

City Council Chamber  
735 Eighth Street South  
Naples, Florida 34102

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**City Council ~~Regular~~ Workshop Meeting – March 19, 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 MacIrvine  
Fred Tarrant  
Penny Taylor  
Tamela Wiseman

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<b>Also Present:</b>	Pamela Mac’Kie Collier County Commissioner
Kevin Rambosk, City Manager	Arlene Guckenberger
<u>Beverly Grady, City Attorney</u>	James Dean
William Harrison,	Barbara Walker
Asst. City Manager	June Singer
Tara Norman, City Clerk	Skip Quillen
Ron Lee, Planning Director	
Laura Spurgeon, Planner	
Susan Golden, Planner	
Brenda Blair,	
Recording Specialist	
Karen Kateley,	
Admin. Specialist	

**Media:**  
Denise Zoldan,  
Naples Daily News

Other interested citizens and  
visitors.

**SET AGENDA .....ITEM 2**

**MOTION by Taylor to ADD ITEM 8, DISCUSSION RELATIVE TO THE**  
**ARCHITECTURAL REVIEW BOARD; 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 Galleberg to **SET THE AGENDA**; *seconded Herms and unanimously carried, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).*

Collier County Commissioner Pamela Mac’Kie addressed Council on various issues and offered to relay Council Members’ questions and concerns to the Collier County Commission. Commissioner Mac’Kie noted the upcoming annual budgeting process and proposed a cooperative City/County effort relative to improvements to the intersection of Seagate and Crayton Roads and installation of a culvert on Goodlette-Frank Road at Fleischmann Park. She also responded favorably to a request from a prior meeting with Council Member Taylor suggested that the City partner with the County in corresponding with the Florida Department of the Transportation (FDOT) in order to make the entrance to Royal Harbor and Oyster Bay safer. Such a project, she added, would likely be funded through road maintenance funds, as Metropolitan Planning Organization (MPO) funds may be unavailable.

City Manager Kevin Rambosk advised Council that City and County staffs and the Department of Environmental Protection (DEP) would make a technical presentation of the sewer plant issue at the upcoming Regular Meeting. Ms. Mac’Kie said she would not support any options that could possibly interfere with the City’s system, and suggested that the City require specific protections such as a deadline for the removal of the interconnection. Council Member Taylor questioned whether the County had developed other interim measures until the new sewer treatment plant is constructed. Commissioner Mac’Kie explained that the County will utilize measurements taken during peak season, as opposed to using an average, in determining whether the County is meeting its sewer needs. She clarified that State law only requires a municipality to set a level of service and to budget funds for three years in order to meet concurrence. She added, however, that she is currently pursuing a more realistic concurrency system. Mayor MacKenzie then noted that the County is likewise experiencing water and landfill problems. After receiving confirmation that the DEP would not be issuing wet (sewer collection) permits, Vice Mayor Herms questioned the impact this would have on Development of Regional Impacts (DRI). Ms. Mac’Kie indicated that as tracts of land are platted in a DRI or a large Planned Development (PD), their sewage capacity is funded via impact fees and therefore set apart. Mr. Herms, however, requested further information on the potential impact of DRIs on the sewer service and Ms. Mac’Kie said she would research this issue. Additionally, Mr. Herms voiced concern that sewage in the retention ponds could leak into the aquifer and the City’s water system. He also questioned the time frame for the sewage spills and noted that the temporary connection may not be helpful if the City has the same peak periods. City Manager Rambosk explained that the City’s peak period is 8 a.m. to 1 p.m., and that it would therefore be unable to absorb any material at that time. Mr. Herms suggested connecting to the Glades Sewer Plant; however, Ms. Mac’Kie advised that this facility is currently used as a warehouse. In further discussion, Ms. Mac’Kie said she could not confirm that the County had a deep well injection unit for sewage but would ascertain this information. Based on Council’s concerns about the upcoming meeting, City Manager Rambosk recommended that the Commission Chairman provide the opening remarks, followed by the County staff presentation, City staff presentation and a DEP analysis. Vice Mayor Herms also recommended that the County present a map of its entire system. Noting that the City recently borrowed \$20 million to upgrade its sewer plant, Council Member Tarrant questioned whether ratepayers would receive reimbursement given that the City would be processing County sewage. City Manager Rambosk said that staff would address this topic during its presentation. Later in the meeting, Mr. Tarrant questioned whether the

County has a stormwater fund that addresses the replacement of old sewer lines. In addition, Mayor MacKenzie said she would like a complete explanation of the spills and the effectiveness of the clean up efforts, and Council Member Taylor requested information on how the County is currently handling its sewage with no connection.

Council Member Galleberg likewise requested an update on the proposed development within the Davis Boulevard triangle, noting that this location, albeit in the County, could have a significant impact on the City. Mr. Galleberg also questioned the County's position on eminent domain, and he said he hoped the project would at least be compatible with the City. Commissioner Mac'Kie said improving this area is a priority since it is the gateway into the City. She also explained that the first request for proposals (RFP) was offered with no zoning limitations or guidelines; this generated proposals with significant density, intensity, and height. As a result, County is developing a new RFP, which will establish basic parameters yet still allow for creativity. She added that she hoped the newly formed property owners association would propose a plan. She said she doubted that eminent domain would be used to require redevelopment but added that she would consider eminent domain if only one of the property owners refused to assent to a favorable plan. She also stated that any building in this area must comply with the redevelopment goals, and Mayor MacKenzie therefore requested that the Council receive a copy of the redevelopment standards.

**At this point in the meeting, City Manager Rambosk distributed a March 16, 2001 letter to the City from Comcast Cablevision (A copy of this material is contained in the file for this meeting in the City Clerk's Office). A discussion of the cable franchise will occur at the April 4, 2001 City Council Regular Meeting.**

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**DISCUSSION OF PROPOSALS FOR WATERFRONT REDEVELOPMENT (9:13 a.m.)** City Manager Kevin Rambosk stated that staff has been researching options for the City's waterfront; the purpose of these discussion is to ascertain Council's interest in establishing incentives aimed at maintaining what is left of this area's atmosphere and commercial facilities. Planning Director Ron Lee commented on the number of proposed redevelopment projects for this area and said it was important to determine whether the City's waterfront zoning should include incentives encouraging property owners to provide slips for the local charter boat fleet. In this regard, Mr. Lee suggested that parking, residential density, and lot coverage could be considered in exchange for providing the slips.

Council Member Galleberg described the concept as long overdue and also recommended that the City focus on facilitating public enjoyment of the waterfront. Council Member MacIlvaine stated that the waterfront is key to the City's ambience and said he believed it appropriate to research ways to use regulations in steering its development. He also said it is important to maintain both the charter boat industry and the scenic waterfront views. Council Member Taylor suggested that the Naples Seaport be viewed as what is not acceptable in terms of height, intensity, and lack of public access; she also said she would support the proposed proactive approach. Council Member Wiseman likewise expressed support for incentives; however, Vice Mayor Herms questioned whether the property owners and developers would concur. Mr. Lee explained that staff had not yet discussed this approach with waterfront property owners, noting Council direction was needed prior to beginning such an in-depth analysis. Mr. Herms recommended conducting these discussions before any consideration of incentives or zoning amendments noting that if it is determined that residential is the highest and best use of a waterfront property, it would be difficult to combine such a development with charter boats. Council Member Taylor however voiced concern that the highest and best use seems to be the large, unattractive boat storage facilities. Council Member Tarrant agreed with Mr. Herms in regards of first speaking to the affected property owner; however, Council

Member MacIlvaine commented that the interests of the current property owners are often different from those of the prospective buyers, citing for example the mega house issue. Mr. MacIlvaine therefore recommended research on ways how to make it practical for the buyers to develop in ways that are compatible with the interests of the City. Later in the discussion, Mayor MacKenzie said she would distribute to Council copies of the 1991 Naples Bay Waterfront Concept Plan and Development Standards along with the 1999 Naples Bay Boat Traffic Study and Model.

*Consensus for staff to proceed with an in-depth analysis.*

..... ITEM 4  
**DISCUSS A REQUEST TO PLACE A MEMORIAL PLAQUE AT THE NAPLES FISHING PIER.** (9:26 a.m.) Mayor MacKenzie stated that many residents have requested that plaques be placed on Naples Fishing Pier benches in memory of their loved ones, but noted that there is currently inadequate space to accommodate all the requests. Staff is therefore suggesting listing these memorials on one large plaque to be placed on the pier and establishing a memorial fund to ensure that the pier is maintained. In response to Council, City Manager Kevin Rambosk explained that the present memorial program utilizes 76 benches located throughout the City, 30 of which are on the pier. He added that given the pier's popularity and the limited number of pier benches, staff feels a large plaque would better accommodate the memorial requests. In response to Council Member Taylor, City Manager Rambosk said there were other available locations for benches in the City, but he added that the beach accesses are becoming full. He further explained that donations for this cause typically vary from \$700 to \$1,000 depending on the type and style of bench purchased. Council Member MacIlvaine recommended that the plaque differentiate the placement of names according to the donation given; however, Council Member Tarrant said all donors should be treated equally. Vice Mayor Herms expressed support for the concept, recommending that the donated funds be directed into a specialized fund for beach facilities, pier improvements, or any other purpose that Council determines appropriate.

**MOTION by Herms to DIRECT STAFF TO PROVIDE INFORMATION ON THE CURRENT MEMORIAL PROGRAM ADDING SPECIFICS TO ADDRESS MEMORIALS AT THE PIER; 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).**

..... ITEM 5  
**REVIEW OF PROPOSED OUTDOOR DINING REGULATIONS** (9:34 a.m.) City Manager Kevin Rambosk referred to Council's prior direction for staff to obtain further information with regard to structuring an outdoor dining ordinance. He also read into the record a letter regarding outdoor dining fees. (See Attachment 1.) Planner Susan Golden explained that staff had surveyed a number of commercial districts throughout the City and found that rental costs range from \$10 to \$50 per square foot. She said that staff however recommends continuing to impose only a nominal fee for the use of the public right-of-way for outdoor dining. Council also learned that the current parking requirement for outdoor dining is one parking space for every 100 square feet, although a prior Planning Advisory Board (PAB) had recommended eliminating this requirement altogether. Based upon Council's prior discussions, Ms. Golden said staff is recommending a parking requirement of three spaces for every 1000 square feet of outdoor dining, as currently required in the "D" Downtown district. These discussions, she added, are to obtain Council's input on the draft ordinance which could be brought back for First Reading in April.

In response to Council, Ms. Golden explained that in 1998 a previous Council had instructed staff to research outdoor dining due to liability concerns regarding the use of the public right-of-way. Council had also questioned whether taxpayers should be compensated since businesses were profiting from public space. Staff was also asked to research parking requirements for outdoor

dining. Ms. Golden explained that due to the success of outdoor dining on Fifth Avenue, restaurants in other parts of the City wish to provide the same amenity, but there are currently no guidelines in place to allow this activity outside Fifth Avenue South. Staff is therefore in the process of developing an ordinance that would apply to all of the City's commercial areas. In response to Council Member Taylor, Ms. Golden stated that the nominal rental fees could be used to provide right-of-way maintenance, but she added that this would not generate substantial revenue due to the small number of affected restaurants. Further she explained that the proposed ordinance would require Council approval for outdoor dining in excess of 400 net square feet; anything less could be approved administratively through the Planning Department. Council Member Taylor questioned how this would apply to restaurants currently offering outdoor dining and Ms. Golden explained that staff would ask Council to grandfather those restaurants that had already received Staff Action Committee (SAC) review and Council approval. These restaurants, however, would still be required to obtain a permit, which would be valid for one year; Council could however revoke this permit if there are circumstances warranting such action. Council Member Galleberg recommended that restaurants using the public right-of-way for outdoor dining provide proof of liability insurance that names the City in the policy. In response to Council Member Taylor, Planner Golden confirmed there would still be a requirements for a five-foot pedestrian passage area that staff would prefer be on the outside of the outdoor dining area. This would leave most of the dining activity adjacent to the building frontage. Mayor MacKenzie requested specifics on how the five feet would be measured. Planner Golden stated that although the Florida Department of Transportation (FDOT) standards are not clear, she assumed they would incorporate occupied tables and chairs in the five-foot measurement. In response to Council Member Wiseman, Planner Golden stated that staff had contacted other communities relative to this type of user fee and said it could be incorporated into the annual occupational license process. Council Member Tarrant pointed out that the businesspeople themselves have brought vitality to the downtown streets, and that he is therefore hesitant in complicating the process by introducing bureaucracy, which could possibly interfere with the success already achieved. Although concurring with the importance of liability insurance and pedestrian access, Council Member Wiseman questioned the proposed fee structure. Vice Mayor Herms pointed out that many City restaurants offer outdoor dining on private property. Planner Golden said this is permitted only through the conditional use process; development of this ordinance would enable future restaurants to approach the City. Council Member Herms indicated support for charging a fee for use of the right-of-way and imposing parking requirements. Council Member MacIlvaine said he supported the expansion and attendant control of outdoor dining into other areas of the City. He also concurred with the requirement for liability insurance and relaxing the parking requirements due to the seasonal nature of outdoor dining. Although noting it would not produce significant revenue, Council Member Galleberg expressed support for a user fee for the processing involved. He expressed uncertainty, however, about relaxing the parking requirement without additional research and consideration. Mr. Galleberg further stated that \$7.50 (the proposed user fee per square foot) is 1/3 of the commercial rent charged on Fifth Avenue and is therefore too high. Mr. Lee said that staff would take measurements of existing restaurants applying this fee to ascertain the costs, and would also provide alternatives. Council Member Tarrant said he supports relaxation of the parking requirements, and concurred that \$7.50 per square foot is excessive. Mayor MacKenzie voiced concern regarding the proposal to allow up to 400 net square feet of outdoor dining without Council approval. Council should review any changes to the size and location of the walkway, she said. Council Member Tarrant said he believed the country would eventually be in recession, and that the City will eventually feel the effects. Council should do all it can to keep economic vitality downtown, Council Member Tarrant said. City Manager Rambosk then read into the record another letter addressing outdoor dining fees. (See Attachment 2.)

**Public Comment:** (10:10 a.m.) **Barbara Walker, 255 13<sup>th</sup> Avenue South, Suite 202**, said she represented Neapolitan Enterprises, the Fleischmann family holdings, a number of which involve outdoor dining on private properties on Third Street South. Although supporting an outdoor dining ordinance, Ms. Walker pointed out that outdoor dining on private property is different from that on public property. She also that although retail food sales operations with outdoor dining do not fit into the definition of a conventional restaurant, they too should be regulated by this ordinance. She then said a permit granted for use of private property should be permanent, provided the establishment complies with all Code requirements, and recommended against parking requirements for outside dining. She suggested instead allowing a specific percentage of the inside space to be used as outdoor dining. Further, Ms. Walker noted that the grandfathering clause is not included in the proposed regulations for private property. **June Singer, address not given**, President of the Collier County Chapter of the Florida Restaurant Association, concurred with Ms. Walker and noted that the restaurant industry is already regulated. In response to Council, Ms. Singer said there should be no additional requirement for parking due to the seasonal nature of outdoor dining. Council Member Galleberg commented that he did not believe Council should restrict the size of outdoor dining on private property. Ms. Singer then indicated that the current parking regulations are adequate, and she predicted that most restaurants in the City would cooperate.

*Staff to make further refinements and provide Council with calculations of proposed fees based on various sizes of restaurants offering outdoor dining.*

**Recess 10:22 a.m. to 10:38 a.m. It is noted for the record that the same Council Members were present when the meeting reconvened.**

**CORRESPONDENCE & COMMUNICATIONS (10:38 a.m.) .....**

Vice Mayor Herms noted that during the cable franchise transfer from AT&T to Comcast Cablevision (December, 2000), Council had asked Comcast to reinstate the Miami PBS station, WPBT, which it had recently taken off the air. Referencing Comcast's recent letter, a copy of which is contained in the file for this meeting in the City Clerk's Office, Mr. Herms said it is apparent that Comcast is not going to take this action, and he therefore asked Council to invite Comcast to a workshop in order to further discuss reinstating this channel. Mayor MacKenzie said she was disappointed that the City's cable channel was moved without notice from 76 to 78. City Manager Rambosk then noted that representatives of Comcast would be present at the April 4<sup>th</sup> Workshop Meeting and suggested discussing these issues at that time. Further, he said Comcast had previously indicated that channel assignments are subject to change. Mr. Herms said Comcast had represented that it had inadequate space in its lineup for WPBT but is currently adding five new channels. Council Member MacIlvaine pointed out that Comcast has sole authority to make such decisions. Assistant City Manager William Harrison then explained that the City has authority over the rate for the lowest tier of service and can review these rates to ensure they are consistent with inflation and the industry. Although noting staff had not as yet reviewed the most recent rate increase, Mr. Harrison said that the past year's increase had been deemed appropriate. Council Member Galleberg noted that Comcast had expressed a willingness to be communicative with Council. Mayor MacKenzie relayed citizens' preference for the second PBS station because of one particular program and asked whether WFCU, the Ft. Myers PBS channel, had secured the rights to air it. Mr. Herms however said he perceived a significant benefit in having both PBS channels. It was the consensus of Council to request inclusion of the second Public Broadcasting System (PBS) channel.

**..... ITEM 8  
DISCUSSION OF ARCHITECTURAL REVIEW BOARD (10:50 a.m.)**

City Attorney Beverly Grady noted the Planning Advisory Board's revisions to the draft Architectural Review Board (ARB) ordinance and stated that a new section had been added to address ethics provisions. (A copy of this document is contained in the file for this meeting in the City Clerk's Office.) She further explained that the existing ethics ordinance, specifically (Section 2-463(d)(2) of the Code of Ordinances,

precludes a public official, whether appointed or elected, from personally representing a petitioner before the Council or personally representing an applicant for a variance in the City. City Attorney Grady clarified that although the ARB applies only to commercial structures, the Code's prohibition applies to architects even if they seek a variance for a **residential** structure. She further advised that this prohibition applies only to individuals, not the firms they represent. Even if this section were not applicable to the ARB, State ethics provisions still apply and as such require architects to monitor themselves so as not to become involved in continuing or frequently reoccurring conflict situations. She added that if Council is seeking to have the broadest representation including working architects with City businesses, this proposed revision would make Section 2-463 (d) (2) not applicable to the ARB.

Council briefly discussed the inclusion of advisory board members in this Code section. Council Member Tarrant said he believed the PAB Chairman might have violated this Code section in regards to the Royal Poinciana Golf Club issue, and added that he believed a majority of the Council had set an ethical standard which is different than that established by the Code. Council Member Galleberg however said he found this to be a baseless assertion. Mayor MacKenzie said Council had previously indicated it did not want to establish an ARB without standards in place; she also questioned whether the PAB intended to create the standards and continue in force, or allow the PAB itself to perform the reviews. Planning Director Ron Lee said the PAB recommends that the ARB develop a manual during its first year of operation, during which time compliance with its recommendations would be voluntary. Subsequently, the ARB would continue to review projects utilizing the new standards. Council Member Galleberg pointed out that the majority of Council had previously favored this approach, and Council Member Taylor expressed support for the added ethics provision. Council Member MacIlvaine proffered a motion seconded by Miss Taylor to instruct staff to place this on a future agenda for action; however, further discussion ensued.

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**It is noted for the record that Vice Mayor Herms left the meeting at 11:05 a.m.**

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Council Member Galleberg questioned whether Section 86-152k, dealing with the creation of districts, was necessary; he also commented that Section 86-153 provide for a designated first and second alternate member if necessary. Additionally, Council Member Galleberg advocated a City residency or City place of business requirement for members and alternates, a provision requiring a Council vote on the removal of members if necessary, and a requirement that four members, rather than a majority of the ARB, constitute a quorum for the transaction of business. Mayor MacKenzie questioned whether the fee schedule specified in Section 86-159 would apply during the first year, and Planning Director Lee explained that this would be a policy decision made by Council. City Attorney Grady suggested a provision clarifying that these fees would go into effect upon adoption of the standards. In response to Council, Planning Director Lee estimated that the ARB review process would extend the normal land use petition process by two months. He then recommended that commercial buildings first approach Council with some conceptual drawings for land use approval, then proceed to the ARB for final building design. Council Member Galleberg, however, said Council approval of the entire project should be the final step in the process. He said he believed the PAB should deal with land use and Code compliance while the ARB reviews the actual structure. Although noting that the functions of these boards would be distinct, Mayor MacKenzie said they would also be interrelated since the order in which they proceed have significant ramifications on a petition. Council Member Galleberg said he believed the PAB review to be more fundamental than the ARB and should therefore come first. The petition should then proceed to Council if a variance is involved, and then to the ARB for details of the building façade, he added. City Manager Kevin Rambosk stated that staff could present relevant procedures and processes and further discuss these issues at a future workshop. Mayor MacKenzie said she would like staff's opinion as to how this process would proceed with a variety of petitions and designs. Council

Member MacIlvaine said he would not object to this coming to Council as a First Reading; however, Council Member Galleberg said the outstanding questions merit more workshop discussions. Council Member Tarrant said he would not support establishing any advisory board amidst what he described as flexible ethical policies in the City. Council Member Taylor suggested holding another workshop on this issue before proceeding to First Reading at the next Regular Meeting; however, Mayor MacKenzie advocated a two-week delay. Council Member Wiseman said she supported creation of some design standards, but did not favor increasing bureaucracy or delaying the approval process by two months; Council Member Tarrant concurred. She also stated that the ARB should also address multi family. Council Member Galleberg concurred with this point, and said this concept could be expanded in the future if successful. Planning Director Lee said staff could research methods to streamline the process so that the different components can proceed concurrently; he would also provide a flow chart to illustrate this process for different types of applications. Council Member Tarrant however said Council could receive input from the architectural community in ways other than establishing another advisory board. Council Member Taylor nevertheless said there is an outcry from the citizenry regarding boat storage facilities and other structures and added that Council should be responsive to these concerns. Council Member MacIlvaine said he would be willing to amend his motion to place this issue on a workshop agenda. Mayor MacKenzie said establishing architectural standards is important but added that she could not support creating a board with no standards in place to evaluate petitions subjectively. She said she hoped the ARB would develop quality standards; at the end of the process Council could decide whether to continue this board or assign its duties to the PAB. Mayor MacKenzie further said that if this were the only vehicle available to start the process of establishing standards, she would vote in the affirmative. Council Member Galleberg said establishing this board with voluntary compliance would be the best way to obtain the information to draft these standards. Council Member Taylor concurred, and predicted that the professionals on the board would use their background to create high quality standards.

**MOTION by MacIlvaine to DIRECT STAFF TO REFINE DRAFT ORDINANCE, INCLUDE PROCEDURAL STEPS, AND PLACE ON A FUTURE WORKSHOP AND SUBSEQUENT REGULAR MEETING AGENDA; seconded by Taylor and carried 5-1 Galleberg-yes, Herms-absent, MacIlvaine-yes, Tarrant-no, Taylor-yes, Wiseman-yes, MacKenzie-yes).**

During the vote, Council Member Wiseman clarified that although she is uncertain about creating an ARB, she felt the creation of standards is critically important.

..... **ITEM 6**

**BRIEFING BY CITY MANAGER** (11:32 a.m.) Mayor MacKenzie said that when setting the agenda for the March 21<sup>st</sup> Regular Meeting, she would ask that Council consider Collier County's request for an interlocal agreement relative to a sewer interconnect (1:30 p.m.) City Manager Kevin Rambosk said he had met with the General Manager and other staff of the Hilton Hotel regarding the noise emanating from the hotel's air conditioning units. He added that the equipment's manufacturer has recommended a process to reduce this noise and said that the hotel has agreed to implement this recommendation later this month. He then relayed complaints from the Beach Walk Condominium and Palm Court regarding the Escalante Hotel and said staff would meet with their representatives to resolve those concerns. Council Member Taylor questioned whether the adjacent alley to this property has been vacated and City Manager Rambosk said he would ascertain this information. City Manager Rambosk then reported that a drowning had occurred on March 18<sup>th</sup> near the pier. He also explained that staff is addressing parking problems on Fourth Avenue North, noting that the rights-of-way, sidewalks, and private property areas are not clearly marked. He added that John Nocera, Supreme Auto, has taken the initial steps to remove vehicles parked on City rights-of-way, and that Code Enforcement will take appropriate action to address violations.



Council Member MacIlvaine pointed out that Code Enforcement meets only once per month, and recommended instituting a ticketing procedure for flagrant Code violations. City Manager Rambosk said staff is researching an alternative Code enforcement process that would provide for an immediate citation for identified nuisance violations. He also advised that staff would be requesting an increase in Code Enforcement staff during the upcoming budget presentation. City Manager Rambosk then stated that staff had completed the demolition of the Goodlette-Frank Road lift station and reported complaints regarding odor emanating from the new compactor systems; staff is researching means to address the odor problem. The Department of Environmental Protection (DEP) had nonetheless determined, however, that the City is in full compliance with all appropriate regulations, he added. City Manager Rambosk then reported a hazardous material incident at Boat Haven the prior week involving a 55-gallon drum of ether and noted that this had been safely removed. City Manager Rambosk explained that a resident had left this substance at Boat Haven believing it to be acetone for boat cleaning; DEP and Police & Emergency Services are investigating this matter further and may opt to take enforcement action. City Manager Rambosk then reported that dredging has resumed at Doctor's Pass; however, the completion date is uncertain at this time. Also, he estimated that the Park Shore beach project would commence by March 22<sup>nd</sup>.

..... **ITEM 7**  
**REVIEW OF ITEMS ON THE 3/21/01 REGULAR MEETING AGENDA** (11:48 a.m.) Item 6-b (3) (Night of Prayer (Naples High School Stadium) – City Manager Rambosk confirmed this is an annual event. Item 6-b (4) (Naples Art Association “Art in the Park”) – Mayor MacKenzie questioned whether staff had coordinated the Art Association’s requests with the Girls Softball League schedule. City Manager Rambosk said he would check with Community Services. Item 6-b (5) (Dos Wampas Street Jugglers) – City Manager Rambosk confirmed these are Naples High School students. Council Member Galleberg recommended this not be a solicitation activity, and Mayor MacKenzie requested removing this item from the Consent Agenda for separate discussion. Item 7 (Consider a rezoning to accommodate a mixed use development) - City Manager Rambosk confirmed that staff would present its recommendations on a new request for buffering. He also confirmed that all other Second Readings of ordinances on the agenda are unchanged from First Reading. Item 13 (Consider a three-year contract for concession sales and services at the Naples Fishing Pier) – Council Member Galleberg requested additional information on the goods to be sold as well as a complete overview of the selection process. Item 15 (Consider appointing representatives to an advisory committee relating to the aesthetic appearance of the I-75/Golden Gate Parkway corridor) – City Manager Rambosk said staff would prepare a resolution. Item 16 (Consider hiring an attorney to represent staff in Code Enforcement Board proceedings) – City Manager Rambosk said staff might request a continuance. Added Item 19 (Replacements on Heart of Naples Committee). Added Item 20 (County request for sewer interconnect).

..... **CORRESPONDENCE & COMMUNICATIONS** (11:56 a.m.) (Continued from Page 6). Council Member Galleberg noted an increase in parking in the grass on the rights-of-way between Gulf Shore Boulevard and Second Street. City Manager Rambosk said staff had not received complaints, but he noted that he has the authority to post "no parking" signs at the request of the property owners. Without such a sign, the parking regulations are not enforceable. Mr. Rambosk then asked Council to consider broadening the area for parking in this vicinity and Mr. Galleberg concurred. Additionally, Mr. Rambosk commented on the increasing numbers of visitors to the City's beaches and said Council may want to consider encouraging the County to provide additional facilities. Council Member Wiseman pointed out that the Old Naples Preservation Task Force had spent considerable time dealing with rights-of-way issues, but that they had never been resolved. City Manager Rambosk added that placement of objects, such as large rocks, in the rights-of-way to discourage parking is also a Code violation, but he noted that staff has not acted on this pending

clear direction on the parking issue. It was the consensus of Council to place on a future agenda a discussion of right-of-way parking.

Mayor MacKenzie noted increasing traffic blockage at the Four Corners intersection. City Manager Rambosk stated that staff is addressing this situation, and will continue to issue citations as appropriate. He then announced County Chairman Carter would be present at the next Regular Meeting (2 p.m.)

**PUBLIC COMMENT** (12:07 p.m.) .....

None.

**ADJOURN** .....

12:07 p.m.

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Bonnie R. MacKenzie, Mayor

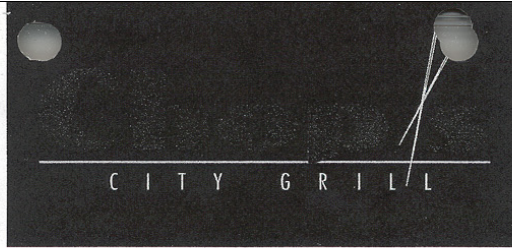
Minutes prepared by:

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Jessica R. Rosenberg, Recording Specialist

Minutes approved: 6/20/01

3/19/01 City Council  
Workshop Meeting  
Attachment 1, Page 1 of 4.



*Placed in Record  
For Items  
ATT 1*

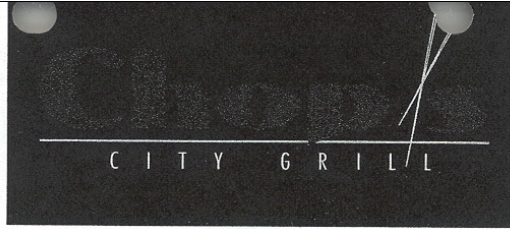
March 19, 2001

The enclosed letter to Members of Naples City Council letter from Skip Quillen is to be included in the Monday, March 19, 2001 Workshop as part of the review of proposed outdoor dining regulations.

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837 Fifth Avenue South • Naples Florida 34102  
(941) 262-4677 • (26-CHOPS) • Fax (941) 430-2227

3/19/01 City Council  
Workshop Meeting  
Attachment 1, Page 2 of 4.



Dear members of City Council,

In reference to the outdoor tax or usage fee, I would like to offer some opinions from a restaurateur's prospective. At first blush, the concept and principle to charge a fee for use of city property seems a fair and reasonable premise. However, I think that city council members must look a little closer at the cost ( to the restaurants ), the long range goal of such a tax, and where that money is to be used.

Some observations:

I'm fairly certain that most restaurateurs on 5<sup>th</sup> Avenue pay around, or less than \$20.00 a square foot for their interior space. For the outside dining area, \$7.50 a square foot ( 37 % of that figure ) seems high but somewhat reasonable. However, that outside space is only utilized about 20 % of the time ( rain, hurricanes, bugs, inclement weather, and better ambiance inside, etc.. ) that \$7.50 now becomes in effect \$37.50 a square foot (  $\$7.50 \times 5$  ) - Very expensive real estate- almost double the inside rate to most restaurateurs.

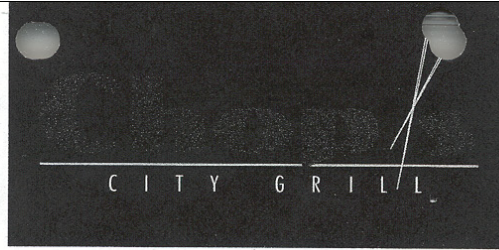
When comparing rents on 5<sup>th</sup> Avenue or other places you need to take into account that in many instances, the landlord acts as a bank and will advance the tenant build out dollars to improve his space, but he takes it back and then some in rent. Therefore, if a certain restaurant is paying \$40.00 a square foot it is because he received perhaps \$400,000.00 in build out credit from the landlord, and the high rent should not be used as a factor in any of your fact finding calculations unless you read the lease as well. . . .

The restaurants have literally contributed hundreds of thousands of dollars to city coffers with tax money, higher property values, and bringing many more people downtown to spend more money and tax. Dwanny realized that outside dining created ambiance and spirit. I would hate to see restaurants pull these tables and chairs ( which is now being talked about ) because of what they perceive as extremely high rent, and somewhat punitive action to something that is working well - for both parties.

Restaurants nationwide make about 6 cents out of every dollar. 80 % fail in the first 5 years. What appears to be a highly successful business on a weekend in the middle of March doesn't look quite the same in August. Come down 5<sup>th</sup> on a Tuesday night in July. . .

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Where is the money going? I've had customers tell me that 5<sup>th</sup> Avenue is the dirtiest street in Naples! Trucks, construction debris, trash, lack of city employees and probably lack of money have contributed to this image. I can honestly tell you that during the season, it's not something that any of us should be proud of. My employees pick up trash and pressure wash the back ally's daily. The city, to it's credit, is now working harder to meet the trash issue head on with trash compactors, but if there is extra money going to the city it should be used to clean up its act with seasonal employees that meet the demand of incoming tourists. We need more people picking up trash on weekends ( Sundays too! ) after functions, parades, and during weekend nights. Street cleaning ( front and back! ) should be done much more frequently. . . .if 5<sup>th</sup> Avenue were a mall or private enterprise, you would expect that - are we expecting too much?

I would also like to point out that in a lease, you have 2 parties that agree to a deal and then sign that agreement. \$7.50 or whatever you decide is, at this point, an open ended amount, it could double next year or the year after, or with a change in city councils, go up even further. Is this being tied CPI?

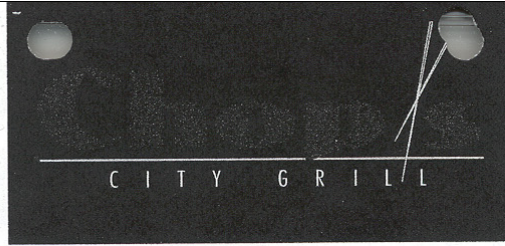
Many restaurateurs ( myself included ) have improved city property with pavers, lights, landscaping, etc. When we did this the prevailing attitude of council was much like a start up business - "what ever it takes", "we just want to be successful". Now success has come and a lot of the credit goes to previous councils that took the chance to improve 5<sup>th</sup> Avenue. A lot also goes to the hardworking employees and employers trying to create and maintain an atmosphere that all residents can be proud of when friends and relatives visit or when they just need a night out. But, what of those contributing to the city's image and infrastructure. Are those acts to be remembered or swept under the rug? What is this council trying to say?

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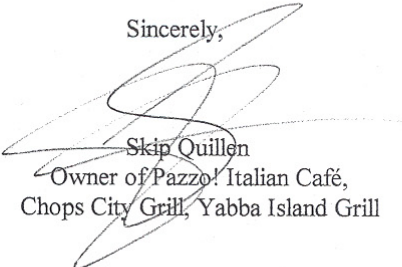
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In closing, my opinions are these,

The city is the big winner in all that has happened on 5<sup>th</sup> Avenue, as it should be. . . . if you want additional money no one can really stop you. I would ask that if this is to be the case, that you lower your expectations to \$3.50 a square foot ( an effect rate of \$17.50 ), and that the \$3.50 rate be tied to CPI and not left open ended. I would also add that the money should be used only on 5<sup>th</sup> Avenue to improve city street conditions, and that if there is extra money, it be saved and used for say. . . . more parking, but that's another story!

Sincerely,



Skip Quillen  
Owner of Pazzo! Italian Café,  
Chops City Grill, Yabba Island Grill

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**Council Members**  
**City of Naples**

In 1994, Andreas Duany developed a plan for the renaissance of 5<sup>th</sup> Avenue. That plan specifically included encouraging businesses to have outdoor seating for the ambience it would bring. In reliance upon that plan, The Mangrove Café spent \$10,000 improving the sidewalk with custom tiles to create an outside seating area. The Plan has been a rousing success, dramatically increasing property values both on 5<sup>th</sup> Avenue itself and surrounding areas. That rise in property values has made a significant increase in the City's tax base and ad valorem revenue.

The City now proposes to charge rent for the usage of the sidewalks which the businesses on 5<sup>th</sup> Avenue have paid to improve. Had that proposal been part of the Duany plan, I would not have spent that money in creating an outside seating area and improving the façade of my building. However, that money is spent and the area is there. In light of that background, I would like to ask the Council to consider a few points.

1. Given weather variations and our extremely warm summers, the actual usage of outdoor seating is not as high as it may appear on a Saturday night in February. In my business, it accounts for as little as 2% of gross revenue. It would not make sense to pay rent on outdoor space at a rate of approximately one-half what I pay for interior space when that area only generates one-fiftieth of my revenue.
2. Outdoor seating does not impose additional costs on the City which are not already covered by the TIF fund. It is true that I derive a benefit from the use of public property, but I am no different than the private benefit a commercial venture may gain from the usage of the beach or the boat ramp. Certainly the Beach Club's sailboat rentals cross the City's beach en route to the gulf waters. If a usage of City property is in keeping with the ambience of the City and brings no cost to the City, should it be burdened or embraced?
3. As the city openly encouraged many businesses to spend their money to improve City property, shouldn't those businesses receive a credit against any fees imposed for the money that they have spent? This would be equivalent to giving an impact fee credit to a property owner who has spent private money to build a public road. Just as it is fair in the context of impact fees, it would be fair here.

Item 5  
READ INTO RECORD  
3/19/01 WORKSHOP  
ATT 2

3/19/01 City Council Workshop Meeting  
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4. If a fee is assessed, I would like to ask that it be targeted for improving services in areas related to outdoor seating, such as cleaning, more regular trash disposal, and assistance with outdoor pests such as rats.

Douglas Amaral, President  
The Mangrove Café, Inc.