts in the field such as those from the Environmental Protection Agency (EPA) and Department of Environmental Protection (DEP), as well as state and federal health agencies. This, he said, will improve the Council's understanding and enhance the City's ability to provide information to utility customers, including producing television programming. He noted however that the County still may store the material above ground.

Council Member Tarrant said he remains concerned primarily due to the expert testimony already heard, despite the withdrawal of the City's legal challenge based on the County moving its ASR test well 1.5 miles to the north. He predicted that if the exploratory well is successful, the County would pump treated effluent some 600 feet underground which is the depth of the Hawthorn Aquifer from which the County draws for reverse osmosis water processing. He also pointed out that there is a danger of vertical migration into the Tamiami Aquifer from which the City obtains its raw water. He urged that the City's water customers be notified of the County's plans in a timely fashion.

Vice Mayor Herms pointed out that the City pumps its surplus reuse water into the Gordon River during the rainy season while the County disposes of its surpluses through deep well injection. Nevertheless, he said, this material can be disposed of through irrigation, and recalled his prior

mention of a Hartman & Associates proposal to facilitate expansion of the reuse system by supplementing reuse water supply in the dry season from horizontal wells. This strategy could be used by both the City and the County, he noted.

Council Member Taylor suggested that the City coordinate its informational effort with the County which, in conjunction with the Conservancy, had planned an international symposium on water resources in the fall. Mayor MacKenzie also pointed out that the County had agreed to share the data received from the ASR test well which would be incorporated into such a program. However, Vice Mayor Herms reiterated that his concern is however the materials to be pumped into the ground; he then made the motion which appears below.

***MOTION by Herms for the City to HOLD A SYMPOSIUM of experts in the ASR field by June 2001, followed by a survey for the City's water customers based on the information obtained; seconded by Tarrant. This motion failed 3-4 (Galleberg-no, Herms-yes, MacIlvaine-no, Tarrant-yes, Taylor-yes, Wiseman-no, MacKenzie-no).***

Council Members Galleberg and MacIlvaine and Mayor MacKenzie urged that any survey be deferred until additional public education had taken place, Mr. MacIlvaine noting that the Conservancy had taken the lead via the aforementioned water resources symposium. Miss Taylor said she felt strongly that the City's prior announcement of a utility customer survey had resulted in the County's agreement to move the test well; however, she urged that the County now be allowed sufficient time for testing.

Vice Mayor Herms then conveyed his intent to move for placement of an item on a future agenda to discuss however the City's scheduling the aforementioned symposium. Council Member Galleberg added his second. Council Member Wiseman, however, stressed the desirability of coordinating with the Conservancy program and pointed out that the experts previously listed were from agencies about whom disparaging remarks were often made. She also urged that the Council be cognizant of the fiscal implications of organizing a symposium with out-of-town participants. Council Member MacIlvaine also supported coordination with the Conservancy and expressed opposition to the City proceeding on a parallel track.

***By consensus, the Council then directed the staff to research and report at the next City Council meeting relative to Collier County and Conservancy plans for an upcoming symposium. (It is noted that Vice Mayor Herms and Council Member Galleberg withdrew their motion and second.)***

.....ITEM 19  
**DISCUSSION REGARDING DE-ANNEXATION OF ROYAL POINCIANA GOLF CLUB FROM THE CITY OF NAPLES.** Upon concurrence of Council Member Tarrant, requester of this item, public comment was heard at the beginning of the discussion.

**Public Comment:** (2:34 p.m.) **William Dooley, 538 Ninth Avenue,** indicated that he had been a resident of Naples for four years and is a board member of Common Cause of Florida. He said that he leads a group called Stop RP Welfare and that a petition is being circulated to de-annex the Royal Poinciana Golf Club. He urged that the Council allow a referendum.

Mayor MacKenzie then received clarification from City Attorney Grady that referenda may not be held on land use petitions. Council Member Galleberg said he could not discern Mr. Dooley's purpose to be other than publicity and, being a County resident, could not find the nexus of Mr.

Dooley's interest. Mr. Dooley, however, said that he in fact lives at 538 Ninth Avenue and had lived in Old Naples for four years, having moved from Santa Fe, New Mexico.

After ascertaining that Mr. Dooley had completed his statement, Mayor MacKenzie opened the meeting for Council discussion. Council Member Tarrant noted that during the Planning Advisory Board (PAB) review of the Royal Poinciana annexation and development agreement on July 14, 1999, a question posed by PAB Chairman Rideoutte as to whether it was a voluntary annexation could, in fact, not be answered. PAB Member Stanley Hole had stated that he could not recall whether or not the annexation was voluntary, Mr. Tarrant reported; nevertheless, the annexation petition was approved, he said. Mr. Tarrant then played an audio tape of statements by Royal Poinciana attorney George Vega at the September 15, 1999, second reading of the annexation ordinance: "Drainage problems, we have nothing to do with those drainage problems. All our drainage is self-contained. A lot of the improvements are improvements that, you know, that the City wishes to do because they are a quality city. It is not something that we're out there pounding on the door to have anything ... You're spending \$750,000. It's not going to Royal Poinciana in any way, shape or form." Mr. Tarrant then pointed out that Mr. Vega, who was under oath in a quasi-judicial proceeding, had noted that the \$750,000 was in no way going to Royal Poinciana, although Royal Poinciana had agreed to the terms of the development agreement containing the \$750,000.

Council Member Wiseman questioned the propriety of the current discussion since the matter is in litigation. Mayor MacKenzie echoed these sentiments, also pointing out that it was also part of a matter referred to the Florida Ethics Commission. City Attorney Grady said that when Mr. Tarrant filed his memorandum for this item on the agenda, she had advised him that, while there would be general concern about discussing matters in litigation, nothing precludes a Council Member from placing a discussion or proposal on the agenda. It is not something a City Attorney would advocate or promote, she said, although the litigation does not prohibit or preclude it. Council Member Wiseman then moved to table the matter due to the pending litigation; however, Council Member Tarrant objected, asserting that his attempt to represent City taxpayers was being thwarted. He then noted that on July 14, 1999, the PAB did not have the information in Paragraph 11 of the development agreement which had been removed from the discussion, when Planning Director Ron Lee advised that Paragraph 11 would be deferred to the City Manager and Royal Poinciana. Council Member Galleberg, nevertheless pointed out that the City Council had later approved the development agreement by resolution with Paragraph 11. Mr. Tarrant nevertheless maintained that the PAB had not been afforded the opportunity to understand the details of the development agreement prior to making its recommendation.

Council Member Galleberg then seconded Council Member Wiseman's motion to table, reiterating that the Council had approved the development agreement and accusing Council Member Tarrant of campaigning, and calling the discussion unproductive. Council Member Tarrant then accused Council Member Galleberg of stonewalling and asserted that the City Attorney may, in fact, have a conflict of interest in the matter since, he said, his question to her had not been answered. Council Member Taylor, however, expressed the view that the City Attorney had indeed answered the question, although Council Member Tarrant reiterated his position that the City Attorney had not. Mayor MacKenzie then called a roll call vote on the motion to table; this particular action, she said, was not subject to discussion.

**MOTION by Wiseman to TABLE this matter due to pending litigation; seconded by Galleberg and carried 4-3 on roll call vote, all members present and voting (Galleberg-yes, Tarrant-no, MacIlvaine-yes, Wiseman-yes, Taylor-no, Herms-no, MacKenzie-yes).**

During the above roll call, the following comments were made: Council Member Tarrant expressed strong objection, calling the action corrupt and asserting that the majority had destroyed the ethical basis on which the Council operates. Council Member MacIlvaine took exception to Mr. Tarrant's comments, noting that his belief in the correctness of his affirmative vote was based on a legal memorandum from the City Attorney and a conversation he said he had had Chris Anderson, General Counsel for the Florida Ethics Commission. Council Member Taylor expressed surprise and disappointment based on her belief that each Council Member has a right to discuss such issues; she said she felt that the motion constituted gagging. She also said that she had read in the news media that there was new information to be reviewed; namely, a memorandum which had been written to the newspaper by Royal Poinciana Attorney George Vega. Vice Mayor Herms, too, expressed amazement relative to the tabling, asserting that the issue simply involves a traffic light. Having read that morning's newspaper editorial, he said he believed that Royal Poinciana Golf Club is seeking a traffic light to assist elderly members in leaving the grounds at night. The club, he said, had sought a source for the \$750,000 which, with the club's contribution of approximately \$200,000, would realign its exit and replace the traffic light which the County had installed at the club entrance but was intending to remove. Mr. Herms said that the former City Manager had negotiated this arrangement without the Council's knowledge and that the City Manager could gain approval by only four votes. Then the City Manager had resigned, Mr. Herms said, because of embarrassment. Vice Mayor Herms called the Royal Poinciana issue the most corrupt he had observed in the City since the 1990-91 water meter scandal, contending that the City Manager should have been fired as a result. He then offered the option to renegotiate with the Royal Poinciana Board of Directors to facilitate an interlocal agreement between the City and County, for the City to assume responsibility for the traffic light in question. This, he said, would relieve the citizens of the City from the \$750,000 obligation for a County road, as well as the \$10,000 relinquished for forgiving Royal Poinciana stormwater fees; he said the City was receiving just \$22,000 in ad valorem taxes from the club property. Mr. Herms also said that it was not good government but actually corruption and predicted that voters would petition the City for a special election to repeal the ordinance which created the development agreement. He said he would not let the issue fade because of his hatred for corruption and that he had run for election to the City Council in 1990 because the Council was at that time corrupt. If the Council continued on its present path, he said he would go door to door to present his views to the citizens; otherwise, the Council should pursue a compromise and conclude the issue, he added. Mayor MacKenzie said she believed that anyone who felt that the Royal Poinciana issue was about a traffic light is obtuse. She said that she believed there to be no corruption on the part of former City Manager Woodruff and that the decision was made appropriately by the City Council which had the necessary information.

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**Recess: 2:53 p.m. to 3:31 p.m. It is noted for the record that the same Council Members were present when the meeting reconvened.**

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**RESOLUTION 01-9119 ..... ITEM 9-a  
A RESOLUTION DETERMINING SPECIFIC GENERAL DEVELOPMENT SITE PLAN  
PETITION 00-GDSP9 FOR DEVELOPMENT OF PROPERTY IN THE HIGHWAY  
COMMERCIAL ZONING DISTRICT AT 950 NINTH STREET NORTH, MORE**

**PARTICULARLY DESCRIBED HEREIN, SUBJECT TO THE CONDITIONS LISTED HEREIN; AND PROVIDING AN EFFECTIVE DATE.**

**RESOLUTION 01-9120 ..... ITEM 9-b  
A RESOLUTION DETERMINING RESIDENTIAL IMPACT STATEMENT PETITION 00-RIS10 FOR DEVELOPMENT ON PROPERTY LOCATED AT 950 NINTH STREET NORTH, MORE PARTICULARLY DESCRIBED HEREIN, SUBJECT TO THE CONDITIONS LISTED HEREIN; AND PROVIDING AN EFFECTIVE DATE.**

**RESOLUTION 01-9121 ..... ITEM 9-c  
A RESOLUTION DETERMINING CONDITIONAL USE PETITION 00-CU11, FOR AUTOMOBILE DEALERSHIP USES AT 959-969 EIGHTH AVENUE NORTH, MORE PARTICULARLY DESCRIBED HEREIN, SUBJECT TO THE CONDITIONS LISTED HEREIN; PROVIDING FOR THE CITY CLERK TO RECORD SAID CONDITIONAL USE; AND PROVIDING AN EXPIRATION DATE AND AN EFFECTIVE DATE.**

It is noted for the record that the above three items were considered concurrently; all titles were read by City Manager Kevin Rambosk (3:34 p.m.)

This being a quasi-judicial proceeding, Council Members made the following ex parte disclosures: MacKenzie/conversations with Peter VanArsdale and Virginia Clement regarding merits of the petition, familiarity with the site and review of the Planning Advisory Board (PAB) meeting tape; MacIlvaine/no contact; Galleberg/familiarity with the site, a message from petitioner Steve Shelton which he had been unable to return, and a conversation with Peter VanArsdale; Taylor/a message from petitioner Steve Shelton which she had been unable to return, familiarity with the site, and information received from Virginia Clement which is contained in the public record; Herms/brief phone call from Steve Shelton with no issues discussed; Tarrant/brief courtesy phone call from Steve Shelton with no issues discussed; and Wiseman/a message from petitioner Steve Shelton which she had been unable to return. City Clerk Tara Norman then administered an oath to all who intended to give testimony; all responded in the affirmative.

Petitioner's agent Len Berlin reviewed the circumstances of the petition, noting that the Planning Advisory Board (PAB) had recommended denial on the grounds that the project had been presented on a piecemeal basis, a position that the PAB had taken on other Shelton petitions. Displaying a drawing of the Shelton properties (a photograph of which is contained in the file for this meeting in the City Clerk's Office), he explained that in 1991 the Sheltons initially leased a former Dodge dealership which at the time was a legal, non-conforming use. The building and site were then fully renovated. Mr. Berlin further explained that because it was a legal, non-conforming use, no conditional use had been required. In 1993 the Sheltons leased a former gas station site at the corner of Eighth Avenue North and US 41; it received a conditional use approval that same year for additional parking for the dealerships. In 1996, due to the need for additional parking, Shelton also received a conditional use for another leased parcel, that being the rear portion of the lot which had been occupied by the Tom Foolery. Although the restaurant had been demolished, another building to the rear of the site remains intact and can be utilized. In 1998, the Sheltons acquired all the property between their dealership and the Specialist Building, Mr. Berlin continued, followed by acquisition of the land known as the Roark parcel for which the current conditional use was being sought.



Mr. Berlin then indicated that in mid-2000 a General Development and Site Plan (GDSP) had been submitted by Shelton Imports for a new Porsche dealership in another large building; however, it had been determined that the site would not accommodate the required parking. With the current petition, Shelton seeks to renovate to the extent possible the small building on the site in question and bring the parking area up to code standards, Mr. Berlin explained. Nevertheless, the PAB had disapproved on the grounds that the building did not meet certain architectural standards. Mr. Berlin reiterated that the parcels used by the dealership had been acquired individually and incorporated when available necessitating some 11 conditional use and GDSP applications since 1992.

In conclusion, Mr. Berlin explained that his request for a conditional use to continue using a service bay at the rear of the Roark building had been denied because the staff believed there to be insufficient buffering between it and the residential area to the east.

Mayor MacKenzie stated that while Lake Park residents consider the Sheltons good neighbors, there were concerns as expressed by Virginia Clement regarding the unloading of automobiles on the public street; she asked how the site would be modified to preclude this practice. Mr. Berlin responded that although neither he nor petitioner Steve Shelton had been aware of the extent to which this had occurred, upon investigation, the practice had been halted. It has also been determined that one particular transport driver had consistently chosen to unload on Eighth, despite there being adequate space for unloading on-site. However, Mr. Berlin pointed out, no complaints about this practice had been noted until the most recent PAB meeting. Further, in response to Council Member Taylor, Mr. Berlin indicated that no loading zone had been specified on the site plan because of ample space in any of the 24-foot wide aisle ways; he stipulated that such a loading zone would however be designated. Mayor MacKenzie said that from past experience on other Shelton petitions, she believed that these assertions would be adhered to.

Dealership owner Steve Shelton said he was cognizant that the City may eventually wish car dealers to move outside the city limits; space needs at the dealership may also cause this to occur, he said. In response to Council Member Taylor, he said that he had agreed to repave the alley between the dealership and residences to the rear and to provide a substantial landscape buffer. Another issue involving the stacking of tires at the rear of the site was raised. Mr. Berlin explained that in conjunction with use of a temporary tent, tires had been thrown over the fence; this, he said had been an isolated instance and would not occur again.

As initiated by Council Member Galleberg, the Council then discussed with the staff and petitioner's agent the combining of all the Shelton-owed parcels into one conditional use. Mr. Galleberg observed that, while unlikely, there could be separate dealerships installed on the individual parcels. City Attorney Grady confirmed that conditional uses run with the land and are not specific to ownership. Planning Director Lee further explained that the staff's objection to the petition was because it was consistent with neither GDSP criteria nor the high quality buildings appearing throughout the community. However, Council Member Wiseman pointed out that if Shelton were to move out of the City, it is unknown how long the structure would remain unimproved. Mr. Lee then clarified that if the GDSP should be approved, however, the residential impact statement contained therein would adequately address various impacts such as noise, buffering and the like; however, the staff would be more inclined to recommend the

petition if further architectural enhancements were incorporated similar to those proposed in a prior Shelton petition.

Mr. Shelton confirmed that the prior, more elaborate petition had been withdrawn due to insufficient space on site to fulfill auto manufacturer requirements. Mr. Shelton, however, noted the need to bring the proposed improvements to fruition during the summer season, but offered demolition as an alternative rather than renovation of the structure in question. Vice Mayor Herms called Council's attention to other undesirable factors currently on the site in question, including broken paving; he also said that he found the Shelton dealership attractive and would find it easy to approve the petitions and encourage the dealership to remain.

**Public Comment:** None.

***MOTION by Herms to APPROVE Resolution 01-9119 (Item 9-a) as submitted, reflecting staff recommendations, seconded by Wiseman and unanimously carried, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).***

Prior to the vote on the motion, Council Member Tarrant expressed the desirability of fostering a variety of businesses in the City to afford young people employment alternatives to the predominance of hospitality businesses. Mayor MacKenzie also verified with the petitioner that no outdoor speaker system would be employed on any of the Shelton sites.

Council Member Galleberg received further explanation from Planning Director Lee that no records exist to indicate that the use on the initial Shelton parcel had be other than an auto dealership which is the reason for its being considered a legal nonconforming use. In further discussion Mr. Lee inquired of the City Attorney whether the conditional use being considered at that time could be amended to incorporate the legal descriptions for the other properties within the dealership. Mrs. Grady noted, however, that the applicant was not seeking such a combination.

**Public Comment:** None.

***MOTION by Wiseman to APPROVE Resolution 01-9120 (Item 9-b) as submitted; seconded by Taylor and unanimously carried, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).***

Prior to action on Item 9-c, Council Member Galleberg requested further discussion on the possible combination of the various conditional uses, expressing concern that at some future time Shelton could dispose of the properties individually. He pointed out that a future dealership would most likely not enjoy the same confidence and support of the City Council afforded Shelton. Agent Berlin, however, noted that should the Shelton dealership remain on the site, the entire property would eventually be renovated in a similar manner to the company's other locations. Should Shelton move into the unincorporated area, the site could also be renovated so as to accommodate a single product line, he said, and pointed out that the combined parcels would be of greater value as a unit. Council Member Galleberg reiterated, however, the desirability for the property to operate as a unified whole, although City Attorney Grady noted that none of the individual conditional use resolutions tied their approvals to other Shelton properties. Nevertheless, since the GDSP had been approved, a buyer could acquire and use one or all of the properties if consistent therewith, Mrs. Grady said.

Council Member Wiseman questioned whether the Council had the authority to require the petitioner to combine all conditional uses, noting that the staff had found that the criteria had been met for a conditional use on the small parcel in question, absent use of the service bay. Mrs. Grady agreed that such a requirement would be beyond the authority of Council, although the conditional use on the small site under consideration could be approved with the stipulation that it be used in conjunction with the adjacent automobile dealership.

After further discussion of the aforementioned issues, the following motion was formulated:

***MOTION by Herms to APPROVE Resolution 01-9121, as amended to indicate that the conditional use is only in conjunction with the use of adjacent properties, that the conditional use ceases if the parcel is sold, that the conditional use shall extend for an 18 month period to allow renovation when a current lessee vacates the premises, and that the service bay is not a part of the conditional use; however, renovations of the building shall not occur until the GDSP site plan and residential impact statement petitions have been approved (Section 2-7). This motion was seconded by Wiseman and unanimously carried, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).***

**Public Comment:** None. (4:38 p.m.)

Council Member Taylor also received assurances from the petitioner that no vehicles associated with the Shelton dealership would be parked on the adjacent grassed area on Eighth Avenue North. It was also noted that the vacant portion of the building may be devoted to general office use by Shelton Imports prior to renovation.

**PUBLIC COMMENT** .....  
None.

**CORRESPONDENCE and COMMUNICATIONS**.....

Council Member Tarrant inquired about the issue of rock obstructions in **Royal Harbor canals**. City Manager Rambosk indicated that, depending on the extent of the work, it may be possible to undertake on an informal quotation basis; otherwise, a request for proposals (RFP) should be published. Mr. Tarrant cautioned that canal work in this location should be done in a manner consistent with other canal-front neighborhoods. Mr. Rambosk said he would provide an update by the next Council meeting. Council Member Wiseman requested that, like the Code of Ordinances, the **Florida Statutes** be available in the Chamber. Council Member Taylor received assurance from City Attorney Grady that an amendment to the City's ethics provisions would be presented at the next meeting to allow a practicing architect to serve on the **Architectural Review Board**. Miss Taylor also requested discussion of **City entrance sign design** in light of the proposals made for entrance signs in Oyster Bay and Royal Harbor. Mayor MacKenzie however expressed reluctance to alter the standard design which had been utilized for several years at City entrances and in parks and other City facilities. However, she said she had no objection to individual neighborhoods adopting their own designs. Council Member MacIlvaine agreed. Council Member MacIlvaine inquired about the status of a petition by residents of the Old Trail Drive area for **traffic calming**; he said that he believed this to have been transmitted directly to former City Engineer Richard Gatti. In addition, Mr. MacIlvaine related a citizen communication relative to a significant variation in **sidewalks** on Second Avenue South which he said is a safety issue. City Manager Rambosk said that he would transmit this information to Engineering which is now compiling recommendations on missing sidewalk links. Council Member Tarrant conveyed concerns from residents on Second and Third Streets South relative to

what he described as unreasonable use by concrete haulers and other large **trucks**, suggesting that such trucks remain on US 41 and use Broad Avenue to access the southern section of the City. It was noted in further discussion that restrictions placed on one street however merely divert such traffic to other thoroughfares. City Manager Rambosk reported that there is a possibility of using an area on the airport property for an off-load **horticultural refuse site**. In response to Council Member Taylor, City Manager Rambosk said that additional **odor control** measures for the trash container at the Inn on Fifth would most likely be recouped from users of the device. Council Member Tarrant said that complaints nevertheless persist; he suggested relocation of the trash unit in question. Vice Mayor Herms predicted that this issue would continue to be a factor as more mixed use developments are permitted. Mayor MacKenzie said she had received complaints about the lack of enforcement of **address numbers which are required to be posted on seawalls**. She also indicated that further research had indicated that small, unobtrusive antennas can be used to eliminate unsightly radio towers and that she would provide Council with this information in reference to a recent proposal by American Tower to construct a large **communications tower** within the City.

**ADJOURN**.....  
4:57 p.m.

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Bonnie R. MacKenzie, Mayor

Minutes prepared by:

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Tara A. Norman, City Clerk

Minutes approved: 5/2/01

City Council Regular Meeting – March 7, 2001 – 9:00 a.m.

03/06/2001 13:51

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PLANNING DEPT

PAGE 01

Attachment 1

Page 1 of 1

3/7/01 Council Meeting

**Proposed new language for Item 11 of resolution conditions:**

The petitioner shall be required to submit a detailed landscape plan at the time of specific GDSP approval. A six-foot wide landscape buffer shall be required along the south and west perimeter of the property in accordance with Section 106-74(b) of the Code of Ordinances. Additional landscaping shall also be required along the northern and eastern perimeter of the property as required for residential impact statement approval under Section 110-137(a)(3) or Section 110-139(a)(3) of the Code of Ordinances, unless a waiver is obtained from City Council in accordance with Section 110-142 of the Code of Ordinances. Final location of dumpsters shall be approved at the time of specific GDSP approval.

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To: John Passidomo  
201-0884

From: Cory Ewing  
213-1045

# **FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS**

LAST NAME—FIRST NAME—MIDDLE NAME <i>Herns Joe</i>		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <i>Naples City Council</i>	
MAILING ADDRESS <i>690 Bougainvillea Rd.</i>		THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE WHICH I SERVE IS A UNIT OF: <input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY	
CITY <i>Naples</i>	COUNTY <i>FL.</i>	NAME OF POLITICAL SUBDIVISION: <i>City of Naples</i>	
DATE ON WHICH VOTE OCCURRED <i>3/2/2001</i>		MY POSITION IS: <input checked="" type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTEE	

Attachment 2  
Page 1 of 2  
3/7/01 Council Meeting

## **WHO MUST FILE FORM 8B**

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

## **INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES**

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his special private gain. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain of a principal (other than a government agency) by whom he is retained (including the parent organization or subsidiary of a corporate principal by which he is retained); to the special private gain of a relative; or to the special private gain of a business associate. Commissioners of community redevelopment agencies under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

### **ELECTED OFFICERS:**

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

**PRIOR TO THE VOTE BEING TAKEN** by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

**WITHIN 15 DAYS AFTER THE VOTE OCCURS** by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

### **APPOINTED OFFICERS:**

Although you must abstain from voting in the situations described above, you otherwise may participate in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

**IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:**

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes.
- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

City Council Regular Meeting – March 7, 2001 – 9:00 a.m.

YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

You must disclose orally the nature of your conflict in the measure before participating.

You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

Joseph Herms, hereby disclose that on March 7, 2001

A measure came or will come before my agency which (check one)

- ☐ inured to my special private gain;
- ☐ inured to the special gain of my business associate, \_\_\_\_\_;
- ☒ inured to the special gain of my relative, \_\_\_\_\_;
- ☐ inured to the special gain of \_\_\_\_\_, by whom I am retained; or
- ☐ inured to the special gain of \_\_\_\_\_, which is the parent organization or subsidiary of a principal which has retained me.

The measure before my agency and the nature of my conflicting interest in the measure is as follows:

My Sister-in-law works for K.P.M.G.

Attachment 2  
Page 2 of 2  
3/7/01 Council Meeting

Date Filed

3/7/2001

Signature

Joseph Herms











NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317 (1991), A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$5,000.



**Conceptual Plant List**

Plant	Qty.
<b>Palm:</b>	
Coconut Palm	60' x 12' @ 20' x 20'
Golf Course Palm	8' x 12' @ 12' x 12'
Majesty Date Palm	12' x 14' @ 20' x 20'
Royal Palm	6' x 12' @ 20' x 20'
Fountain Palm	18' x 20'
<b>Canary Tree:</b>	
Black Willow Tree	18' x 20'
Lime Green Tree	18' x 20'
Bottle	8' x 12'
<b>Shrub:</b>	
Clematis	3 gal. 10'
Impatiens	3 gal. 10'
Rose	3 gal. 10'
Jasmine	3 gal. 10'
Hydrangea	3 gal. 10'
Blue Broomrape	3 gal. 10'
Taxifolia	3 gal. 10'
<b>Groundcover:</b>	
Grass	1 gal. 10'
Grass	1 gal. 10'
Dwarf Bougainvillea	1 gal. 10'
Indian Hawthorn	1 gal. 10'
<b>Vine:</b>	
Confederate Jasmine	7 gal. 40'
Bougainvillea	7 gal. 40'



Conceptual Plant List		
Palms		Qty: 75
	Coconut Palms	6'-10' ct 20'-25' oa
	Cabbage Palms	8'11'14'17' ct
	Medjool Date Palms	12' ct 25' oa
	Royal Palms	6'-10' gw 20'-24' oa
	Foxtail Palms	16'-20' oa
Canopy Trees		Qty: 45
	Black Olive Trees	14'-16' oa
	Live Oak Trees	16'-18' oa
	Guava	8'-10' oa
Shrubs		Qty: 1500
	Cocoplum	3 gal. 20"
	Hibiscus	3 gal. 20"
	Ixora	3 gal. 20"
	Jasmine	3 gal. 20"
	Pittosporum	3 gal. 20"
	Silver Buttonwood	3 gal. 20"
	Seagrape	3 gal. 20"
Groundcovers		Qty: 1000
	Liriope	1 gal 16" ht
	Juniper	1 gal 16" ht
	Dwarf Bougainvillea	1 gal 16" ht
	Indian Hawthorn	1 gal 16" ht
Vines		Vines
	Confederate jasmine	7 gal. 48"
	Bougainvillea	7 gal. 48"

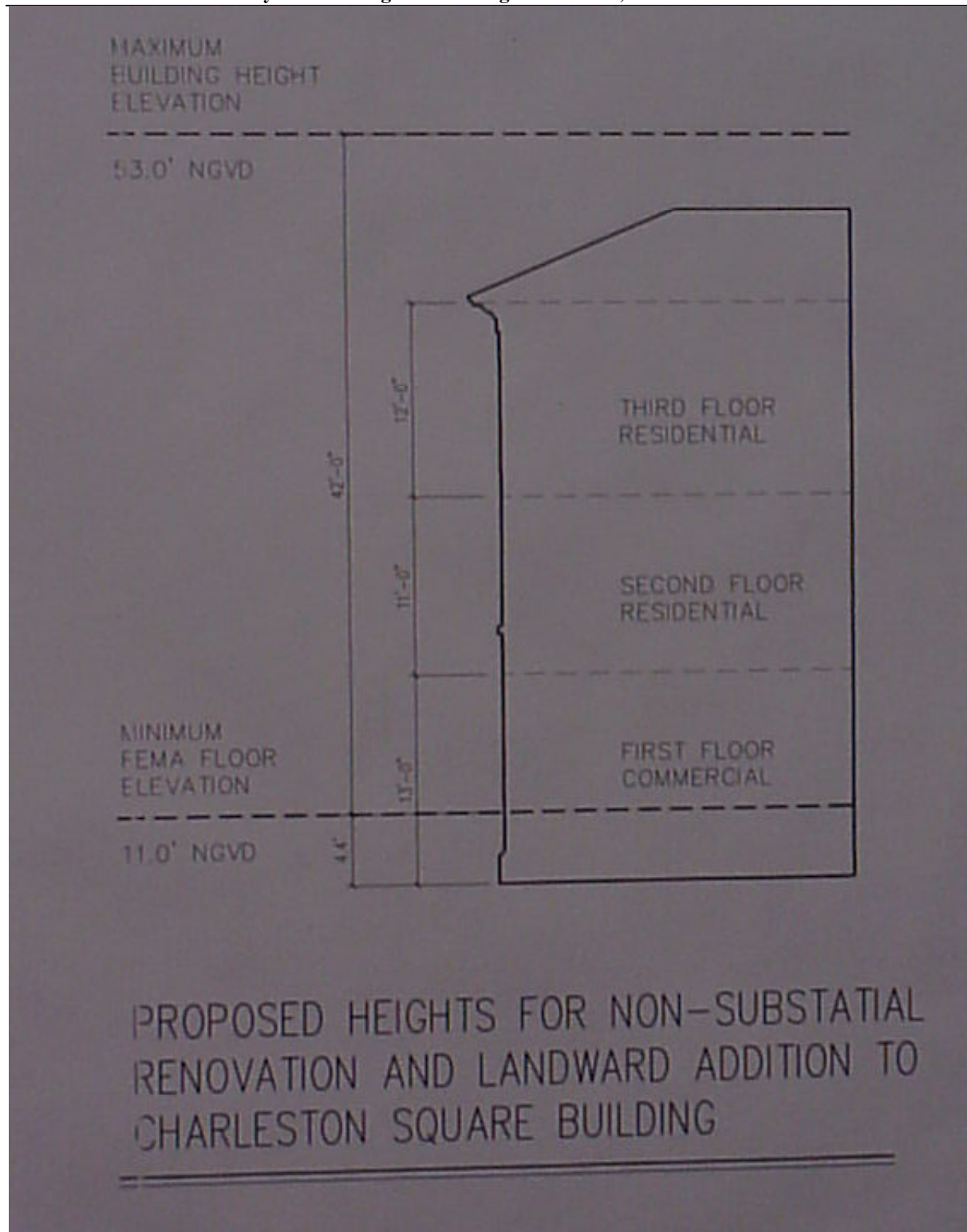
## Enhanced Conceptual Image



*Charleston Square*













## Charleston Square

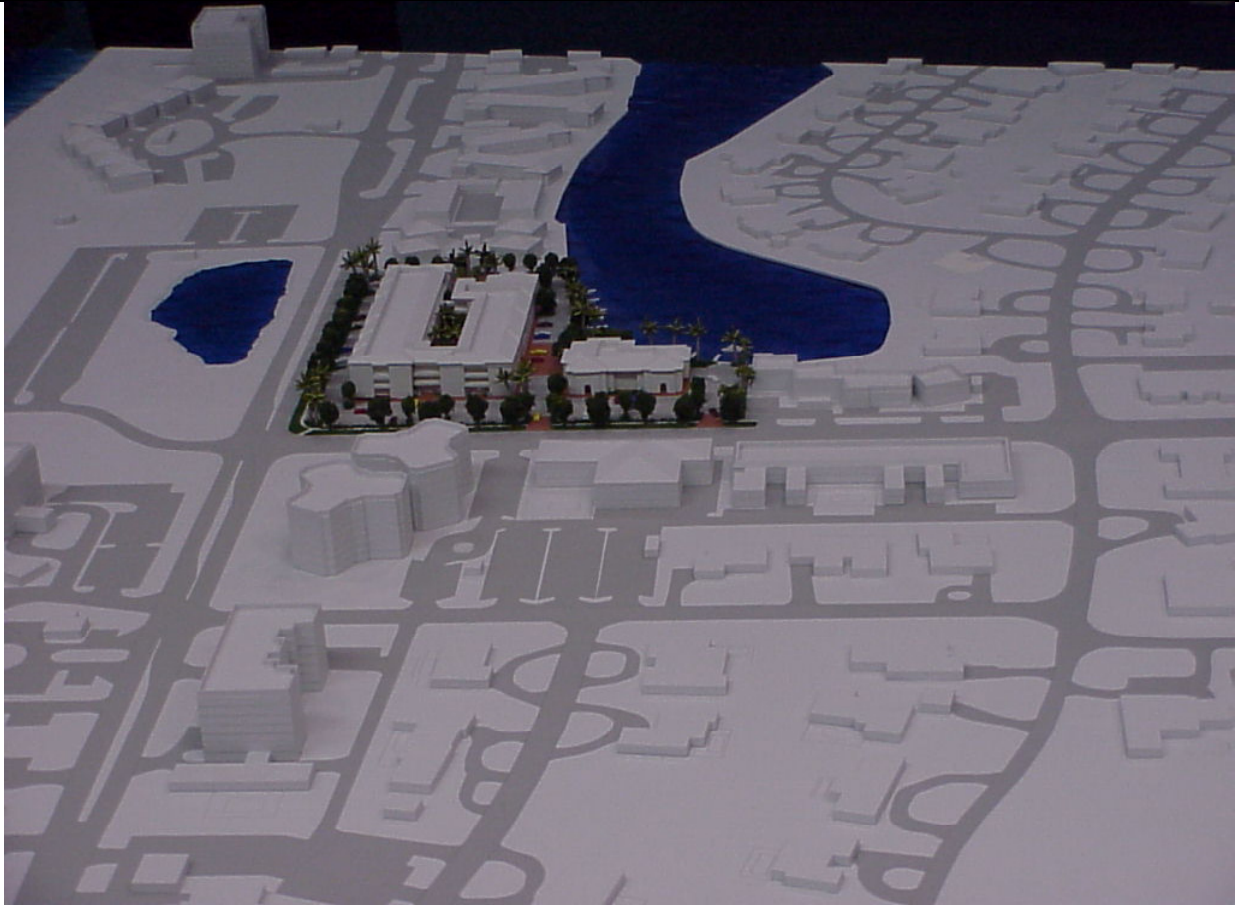






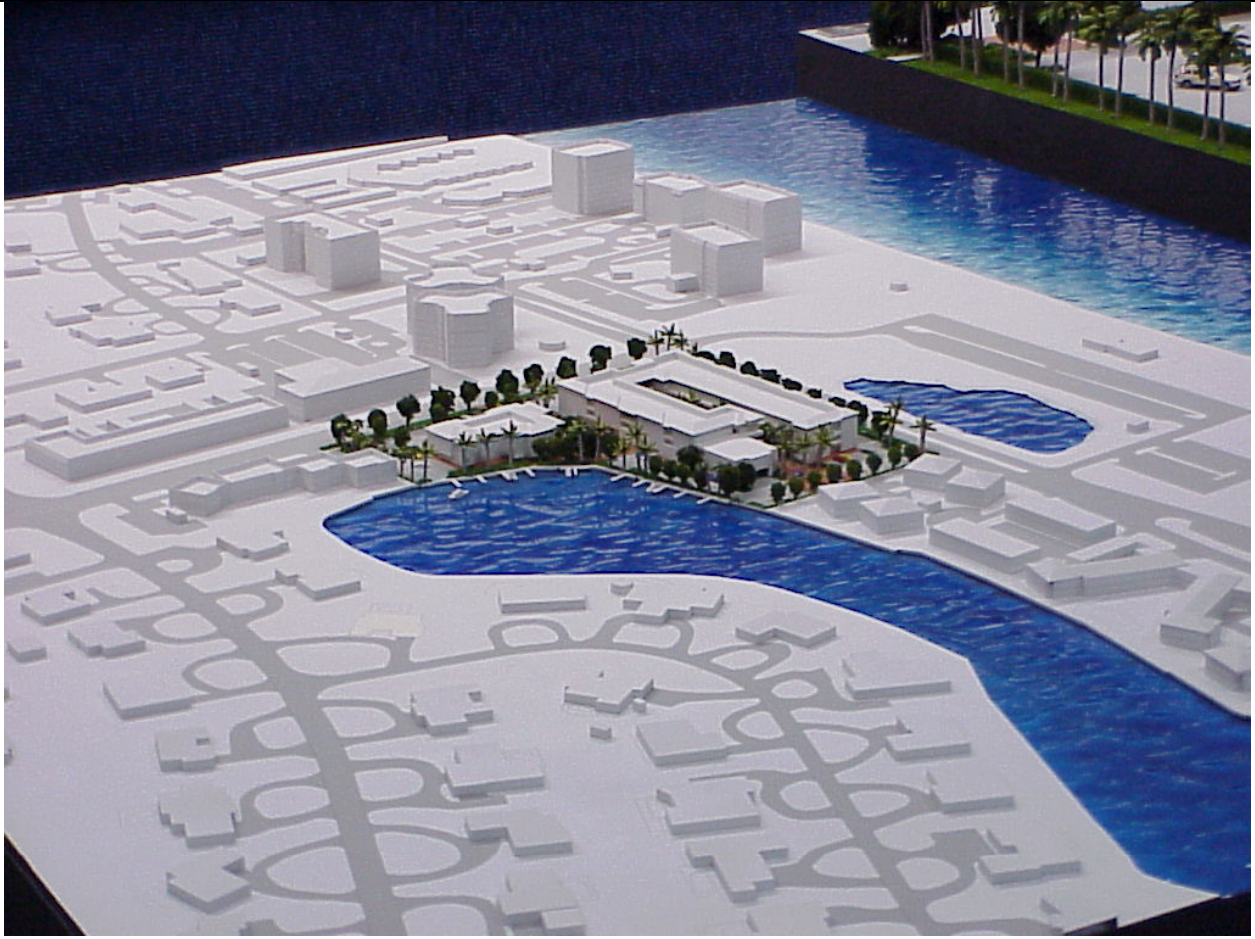






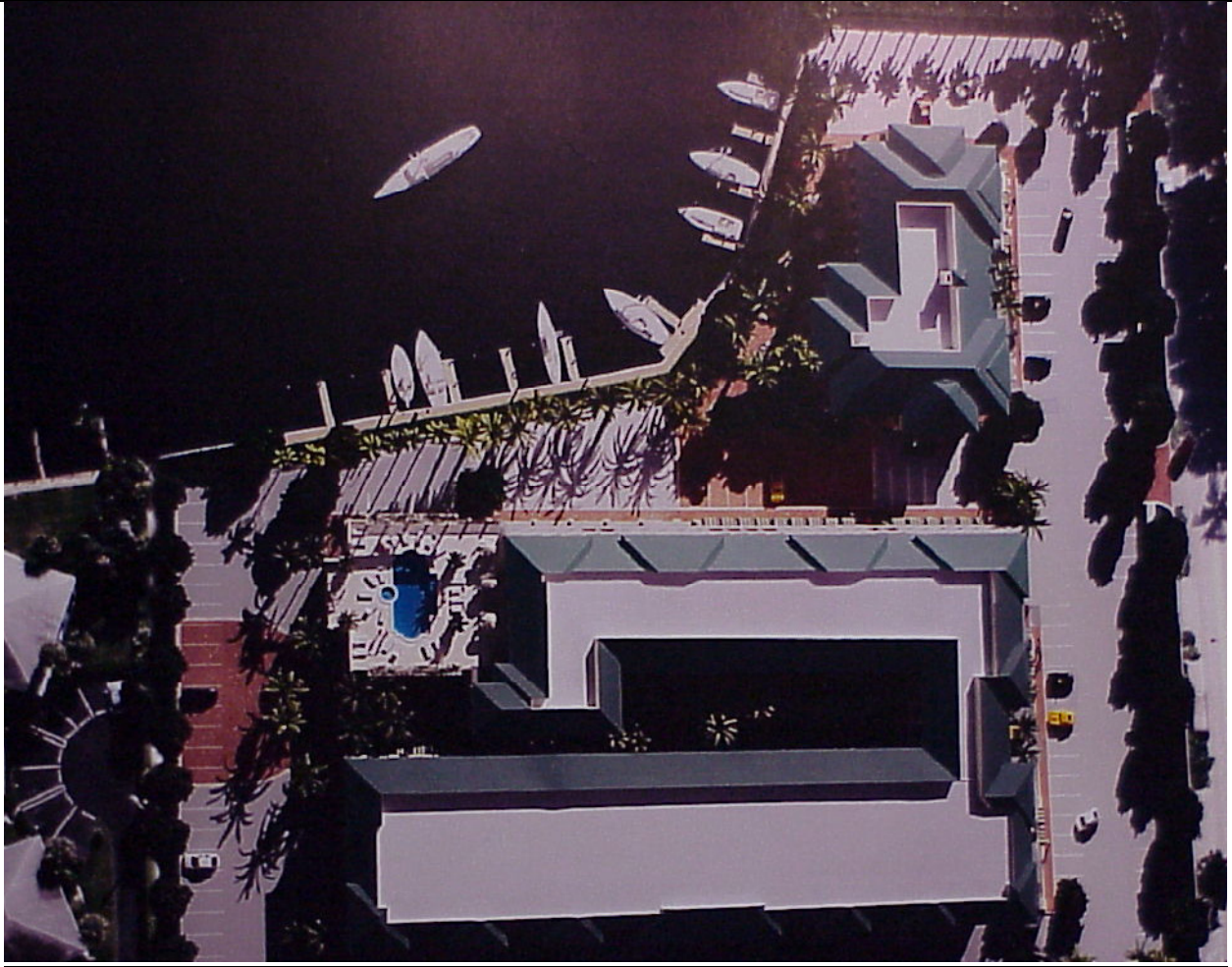
























**City Council Regular Meeting – March 7, 2001 – 9:00 a.m.**







