



City Council Chamber
735 Eighth Street South
Naples, Florida 34102

City Council Regular Meeting – May 2, 2001 – 9:00 a.m.

Mayor MacKenzie called the meeting to order and presided.

It is noted for the record that this Regular Meeting was delayed due to an earlier scheduled Special Meeting.

ROLL CALL (9:22 a.m.).....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
Beverly Grady, City Attorney
Ron Lee, Planning Director
Jon Staiger, Natural Resources Manager
William Harrison, Assistant City Manager
Bob Middleton, Utilities Director
Tara Norman, City Clerk
Virginia Neet, Deputy City Clerk
Jack McWilliams
Reverend Arthur Holt
Arlene Guckenberger

Media:

Denise Zoldan, Naples Daily News

Other interested citizens and visitors

INVOCATION & PLEDGE OF ALLEGIANCE.....ITEM 2

Reverend Arthur Holt, Unity Church of Naples.

ANNOUNCEMENTSITEM 3

In observance of National Drinking Water Week (May 6 - 12, 2001), Utilities Director Robert Middleton and Mayor MacKenzie presented awards to local student winners of the “American Waterworks Drop Savers Poster Contest”. Mr. Middleton also recognized the Utilities Department staff in attendance and noted Administrative Coordinator Brenda Brown's contributions to this program.

Recess 9:33 a.m. - 9:42 a.m. It is noted for the record that the same Council Members were present when the meeting reconvened.

SET AGENDA (9:43 a.m.)ITEM 4

City Manager Kevin Rambosk requested the addition of Item 21 (Consider a request to fill a lake at 1625 Gulf Shore Boulevard South). Mayor MacKenzie asked to delete Item 20 (Beach Renourishment/Maintenance Committee) from the agenda and Council Member Taylor said she no longer desired separate discussion on Consent Agenda Item 8-d.

MOTION by Herms to ADD ITEM 21 TO THE AGENDA; seconded by Wiseman and carried 6-1, all members present and voting. (Galleberg-no, Herms-yes, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes). Council agreed to hear this item at 1:30 p.m.

MOTION by Herms to SET AGENDA (DELETING ITEM 20 AND ADDING ITEM 21); 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).

OPEN PUBLIC INPUT (9:44 a.m.).....ITEM 5

Laura Shipp (Kahn Galleries International), 378 13th Avenue South, said businesses located on side streets, particularly restaurants and galleries, are at a disadvantage and should be permitted to advertise using sandwich boards as a means of attracting pedestrian traffic. City Manager Kevin Rambosk noted that Council would be discussing this issue at an upcoming workshop. Ms. Shipp also asked permission to place a banner on the City light post outside her gallery.

ORDINANCE (First Reading).....ITEM 6

AN ORDINANCE DETERMINING REZONE PETITION 01-R6 FOR CITY CENTER PLAZA PLANNED DEVELOPMENT, MORE PARTICULARLY DESCRIBED HEREIN, TO REZONE FROM PD TO PD; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Manager Kevin Rambosk. (9:47 a.m.) City Attorney Beverly Grady noted revisions to Section 1 of the ordinance that now reference the Planned Development Document dated April 25, 2001 and site plan dated April 24, 2001. This being a quasi-judicial proceeding, Council Members made the following ex parte disclosures: Mayor MacKenzie and Council Members MacIlvaine, Galleberg, Taylor, Wiseman, and Tarrant reported no contact with the petitioner or the petitioner's agent since this matter was last considered on April 18, 2001. Vice Mayor Herms, however, said he had spoken with the petitioner's attorney regarding revisions to the site plan. City Clerk Tara Norman then administered an oath to those intending to testify in this matter; each responded in the affirmative.

Attorney Leo Salvatori, on behalf of the petitioners, reiterated his client's desire to settle existing litigation with the City regarding the development of this site. He notified Council, however, that his clients were not waiving their rights in this legal action through their submission of a revised proposal; he also extended the petitioners' apologies for the strong sentiments expressed during prior discussions. Attorney Salvatori then reviewed revisions to the PD Document, which he said addressed Council's prior comments and concerns. Specifically, he noted that the petitioners had eliminated an 8,990 square foot commercial structure (Building E) from the proposal. Other material revisions, he added, pertain to the reconfiguration of a proposed apartment building (northwest corner), which is necessary to comply with setback requirements, and changes to the screening for undercover parking. Attorney Salvatori further relayed the petitioners' efforts adhere to "D" Downtown District standards and the City's height limitation for commercial buildings (as it relates to the building proposed for the northeast corner of the parcel). He then noted the City Attorney's concern that these revisions were significant and warranted another First Reading of the ordinance; he maintained, however, that Second Reading was indeed appropriate at this time since the revisions decreased rather than increased the project's intensity. Attorney Salvatori further corrected page 4 of the PD Document to increase the maximum dwelling units from 22 to 24 but added that this correction would not alter the size of the building. At this time, he noted, the petitioner is contemplating only 22 dwelling units.

Petitioner representative William Klohn, president of MDG-Capital Partners, Inc., referred to his April 25, 2001 transmittal to Council (Attachment #1), which outlined the revisions to the proposed PD Document. He also noted what he described as a favorable Planning Department staff report based upon these modifications. City Attorney Grady then addressed the issue of the revisions to the proposal made subsequent to the April 4th First Reading and cited case law and an Attorney General's opinion, which she said indicates that these modifications may be substantial enough to require another First Reading. In making this determination, she said Council should consider the testimony of the applicant and the staff. Further, the City Attorney noted a lack of either case law or opinions to support Attorney Salvatori's claim that revisions decreasing the project's intensity should not be considered substantial; she also cited statutory requirements as to the minimum time between a First and Second Reading of an ordinance. Further discussion focused on the Attorney General opinion and the definition of "substantial change", and City Attorney Grady advised that the more conservative and defensible approach would be to consider this revised PD Document on First Reading. Council Member Tarrant questioned whether the City Attorney was offering this legal advice on the basis that her firm, Roetzel and Andress, P.A., is operating under a viable contract with the City. Council Member Galleberg commented that the petitioner, not the City, would bear the risk of any objection by a third party to a Second Reading, and Mr. Klohn confirmed that the petitioner would assume such a risk even to the extent of reimbursing the City's legal fees for defending this action. Council Member Tarrant again questioned the status of the City Attorney's contract, and City Attorney Grady confirmed that Council had extended the original contract with Roetzel and Andress, P.A., at the time she became lead attorney for the City.

Planning Director Ron Lee noted how the revised, less intense proposal reduced the required on-street parking; nevertheless, the petitioner plans to provide 57 on-street spaces, 14 above those required by Code. There was also discussion as to how the architect applied the Downtown District standards in designing the ground floor parking. Planning Director Lee explained that staff cannot recommend approval of the project since it does not fully comply with Downtown

District standards, but he added that staff feels this petition has met the intent and the spirit of these standards. He also detailed which components of the project were non-complaint.

City Attorney Grady asked the petitioner to clarify and provide any missing exhibits to the PD Document dated April 25, 2001 (specifically Exhibits B, C, and D); Attorney Salvatori also confirmed that the original, executed "cross parking" easement document, as approved by the City Attorney, would be recorded within 30 days of Council's approval of the petition. He further explained that he had only provided the revised exhibits at that time but would make certain that the PD Document and exhibits are accurate and complete. Council Member Galleberg requested assurances that the proposed masonry screening for the ground floor parking would complement the quality and design of the remaining building façade to which Planning Director Lee noted that the PD Document incorporates the renderings and exhibits provided by the petitioner. Council then discussed methods to indemnify the City in the event of a challenge to a Second Reading, and City Attorney Grady recommended a separate agreement with the petitioner in this regard. She also requested additional time to properly draft such an agreement. Mayor MacKenzie and Council Members Galleberg, Taylor, and Tarrant said they would agree to a Second Reading with adequate indemnification; City Attorney Grady therefore suggested a motion to continue this item to a time certain. Council Member MacIlvaine likewise agreed to proceeding with Second Reading but also concurred that the petitioner had substantially revised the proposal since its First Reading. Council Member Wiseman cautioned that such a side indemnification agreement might set a precedent for future petitions and Council Member Galleberg concurred. Vice Mayor Herms, however, said Council could easily remedy any challenge by way of another First and Second Reading. Council Member Tarrant commented on the history of this project and urged the City Attorney and staff to work with the petitioner in order for Second Reading to occur at that meeting. Noting Council's apparent concurrence to the revised proposal, Attorney Salvatori said the petitioners would agree to First Reading provided Council allows them to submit building plans for departmental review in the intervening time before Second Reading. City Attorney Grady stressed that this would however be review only as the Building Department cannot issue permits before Second Reading.

Public Input: None. (10:24 a.m.)

MOTION by Taylor TO APPROVE THIS ORDINANCE ON FIRST READING WITH THE ABILITY TO AMEND THE PLANNED DEVELOPMENT DOCUMENT TO ALLOW A MAXIMUM OF 24 RESIDENTIAL UNITS (THREE PARKING SPACES TO COME FROM THE 14 UNUSED ON-STREET PARKING AND WITH NO INCREASE IN SQUARE FOOTAGE). PETITIONER AGREES TO PROVIDE EXHIBITS B, C, AND D ON THIS DATE; seconded by MacKenzie and carried 4-3, all members present and voting. (Tarrant-yes, Galleberg-no, Herms-no, Wiseman-no, Taylor-yes, MacIlvaine-yes, MacKenzie-yes) During the vote, Council Member Galleberg said he could not support the petition due to the ambiguity regarding the number of units. Council Member Taylor; however, described the proposal as a satisfactory compromise while Council Member MacIlvaine said his affirmative vote was in the interest of the 41-10 District. Mayor MacKenzie likewise said she favored the proposed residential development.

It is noted that the petitioner may submit building plans for preliminary review before Second Reading.

CONSENT AGENDA

APPROVAL OF MINUTESITEM 8-a
January 19, 2001 Town Hall Meeting; February 20, 2001 Workshop Meeting; March 7, 2001 Special Meeting; March 7, 2001 Regular Meeting.

RESOLUTION 01-9169..... ITEM 8-b
A RESOLUTION APPROVING A CONTRACT BETWEEN THE CITY OF NAPLES AND HANNULA LANDSCAPING, INC. TO FURNISH AND INSTALL LANDSCAPING AND IRRIGATION AT THE DEVELOPMENT SERVICES BUILDING; AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT THEREFOR; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 01-9170.....ITEM 8-c
A RESOLUTION WAIVING COMPETITIVE BIDS PURSUANT TO NAPLES CITY CODE SECTION 2-356 (4) AND AUTHORIZING THE PURCHASE OF A 23' PARKER CENTER CONSOLE BOAT FROM ROYAL PALM MARINA AND ANCILLARY EQUIPMENT FROM VARIOUS VENDORS, FOR THE POLICE AND EMERGENCY SERVICES DEPARTMENT; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 01-9171..... ITEM 8-d
A RESOLUTION APPROVING SUBDIVISION PLAT PETITION 01-SD10 FOR FINAL PLAT APPROVAL TO SUBDIVIDE PROPERTY KNOWN AS TRACT C AT THE ESTUARY AT GREY OAKS, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 01-9172.....ITEM 8-e
A RESOLUTION RATIFYING AND CONFIRMING THE ACTION OF THE CITY MANAGER TO APPROVE A PURCHASE ORDER TO CENTURY CARPET AND TILE IN THE AMOUNT OF \$12,947.72 FOR PURCHASE AND INSTALLATION OF CARPETING IN THE NEW HUMAN RESOURCES DEPARTMENT; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 01-9173..... ITEM 8-f
A RESOLUTION RATIFYING AND CONFIRMING THE ACTION OF THE CITY MANAGER TO CONTRACT WITH KYLE CONSTRUCTION IN AN AMOUNT NOT-TO-EXCEED \$18,004.61, FOR THE PURPOSE OF RELOCATING APPROXIMATELY 100 FEET OF 12-INCH WATER LINE ON PINE RIDGE ROAD ON AN EMERGENCY BASIS; AND PROVIDING AN EFFECTIVE DATE. Title not read.

MOTION by Wiseman to APPROVE CONSENT AGENDA; 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).

END CONSENT AGENDA

ORDINANCE 01-9174.....ITEM 10-a
AN ORDINANCE SUPPLEMENTING AND AMENDING ORDINANCE NO. 84-4448 OF THE CITY OF NAPLES, FLORIDA, ENACTED ON MARCH 21, 1984, AS AMENDED AND RESTATED BY ORDINANCE NO. 84-4564 ENACTED ON OCTOBER 3, 1984, BY AUTHORIZING THE REFUNDING OF CERTAIN PRESENTLY OUTSTANDING OBLIGATIONS OF THE CITY; AUTHORIZING THE ISSUANCE OF WATER AND SEWER REVENUE REFUNDING BONDS, SERIES 2001, IN A PRINCIPAL AMOUNT NOT TO EXCEED \$10,000,000 TO FINANCE THE COST THEREOF; PROVIDING FOR THE PAYMENT OF THE SERIES 2001 BONDS FROM THE REVENUES OF THE CITY'S WATER AND SEWER SYSTEM; PROVIDING FOR THE RIGHTS, SECURITY

AND REMEDIES OF THE HOLDERS OF SUCH BONDS; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk. (10:26 a.m.)

ORDINANCE 01-9175..... ITEM 10-b
AN ORDINANCE SUPPLEMENTING AND AMENDING ORDINANCE NO. 84-4448 OF
THE CITY OF NAPLES, FLORIDA, ENACTED ON MARCH 21, 1984, AS AMENDED
AND RESTATED BY ORDINANCE NO. 84-4564 ENACTED ON OCTOBER 3, 1984, BY
AUTHORIZING THE REFUNDING OF CERTAIN PRESENTLY OUTSTANDING
OBLIGATIONS OF THE CITY; AUTHORIZING THE ISSUANCE OF WATER AND
SEWER REVENUE REFUNDING BONDS, SERIES 2002, IN A PRINCIPAL AMOUNT
NOT TO EXCEED \$15,000,000 TO FINANCE THE COST THEREOF; PROVIDING
FOR THE PAYMENT OF THE SERIES 2002 BONDS FROM THE REVENUES OF THE
CITY'S WATER AND SEWER SYSTEM; PROVIDING FOR THE RIGHTS, SECURITY
AND REMEDIES OF THE HOLDERS OF SUCH BONDS; AND PROVIDING AN
EFFECTIVE DATE. Title read by City Manager Kevin Rambosk. (10:27 a.m.)

It is noted for the record that Items 10-a and 10-b were considered concurrently.

Bond Counsel Jack McWilliams, of Livermore, Freeman & McWilliams, P.A., reviewed the ordinances under consideration and noted Internal Revenue Service (IRS) regulations pertaining to the issuance of the Water and Sewer Revenue Refunding Bonds, Series 2002 (Item 10-b). The intent, Attorney McWilliams explained, is to secure current savings, enter into a binding commitment with an underwriter, and deliver the bonds in 2002. In response to Council Member MacIlvaine, Assistant City Manager William Harrison noted decreases in the taxable bond markets, as it relates to the 2002 refunding, but added that this is not currently affecting rates in the tax-exempt market. He added, however, that staff would continue to monitor these rates until Council formally awards the sale of the bonds in June 2001. Council Member Tarrant questioned the need for special bond counsel when Roetzel and Andress, P.A., had previously advised Council that it could represent the City in these matters. Mayor MacKenzie noted prior discussions on this matter and Council's decision to retain Attorney McWilliams; however, Mr. Tarrant countered that Council based its decision to retain Roetzel and Andress, P.A. as City Attorney, in part, on the firm's expertise in bond issues. Council Member MacIlvaine suggested that it might be more cost effective to utilize Attorney McWilliams in these matters, and Assistant City Manager Harrison confirmed that the City Attorney would sign the ordinances as to form; the bond counsel would sign as to legality. Attorney McWilliams then explained that he has represented the City in approximately 12 bond issues since 1977. At Council Member Taylor's request, he also provided background as to his legal experience and advised that it is customary for an entity to utilize a special counsel, in addition to its general counsel, when issuing securities. Further, he explained that as bond counsel, he is required to render an opinion to both the City and the bond purchasers (at closing) as to the legality of all proceedings relating to the bonds' issuance. Bond counsel also verifies compliance with all IRS laws, with respect tax-exempt debt, and provides the legal opinions required by federal securities law. As bond counsel for the City of Naples, Attorney McWilliams said he relies on the City Attorney's opinions as to the City's standing and authority to enter into bond agreements to ensure that there are no conflicts with other City agreements. In response to Council Member Taylor, Attorney McWilliams indicated that the former City Attorney had not rendered opinions in two prior bond issues relating to General Obligation Bonds and the purchase of the Wilkinson House. Council Member Tarrant again questioned the need for special bond counsel given Roetzel and Andress' expertise in these matters; however, Mayor MacKenzie reiterated that Council had agreed to retain Attorney McWilliams in this transaction. She also suggested that Council discuss the City

Attorney's role in future bond issues in a workshop setting. Council resumed discussion as to the attorneys' responsibility in the bond issues under consideration, and Attorney McWilliams confirmed that a City Attorney's opinion would be required to finalize the bond purchase contract. Council Member Galleberg distinguished the City Attorney's opinion from the bond counsel's opinion in these issues and City Attorney Beverly Grady commented that, in fact, certain types of financial transactions require a City Attorney's opinion while others do not. It is her firm's position, however, that certain bond issues require special representation; City Attorney Grady added that Roetzel and Andress would issue the opinions required to finalize these bond issues. Council Member Galleberg proffered a motion to approve Item 10-a, which Council Member ~~Wiseman~~ MacIlvaine seconded; however, other Council Members requested further discussion.

Council Member Taylor took issue with the City Attorney agreeing to sign the ordinance only as to form and reminded Council that City Attorney Bob Pritt had quoted an additional \$5,000.00 legal fee should Roetzel and Andress assume full representation for City bond issues. Assistant City Manager Bill Harrison confirmed that City Attorney Pritt had indeed signed the proposed ordinances as to form; however, Vice Mayor Herms and Council Member Taylor questioned whether this would be sufficient in the subsequent sale of the bonds. At the request of Council Member Wiseman, Attorney McWilliams confirmed that the Wilkinson House transaction did not require the same disclosure as General Obligation Bonds or the type of bond issue currently before Council. Council Member Galleberg likewise pointed out that the City Attorney's opinion is not required to adopt the ordinances although both the City Attorney's opinion and the bond counsel's opinion are required when the bonds are issued. Council Member Taylor said she was not comfortable in adopting an ordinance that the City Attorney refuses to sign as to legality. Likewise, Vice Mayor Herms cautioned against any actions that may jeopardize the favorable interest rates available to the City. In later discussion, however, Attorney McWilliams noted that he had prepared the ordinance and would indeed sign the document as to legality. Council Member Wiseman reminded Council that it had already discussed and agreed upon this arrangement. City Attorney Grady also confirmed that her firm would perform whatever duties were requested by the City including the issuance of an opinion before the sale of the bonds.

Public Comment (Item 10-a): None. (11:06 a.m.)

MOTION by Galleberg to ADOPT ORDINANCE 01-9174 (Item 10-a) AS AMENDED TO REQUIRE THE BOND COUNSEL'S SIGNATURE AS TO LEGALITY AND THE CITY ATTORNEY'S SIGNATURE AS TO FORM;
seconded by MacIlvaine and carried 6-1, all members present and voting. (Herms-yes, Galleberg-yes, Taylor-yes, MacIlvaine-yes, Wiseman-yes, Tarrant-no, MacKenzie-yes) Council Member Tarrant explained that his negative vote was based on prior representations to Council that Roetzel and Andress could provide legal services in these matters.

Public Comment (Item 10-b): None. (11:07 a.m.)

MOTION by Wiseman to ADOPT ORDINANCE 01-9175 (Item 10-b) AS AMENDED TO REQUIRE THE BOND COUNSEL'S SIGNATURE AS TO LEGALITY AND THE CITY ATTORNEY'S SIGNATURE AS TO FORM;
seconded by Galleberg and carried 6-1, all members present and voting. (Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-no (see comments above), Taylor-yes, Wiseman-yes, MacKenzie-yes).

ORDINANCE (First Reading).....ITEM 11
AN ORDINANCE OF THE CITY OF NAPLES, FLORIDA, PROVIDING FOR THE
ISSUANCE OF NOT EXCEEDING \$10,450,000 PUBLIC SERVICE TAX REVENUE
BONDS, SERIES 2001, OF THE CITY TO FINANCE THE COST OF THE ACQUISITION
OF CERTAIN MUNICIPAL IMPROVEMENTS WITHIN THE CITY AND THE COST OF
REFUNDING THE CITY'S OUTSTANDING PUBLIC SERVICE TAX REVENUE
BONDS, SERIES 1997; PROVIDING FOR THE PAYMENT OF THE BONDS FROM THE
PROCEEDS OF THE PUBLIC SERVICE TAX COLLECTED BY THE CITY;
PROVIDING FOR THE RIGHTS OF THE HOLDERS OF THE BONDS; MAKING
CERTAIN COVENANTS AND AGREEMENTS IN CONNECTION THEREWITH;
PROVIDING FOR COMPETITIVE BIDDING FOR THE SALE OF THE BONDS;
APPROVING THE FORMS OF SUMMARY NOTICE OF SALE, OFFICIAL NOTICE OF
SALE AND OFFICIAL BID FORM; APPROVING THE FORM OF PRELIMINARY
OFFICIAL STATEMENT AND AUTHORIZING ITS USE IN CONNECTION WITH THE
PUBLIC SALE OF THE BONDS; AND PROVIDING AN EFFECTIVE DATE. Title read by
City Manager Kevin Rambosk. (11:09 a.m.) In response to Council Member Tarrant, Assistant
City Manager William Harrison explained that Attorney Jack McWilliams, of the firm
Livermore, Freeman & McWilliams, P.A., is serving as the City's bond Counsel in this matter.
Before the vote below, Attorney McWilliams confirmed that he had drafted the ordinance under
consideration and would sign it as to legality. Attorney McWilliams also provided information
as to other documentation required in order to finalize the sale of the bonds. City Attorney
Beverly Grady further confirmed that her firm, Roetzel and Andress, P.A., would provide the
documentation and opinion(s) required from the City Attorney under the general services
provision of her firm's employment agreement with the City.

Public Input: None. (11:09 a.m.)

MOTION by Galleberg to APPROVE THIS ORDINANCE ON FIRST
READING AS AMENDED TO REQUIRE THE BOND COUNSEL'S
SIGNATURE AS TO LEGALITY AND THE CITY ATTORNEY'S
SIGNATURE AS TO FORM; *seconded Wiseman and carried 6-1, all members*
present and voting. (Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-no,
Taylor-yes, Wiseman-yes, MacKenzie-yes). After the vote, Council Member
Tarrant said he was not satisfied with the position of the City Attorney in this
matter. Mayor MacKenzie requested discussion regarding the City Attorney's
role in bond issues at the next workshop.

RESOLUTION 01-9176.....ITEM 12
A RESOLUTION DETERMINING CONDITIONAL USE PETITION 01-CU5 FOR A
PARKING NEEDS ANALYSIS IN ORDER TO ELIMINATE TEN (10) ON-SITE
PARKING SPACES AT LA MAISON CLUB, INC., LOCATED AT 3450 GULF SHORE
BOULEVARD NORTH, MORE PARTICULARLY DESCRIBED HEREIN; AND
PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk. (11:13
a.m.) City Attorney Beverly Grady advised that this is a quasi-judicial proceeding and asked
Council Members to disclose any ex parte communications they may have had with the
petitioner or other parties regarding this issue. All members of Council reported no contact;
however, Council Member Wiseman advised that she would abstain from voting as she has
provided legal services, unrelated to this petition, to this condominium association. City Clerk
Tara Norman then administered an oath to those intending to give testimony; all responded in the
affirmative.

Leonard Koor, Chairman of the La Maison Club, Inc. Enhancement Committee, described La Maison as a 27-year old, 64-unit, medium-rise condominium building and said the proposed parking reduction was intended to provide additional green space. Mr. Koor then reviewed a survey of vacant parking spaces on site to note that this reduction in spaces would still leave sufficient open parking for residents and guests. (A copy of this material is contained in the file for this meeting in the City Clerk's Office.) La Maison is requesting to remove the eight guest parking spaces in front of the west building and two other spaces (one each fronting the north and south buildings) in order to add trees and other landscaping. Mr. Koor said this additional green space would not only complement La Maison's courtyard but also enhance the property's street appeal. Mr. Koor also confirmed his association's willingness to re-install the parking spaces in the future if necessary. Council Member Taylor questioned whether this property or portion thereof could be sold for development, however, Council learned that such action would require a unanimous consent of all condominium owners as well as any mortgage holders. Vice Mayor Herms asked whether the association had considered installing a stone or plastic material in the grassy areas for overflow parking; however, Mr. Koor noted that La Maison currently exceeds Code requirements for parking. He also noted that existing parking areas could be rearranged to provide additional spaces if necessary. Council Member Galleberg pointed out that the aforementioned parking survey illustrates that even during peak season, approximately half of the La Maison's parking spaces remain unused. He also concurred with the associations desire to add green space and landscaping, while Council Member MacIlvaine commented that there is seldom a relationship between Code's parking requirements and a property's actual parking needs.

Public Input: None. (11:20 a.m.)

MOTION by Galleberg to APPROVE RESOLUTION 01-9176 AS SUBMITTED; seconded by Taylor and carried 6-0. (Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-abstain (Attachment 2), MacKenzie-yes).

ORDINANCE (First Reading).....ITEM 13
AN ORDINANCE APPROVING REZONE PETITION 001-R6 IN ORDER TO APPLY THE STANDARDS OF THE RECREATIONAL VEHICLE STORAGE OVERLAY DISTRICT TO ALL PROPERTIES IN THE ROYAL HARBOR SUBDIVISION, MORE PARTICULARLY DESCRIBED HERE; AND PROVIDING AN EFFECTIVE DATE.
Title read by City Manager Kevin Rambosk. (11:20 a.m.) City Attorney Beverly Grady advised that this is a quasi-judicial proceeding and asked Council Members to disclose ex parte communications relating to this petition. All Council Members reported no contact with interested parties in this matter, and City Clerk Tara Norman administered an oath to those intending to give testimony; all responded in the affirmative.

Public Input: None. (11:20 a.m.)

MOTION by Taylor to APPROVE THIS ORDINANCE 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 01-9177.....ITEM 14-a
A RESOLUTION DETERMINING GENERAL DEVELOPMENT SITE PLAN PETITION 01-GDSP4 FOR A SPECIFIC GENERAL DEVELOPMENT SITE PLAN FOR DEVELOPMENT OF PROPERTY AT 1400 GULF SHORE BOULEVARD NORTH, MORE PARTICULARLY DESCRIBED HEREIN, SUBJECT TO THE

CONDITIONS LISTED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk. (11:22 a.m.)

**RESOLUTION 01-9178..... ITEM 14-b
A RESOLUTION DETERMINING RESIDENTIAL IMPACT STATEMENT PETITION
01-RIS3 FOR DEVELOPMENT OF PROPERTY AT 1400 GULF SHORE BOULEVARD
NORTH, MORE PARTICULARLY DESCRIBED HEREIN, SUBJECT TO THE
CONDITIONS LISTED HEREIN; AND PROVIDING AN EFFECTIVE DATE.** Title read by City Manager Kevin Rambosk. (11:22 a.m.)

It is noted for the record that Items 14-a and 14-b were considered concurrently.

City Attorney Beverly Grady advised that this is a quasi-judicial proceeding and asked Council Members to disclose ex parte communications relating to this petition. Mayor MacKenzie reported no contact with the petitioner or the petitioner's agent since Council's approval of the rezone petition in April. Other Council Members likewise reported no contact with interested parties in this matter and City Clerk Tara Norman administered an oath to those intending to give testimony; all responded in the affirmative.

Mayor MacKenzie expressed concern that the trash container would be located on the northern portion of the site, adjacent to residential properties. Planner Cory Ewing reviewed the Planning Advisory Board's discussion regarding this component of the project, noting the PAB's determination that the proposed landscaping and separating wall would provide an adequate buffer.

Attorney John Passidomo, on behalf of the petitioner, further explained that staff had originally recommended locating a second container on the southwest corner of the property. The petitioner and the neighbors, however, felt this location was too conspicuous, and Attorney Passidomo said the petitioner subsequently decided to consolidate all trash container needs (through the use of compactor) in a more central location. Attorney Passidomo added that the PAB recommended the southwest corner only in the event a second container is needed. Mayor MacKenzie asked that the second container be well screened and located further from the neighbors, and Attorney Passidomo agreed to likewise locate a second container, if needed, in a more central location.

Public Input: None. (11:29 a.m.)

MOTION by Wiseman to APPROVE RESOLUTION 01-9177 (Item 14-a) AS AMENDED TO REQUIRE THE TRASH CONTAINER TO BE CENTRALLY LOCATED, AND IF TWO TRASH CONTAINERS ARE NEEDED, THE PETITIONER IS TO STRIVE TO OBTAIN A TRASH COMPACTOR;
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).

MOTION by Wiseman to APPROVE RESOLUTION 01-9178 (Item 14-b);
seconded by MacIlvaine and carried 6-1, all members present and voting. (Wiseman-yes, MacIlvaine-yes, Tarrant-yes, Galleberg-yes, Herms-yes, Taylor-yes, MacKenzie-no). Mayor MacKenzie commented that she did not support the extended hours provision. After the vote, Council Member Galleberg requested that this resolution also conform to Council's earlier approval of Item 14-a. (see below)

MOTION by Herms to AMEND RESOLUTION 01-9178 TO CONFORM WITH RESOLUTION 01-9177 (ABOVE) RELATIVE TO THE PLACEMENT OF TRASH CONTAINER(S); 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).

ORDINANCE 01-9179.....ITEM 9
AN ORDINANCE AMENDING SECTION 106-239 OF THE CODE OF ORDINANCES, AMENDING THE CITY NOISE ORDINANCE; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk (11:31 a.m.) who noted specific provisions within the ordinance regulating the point from which sound is measured (nearest adjacent property line closest to the noise source) as well as the noise level threshold of 65 decibels (dB). City Manager Rambosk also referred to the prior night's workshop during which Council Members and staff were able to test and evaluate noise levels in the downtown area using the recently acquired noise-testing device (Model 2900 Sound Meter). Police Officer Michael O'Reilly then displayed the noise-testing device, which he said would be used by the Police & Emergency Services Department (PESD) to enforce the noise ordinance. Officer O'Reilly explained that the noise meter measures the total volume of sound, in decibels, at any given location. This includes ambient noise and source noise; the meter also measures noise levels in terms of octaves which is important since certain octaves, such as low bass sounds, travel farther than other source noises. Although City Manager Rambosk noted waiver provisions within the ordinance, he said further revisions or additions may be necessary relative to special events.

Officer O'Reilly then noted a provision within the ordinance specifying that source noise cannot be more than 5dB above the ambient noise level. Without further clarification, he cautioned, this may be interpreted as allowing a source noise to be 5dB over ambient levels even when the ambient level exceeds maximum thresholds. City Manager Rambosk recommended proceeding with the ordinance and allowing staff and the PESD to consult with a sound expert regarding possible clarifications; he also suggested lowering the 5dB allowance between ambient and source noises when ambient noise levels are high. Council then reviewed the noise levels detected during the prior night's workshop and Vice Mayor Herms said 70dB to 75dB should be the upper threshold for restaurants and bars on 5th Avenue South. Council Member Wiseman questioned how PESD could legally enter private property in order to test noise levels at the "nearest adjacent property line closest to the noise source", especially if the adjacent property owner is not the complainant. City Manager Rambosk noted the alternative of measuring from the street; however, Officer O'Reilly advised that a police officer may enter a property that is the subject of the complaint. Vice Mayor Herms; however, said that this will not be an issue since sounds of 60dB or less would be inaudible at the property line. In response to Council Member Galleberg, Officer O'Reilly noted that state law also permits drivers of motor vehicles to be cited and fined for playing excessively loud music. City Manager Rambosk advised that the noise meter is currently used only in response to a complaint; however, the meter may be positioned in advance should there be chronic complaints regarding a specific location. Vice Mayor Herms noted that compliance with the maximum dB level for air conditioning units might at times be impossible and Council Member Tarrant said he would favor prohibiting outdoor amplified music, with the exception of special events. Mr. Tarrant also suggested that the sophisticated noise meter only be used to monitor air conditioning noise.

Public Input: None. (12:00 p.m.)

MOTION by Taylor to ADOPT ORDINANCE 01-9179; seconded by MacIlvaine and carried 5-2, all members presenting and voting. (Galleberg-

yes, Herms-yes, MacIlvaine-yes, Tarrant-no, Taylor-yes, Wiseman-no, MacKenzie-yes).

Recess 12:00 noon to 1:37 p.m. It is noted for the record that the same Council Members were present when the meeting reconvened.

**RESOLUTION 01-9180 (DENIED)ITEM 21
A RESOLUTION DETERMINING A PERMIT TO FILL A LAKE AT 1625 GULF SHORE
BOULEVARD SOUTH, MORE PARTICULARLY DESCRIBED HEREIN; AND
PROVIDING AN EFFECTIVE DATE.** Title read by City Attorney Beverly Grady (1:38 p.m.) who advised that this is a quasi-judicial proceeding and asked Council Members to disclose any ex parte communications they may have had with the petitioner or other parties regarding this issue. Mayor MacKenzie reported no contact with the petitioner or the petitioner's agent but said she had received correspondence regarding this item, which is part of the public record. She also disclosed that she had met with Messrs. Smith and Trimmer regarding their concerns. Vice Mayor Herms and Council Members MacIlvaine, Wiseman, Tarrant and Taylor indicated no contact other than the aforementioned correspondence; however, Council Member Galleberg relayed conversations with Messrs. Trimmer and Smith and a telephone conversation with a neighbor of the petitioner, Paulina Greer. City Clerk Tara Norman then administered an oath to those intending to give testimony; all responded in the affirmative.

Natural Resources Manager Jon Staiger explained that this petition resulted from an adjacent property owner alerting the Building Department that the petitioner, Provident Construction Company, was filling in a portion of this lake in conjunction with the construction of a new residence. The Building Department then issued a Stop Work Order and the petitioner contacted the Natural Resources Department for formal permission to modify the shoreline. Upon initial denial of this request by staff, Dr. Staiger said the petitioner revised the site plan so that the encroaching portions the new structure cantilever over the shoreline with other portions of the improvements located at the water's edge. (A copy of the material referenced by Dr. Staiger is contained in the file for this meeting in the City Clerk's Office.) Dr. Staiger then confirmed that the petitioner had commenced to remove the fill previously placed in the lake and noted that before construction, the affected shoreline had been bare riprap. He also indicated that the revised cantilever plan might be reasonable, from the standpoint of resource protection, since it will shade a portion of the lake and possibly enhance fish habitat. Council also learned that this lake is now part of the City's stormwater management system but does not drain into the Bay, the Gulf, or any other lake. Dr. Staiger estimated that this lake was excavated in the late 1940's since it is not shown on original plats; in later discussion, Dr. Staiger expressed doubt that blasting was used in this excavation. It was also noted that the lake is brackish, 25 feet at its deepest point, and fluctuates tidally with the Gulf and Bay. Dr. Staiger then commented on the neighbors concerns regarding the structural encroachment but reiterated that the revised cantilever plan may be beneficial. In response to Vice Mayor Herms, Dr. Staiger said his search of City records did not indicate that a permit had ever been issued for the aforementioned riprap. Council also discussed a neighbor's claim regarding a covered conduit along the property line and other recent similar applications to alter lakes.

Paul Koenig, President of Provident Construction Company, acknowledged that when construction commenced, his staff mistakenly presumed that a fill permit was forthcoming from the Building Department. Upon learning that Council's approval is required, Mr. Koenig said he and the project architect worked with City staff to revise the site plan in order to meet Code

requirements. Council Member Galleberg observed that the revised site plan no longer requires fill within the lake and Dr. Staiger said he likewise interpreted the new plans as no longer modifying the shoreline. Dr. Staiger added, however, that the neighbors view the plans differently and noted that the Code also requires Council to make a determination regarding the plans to locate part of the structure over the lake.

Public Comment: (2:12 p.m.) **Thomas Smith, 179 17th Avenue South**, explained that his lot adjoins the subject property. Mr. Smith provided information regarding the lake's excavation and said the riprap on the shoreline is approximately two years old. Mr. Smith said he was the neighbor who alerted the City as to the filling and asserted that the petitioner was well aware of the permit requirement. Mr. Smith also contended that the petitioner acted with complete disregard for the neighbors and City ordinances; as such, he asked Council to deny the request. **Harold Trimmer, 134 16th Avenue South**, said he opposed the revised proposal and reviewed applicable Code provisions, noting a lack of required criteria to support the petitioner's request. Specifically, Mr. Trimmer asserted the following: 1) the petitioner did not act in good faith; 2) no undue hardship exists since the lot is indeed buildable without altering the shoreline, and; 3) the surrounding property owners would suffer real harm if the request were granted. Additionally, he said the lake's stormwater drainage capacity is critical to abutting and surrounding homes and maintained that even the revised proposal would diminish this capacity. He likewise said approval of this request would establish an unwanted precedent and asked Council to not only deny the request but also require the petitioner to restore the lake to its preexisting condition.

Council then learned that during rainy season, the water level of this lake rises to the top of the riprap shoreline. There was also discussion as to the extent of tidal fluctuation and Dr. Staiger advised that the seasonal mid-waterline is the customary measuring point for this type of lake.

MOTION by MacIlvaine to DENY THE PETITION (INCLUDING ANY ENCROACHMENT OF FILL, BUILDINGS, OR STRUCTURES INTO THE UPPER WATERPOINT OF THE LAKE) AND TO INSTRUCT THE APPLICANT TO RESTORE THE LAKE TO ITS ORIGINAL DIMENSIONS; *seconded by Taylor and carried 6-1, all members present and voting. (Taylor-yes, Wiseman-no, Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-yes, MacKenzie-yes).* During the motion and vote, Council discussed possible sanctions against the contractor and Council Member Taylor suggested that the City notify the appropriate County agencies in this regard. Council also requested assurances that no building permit would be issued until confirmation that the lake had been restored and submission of new plans indicating no encroachment. Council Member Wiseman said that although she supported denial of the request to place fill in the lake, she concurred with Dr. Staiger's position regarding the revised site plan.

MOTION by Taylor to INSTRUCT STAFF TO DRAFT A LETTER TO THE APPROPRIATE COLLIER COUNTY LICENSING AGENCY OUTLINING THE HISTORY OF THIS PETITION AND COUNCIL'S ACTIONS AS OF THIS DATE, WHICH WOULD BE PLACED ON THE CONTRACTOR'S RECORD; *seconded by Herms. This motion failed 3-4, all members present and voting. (Galleberg-no, Taylor-yes, Tarrant-no, Wiseman-no, Herms-yes, MacIlvaine-yes, MacKenzie-no).* In dissenting, Council Member Galleberg said

that although Council found ample grounds to deny the permit, it did not establish a factual basis regarding the contractor's actions.

RESOLUTION 01-9181.....ITEM 15-a
A RESOLUTION DETERMINING LIVE ENTERTAINMENT PETITION 01-LE2 FOR APPROVAL OF LIVE ENTERTAINMENT AT 1177 THIRD STREET SOUTH, MORE PARTICULARLY DESCRIBED HEREIN, SUBJECT TO THE CONDITIONS LISTED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk. (2:44 p.m.)

RESOLUTION 01-9182..... ITEM 15-b
A RESOLUTION DETERMING RESIDENTIAL IMPACT STATEMENT PETITION 01-RIS4 FOR PROPERTY LOCATED AT 1177 THIRD STREET SOUTH, MORE PARTICULARLY DESCRIBED HEREIN, SUBJECT TO THE CONDITIONS LISTED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk. (2:44 p.m.)

It is noted for the record that Items 15-a and 15-b were considered concurrently.

Lisa Murray, on behalf of Campiello's Inc., noted that the restaurant's current live entertainment permit allows three performers, 6:30 p.m. to 11:00 p.m. nightly. Ms. Murray said the petitioner wishes to extend and revise this permit in order to allow four performers, five nights per week from 7:30 p.m. to 11:30 p.m. Council approval of a Residential Impact Statement is also required due to the proximity of residential units to the restaurant; however, Ms. Murray noted that to date, there have been no complaints regarding Campiello's live entertainment. In response to Council, Planning Director Ron Lee explained that single-performer live entertainment at the nearby Tommy Bahamas restaurant did not require Council approval. In later discussion, it was determined that Campiello's live entertainment would be amplified, however, it would not use the restaurant's built-in speaker system. In response to Vice Mayor Herms, Ms. Murray said she was unaware of any decibel level measurement near the restaurant; Mr. Herms, however, noted that the City's revised noise ordinance might affect this outdoor entertainment. Campiello's General Manager Richard Cacciagrani then provided additional information regarding the live performances, which he said would be expanded by one saxophone player during season months. Planning Director Lee also confirmed that there have been no complaints registered regarding Campiello's live entertainment.

Public Comment: (2:50 p.m.) **Natural Resources Manager Jon Staiger** advised Council that he once lived in an apartment above Campiello's courtyard and added that he had never been disturbed by the live entertainment below.

MOTION by Galleberg to APPROVE RESOLUTION 01-9181 PERMITTING FOUR ENTERTAINERS, FIVE NIGHTS A WEEK, BUT TO INCLUDE STAFF'S RECOMMENDATION REGARDING HOURS (7:30 P.M. TO 11:00 P.M.); 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).

MOTION by Galleberg to APPROVE RESOLUTION 01-9182 (SEE HOURS OF ENTERTAINMENT ABOVE); 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).

ORDINANCE (First Reading).....ITEM 16
AN ORDINANCE ADOPTING THE 2000 LEVEL OF SERVICE REPORT; DIRECTING STAFF TO TRANSMIT SAID REPORT TO THE STATE OF FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk. (2:54 p.m.) Vice Mayor Herms questioned whether the South Florida Water Management District (SFWMD) had provided definitive information regarding future water needs. Planning Director Ron Lee noted that SFWMD representative Scott Burns had recently addressed the Planning Advisory Board; however, to date, SFWMD had not advised when this analysis would be available. Planning Directive Lee added that his department would continue to work with the SFWMD in order to compile this information. Vice Mayor Herms said this information may indicate that current development and related demands on the Tamiami Aquifer warrant controls on the City's density. City Manager Rambosk relayed that SFWMD had provided a West Coast Water Supply Plan, however, this plan did not contain the requested information. Council Member Tarrant suggested sending the governor's office copies of the City's requests for information.

Public Input: None. (3:00 p.m.)

MOTION by Wiseman to APPROVE THIS ORDINANCE ON FIRST READING; seconded by Galleberg. After the discussion that appears below, this motion carried unanimously, all members present and voting. (Galleberg-yes, Herms-yes, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

Vice Mayor Herms noted that it is unknown whether the State will continue to grant well capacity permits sufficient to meet water demands. Council also discussed current water usage and Council Member Tarrant suggested utilizing Collier County's data in this regard.

ORDINANCE (First Reading).....ITEM 17
AN ORDINANCE ADDING DIVISION 6 TO ARTICLE II OF CHAPTER 86 OF THE CODE OF ORDINANCES IN ORDER TO ESTABLISH AN ARCHITECTURAL REVIEW BOARD FOR THE REVIEW OF COMMERCIAL DEVELOPMENT IN THE CITY; PROVIDING FOR ARCHITECTURAL REVIEW DISTRICTS, MEMBERSHIP, POWERS AND DUTIES, RULES OF PROCEDURE, PROCEDURE FOR REVIEW AND FEES; PROVIDING FOR APPEALS OF DECISION; PROVIDING FOR CERTAIN EXEMPTIONS FROM SECTION 2-463 STANDARDS OF CONDUCT; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk. (3:03 p.m.) Mayor MacKenzie noted language within the ordinance giving Council the right to abolish, maintain, or modify the Architectural Review Board within one year of first meeting. Planning Director Ron Lee also noted modifications to Attachment A pursuant to prior Council discussions. City Attorney Beverly Grady then explained that once formed, this Board would make recommendations regarding applicable commercial districts and Council would amend the ordinance accordingly. In the interim, this is a voluntary program.

Public Input: None. (3:02 p.m.)

MOTION by Galleberg to APPROVE THIS ORDINANCE ON FIRST READING; seconded by Taylor and carried 4-3, all members present and voting. (Galleberg-yes, Herms-no, MacIlvaine-yes, Tarrant-no, Taylor-yes, Wiseman-no, MacKenzie-yes). Council Member Wiseman explained that she opposed making exceptions to the ethics code which would occur with this ordinance; she also said the ordinance should be more specific regarding the

Board's existence after one year. Vice Mayor Herms said density and building size are the problems, not architecture, while Council Member Tarrant described the Board as another layer of bureaucracy.

ORDINANCE 01-9183.....ITEM 18
AN ORDINANCE AMENDING SECTION 50-433.1 OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES IN ORDER TO CLARIFY THE DATE A MEMBER MAY ELECT TO APPLY FOR A SPECIAL RETIREMENT OPTION AND TO CORRECT THE DATE WHEN THE EARLY RETIREMENT INCENTIVE IS PAYABLE FOR MEMBERS OF THE POLICE OFFICERS' PENSION AND RETIREMENT SYSTEM OVER AGE 44 YEARS AND WHO HAVE COMPLETED A MINIMUM OF TWENTY 20 YEARS OF SERVICE AS OF NOVEMBER 1, 1999; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk (3:05 p.m.) who noted that this ordinance should also include the actuarial report, attached to the employment agreement (Item 19).

Public Input: None. (3:05 p.m.)

MOTION by MacIlvaine to ADOPT ORDINANCE 01-9183 (WITH ACTUARIAL REPORT); 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 01-9184.....ITEM 19
A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A REVISED EMPLOYMENT AGREEMENT WITH KEVIN J. RAMBOSK AS CITY MANAGER; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Kevin Rambosk (3:06 p.m.) who reviewed the employment agreement noting that the revisions comport with the ordinance just adopted (Item 18).

Public Input: None. (3:07 p.m.)

MOTION by Galleberg to APPROVE RESOLUTION 01-9184 AS SUBMITTED; 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).

At this time, City Manager Kevin Rambosk updated Council on events since the April 28th shooting of Marvin Harris by a City of Naples police officer. City Manager Rambosk reported that staff has expressed the City's willingness to participate in the meetings currently taking place within this community; at this time, three different organizations have become involved. City Manager Rambosk said it is important for the City to provide accurate information, and he further suggested a proactive approach in addressing the River Park Community's concerns. As such, he suggested ongoing meetings, to commence before May 9, 2001, to discuss community issues. He also suggested inviting the following persons to participate:

- one representative each from Gordon River, River Park, George Washington Carver, and Jasmine Cay
- a member of the Harris family
- a member of the NAACP
- a representative of the group headed by Jerome Van Hook
- a member of the clergy, possibly Reverend Atkins

The City Manager, the Chief of Police and Emergency Services, and possibly a Council Member would represent the City at this meeting. In the interim, City Manager Rambosk suggested the use of a circular or newsletter to outline the known facts of the incident, information regarding the upcoming investigation, and the City's request for a community meeting as stated above. There

was also discussion regarding a Town Hall Meeting in the River Park community and City Manager Rambosk relayed his preliminary discussions with NAACP representatives and residents of the community. Mayor MacKenzie said the City should be welcoming and helpful and suggested that City Manager Rambosk and Police Chief Steve Moore represent the City initially; a Council Member can participate later in the process, if the community so desires. Council Member Tarrant cautioned that Council should not appear hesitant in hearing this community's concerns and Vice Mayor Herms said the Mayor should become involved early in this process.

MOTION by Galleberg to INSTRUCT THE CITY MANAGER TO ACT IN ACCORDANCE WITH HIS PROPOSAL OUTLINED ABOVE WITH THE MAYOR TO BE PRESENT AND A VISIBLE PART OF THE PROCESS;
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).

Recess 3:20 p.m. to 3:37 p.m. It is noted for the record that Vice Mayor Herms returned to the meeting at 3:41 p.m. City Manager Kevin Rambosk advised that some of the River Park residents and community leaders had scheduled a rally in front of City Hall at 4:00 p.m.

ORDINANCE (First Reading).....ITEM 7
AN ORDINANCE AMENDING ARTICLE IV OF CHAPTER 78 OF THE CODE OF ORDINANCES IN ORDER TO CLARIFY THE LANDSIDE FACILITY DEFINITION AND ESTABLISH PROCEDURES TO ENFORCE THE CHARTER BOARD REGULATIONS. Title read by City Manager Kevin Rambosk (3:38 p.m.) who advised that this is the same ordinance as originally considered during the April 16, 2001 Special Meeting. During this meeting, Council approved the following motion by a five-to-two vote:

Instruct staff to proceed conceptually with the elimination of portions of Article IV of Chapter 78, retaining the temporary unrestricted charter boat classification for displaced unrestricted captains and their boats, retaining a procedure whereby a temporary use permit could be obtained more frequently than twice per year, immediately cease issuing restricted licenses upon adoption of the ordinance, and provide for a reasonable period of time to sunset the restricted charter boat licenses.

Council Member Wiseman took the position that Council had not followed the City's reconsideration policy in placing this ordinance back on the agenda and City Attorney Pritt reviewed this policy as delineated in Resolution 98-8218. Council Member MacIlvaine explained that since his April 16th vote in favor of the above motion, he had reassessed the alternatives and decided instead to favor Option 1 as presented to Council at that time. As such, he requested Council's reconsideration of this ordinance. Mayor MacKenzie noted that Mr. MacIlvaine failed to submit this request pursuant to the reconsideration policy; she also noted that upon reading news reports of Mr. MacIlvaine's change in position, she suggested that staff not proceed with Council's April 16th direction (above). Vice Mayor Herms, however, said Council could in fact proceed with this ordinance on First Reading, as advertised, but Mayor MacKenzie pointed out that Council was only provided with the ordinance version that was not approved on April 16th. (In later discussions, it was clarified that the ordinance version provided to Council was Option 1) City Attorney Pritt outlined statutory requirements for the advertisement of ordinances at Second Reading (adoption) but noted that there is no such requirement for a First Reading. Council Member Tarrant reiterated his preference to eliminate

both the restricted and unrestricted charter boat categories and to do away with the required parking formulas. Additionally, he said the City should dedicate and clearly mark some of the parking spaces at the City Dock for charter pick-up/drop-off and limit docking and parking spaces to local businesses. Council Member Galleberg noted that still other options were presented to Council on April 16th, and Council Member Tarrant suggested additional discussion in order to gain a clear consensus. Council Member MacIlvaine reiterated his belief that parking standards rarely correlate to actual parking needs and said it would be improper to drive certain charters out of business based upon these artificial formulas. He also referred to the Planning Department's survey of available parking at the Dock indicating that there is indeed sufficient parking in this area for several different operations. Mayor MacKenzie, however, noted that many of these parking surveys include spaces on private property. While she likewise expressed her reluctance to put a charter operation out of business, she said she could not favor laws that will overburden an already congested area or require the police department to enforce essentially unenforceable parking policies. Mayor MacKenzie also reminded Council that the Code's provisions for pick-up and drop-off, as originally adopted, were only intended to provide a method by which charters at the City Dock could service customers from area hotels. Since then, she added, these regulations have been expanded to a point where they are viewed as a way to run a business without having to meet standards established for other City businesses. Mayor MacKenzie also noted the lack of any input or correspondence from local hoteliers since Council began considering this issue. She then reiterated her preference to eliminate the restricted charter category and return to the original intent whereby charter businesses meet City parking standards, with the exception of temporary charter events, which be allowed alternative-parking arrangements.

Council Member Wiseman noted that Council originally intended to include a grandfathering clause that would allow existing restricted charters to continue; Council was advised, however, that this could not be done. She described the charter boat issue as a small aspect of the overall Naples Bay issue and cautioned that as Collier County grows, the demand for restricted charter licenses will increase and place further demands on an already overburdened area. As such, she reiterated her support for the April 16th motion. Mayor MacKenzie then relayed that her survey of Collier and Lee County marinas indicated only two Lee County facilities that would permit an outside charter to pick-up and drop-off passengers. The two marinas, she added, happen to have sufficient on-site parking to accommodate the passengers. Mayor MacKenzie said unrestricted charters could still operate under a Collier County license, if moored at a different location, and could still utilize the City dock's pick-up/drop-off slip, however, not as their sole business location. Council Member MacIlvaine said the charter businesses are good for the community but added that he thought the unrestricted charters presently monopolize this industry. Mayor MacKenzie said the municipal interests extend to residents as well as business people, while Council Member Galleberg concurred that all City businesses should adhere to Code standards. Council Member Taylor pointed out that a former Council established the restricted charter category in the interest of fairness and maintained that it would unfair to permit a vocal minority to essentially abolish these businesses. She also predicted that market forces would control any overflow of charter operations. Later in the discussion, Council Member Taylor said she also favored Option 1. Mayor MacKenzie then questioned why the County and Marco Island were not doing more to provide slips and parking, and Council Member Tarrant said the City should add up to six additional slips at the City Dock in order to reserve at least three for sailboat charter operations.

Public Comment: (4:18 p.m.)

Joe Biasella, 860 12th Avenue South (Dockmaster for the Fleischmann property) said Council should separate the displaced charters ("temporary restricted") from the restricted charter category. Mr. Biasella then read from a prepared statement wherein he urged Council to ascertain exactly how many charter operations will be affected by this ordinance and how many of the affected operations belong to City residents. (A copy of this statement is contained in the file for this meeting in the City Clerk's Office) He further asserted that this issue was initiated by one vessel owner; this owner is a County resident who did not purchase the vessel for charter use and does not currently hold the required County license for such operations. Further, Mr. Biasella claimed that one Council Member is supporting this issue to an extreme because of a close friendship with the aforementioned vessel owner, and had accepted an outing on this vessel during this period of review. He then advised that 18 vessels currently operate out of County facilities and come into the City to operate as restricted charters. In addition, very few of the restricted charters have taken advantage of recent Code amendments allowing them to advertise. Mr. Biasella also questioned how the opposition to this ordinance was funded and claimed that this issue has prevented Council from considering more important waterfront and Bay concerns.

Recess 4:26 p.m. to 4:36 p.m. It is noted for the record that the Mayor and City Manager invited organizers of the rally outside City Hall to address Council at the conclusion of this item. Upon reconvening, with the same Council Members present, Mayor MacKenzie reported the possibility that Mr. Jerome Van Hook would address Council later in the meeting.

Continued Public Comment: (4:37 p.m.) **Elizabeth Bloch, 5920 Golden Gate Parkway,** noted that Naples Bay is the only waterway within Collier County that can accommodate sailboats, and she further cautioned that the proposed amendments might eliminate all but one of the area's sailboat charters. Captain Bloch discounted prior claims of parking shortages and parking enforcement problems at the City Dock and further noted that allowing charters to operate independently (without a broker) may prevent price fixing and monopolies. She also commented that Council should not measure a charter's success by whether or not it has a yellow pages ad and said even part time restricted vessels are beneficial since they provide more choices to the City residents and tourists. Captain Bloch said her research indicates no significant increase in the number of restricted charters over the past few years; she also asserted that charters with commercial slips and available parking have advantages such as signage and walk-up customers. **Attorney Robert L. Barnes, Jr., 2655 McCormick Drive, Clearwater, FL, (representing Universal Sailing, Inc.)** said staff's efforts to revise the charter boat regulations originated when certain charter operators requested clarifications regarding the current Code provisions. Staff's intent was to make it easier for restricted charters to become unrestricted charters; however, Attorney Barnes claimed that this has escalated to the point that Council is now considering doing away with the restricted category altogether. He concurred with Captain Bloch that there is no shortage of parking at the City Dock and noted that City records indicate only a handful of parking citations in this area. Police and Emergency Services/Marine Patrol records likewise indicate only three citations for violations to Chapter 78 of the Code of Ordinances in four years. As such, Attorney Barnes asserted that there are insufficient grounds for Council to adopt an ordinance that may well threaten the livelihood of existing charter operations and the ability of others to start a business. He urged Council to either retain the Code as is or adopt Option 1 as presented in the ordinance version before Council. As to parking, Attorney Barnes suggested designating (with signs) four or five spaces for charter boat parking; a smaller sign, issued by the Dockmaster along with the flag, could be attached to the

larger sign to identify the charters using these spaces each day. In response to Council, Attorney Barnes stated that his client, Universal Sailing, Inc., which is owned by Ulrich Rohde of New Jersey and Marco Island, desires to become a restricted charter boat operator in Naples Bay. Attorney Barnes also confirmed that he represents Elizabeth Bloch. **Gary Martin, (President of Ole Marina Docks), 1200 6th Avenue South**, said the issue before Council deals with existing City businesses and individual rights, and he urged Council to maintain the two-tiered license system (Option 1). Mr. Martin described the City Dock as a public park that accommodates approximately 10 private businesses. He asserted, however, that some of these business owners act as if they own the Dock. He also took issue with the ability of these private businesses to sell the leases assigned to their slips and said he favored Council Member Tarrant's position as it relates parking. Mr. Martin said he had contacted local hoteliers regarding the possibility of eliminating restricted charters and promised to provide their responses at Second Reading. He further noted that it would take years for area marinas to absorb the displaced restricted charters. **Allen Walburn, 925 8th Avenue South**, claimed that this issue began with the redevelopment of Turner Marine, which displaced several charter operations. Mr. Walburn provided statistics which he said confirm that a very small percentage of the restricted charters are owned by City residents; further, he noted that only one half of the licensed restricted vessels even operated a charter from the City Dock during recent months. Therefore, he questioned their claims of being driven out of business. Mr. Walburn also maintained that the City government had indeed impaneled the ad hoc committee that originally recommended the charter boat regulations. He said all charter operators should comply with the Code but added that he could find no record of any of the 47 restricted charters having obtained the required County occupational license. **Marlena Brackebush, 860 12th Avenue South, (representing Sailboats Unlimited, Inc.)** said her comments were on behalf of eight restricted charter boats. Ms. Brackebush said it would be acceptable to eliminate the restricted charter boat category provided the brokers have the ability to hire the charters as Coast Guard licensed captains/vessels and arrange transportation for the passengers so as to avoid parking at the City Dock. **Captain Kevin Bill, 1535 Chesapeake Avenue (Day Star Charters)**, said he favored Option 1 but suggested a provision allowing displaced charters to use the City Dock for pick-up/drop-off for up to five years. He likewise disputed claims of serious parking shortages at the City Dock. In response to Council Member Tarrant, Captain Bill indicated that he currently owns three charter vessels and said the parking requirements should be relaxed to six passengers, per vessel, per parking space. Vice Mayor Herms noted that Council is not considering any revisions to the Code as it relates to displaced charter operations but Captain Bill noted that current deadlines, relating to the displaced charters' use of the City Dock, might be too restrictive. **Captain Pete Rosku, 975 Eastham Way**, said he has operated his unrestricted charter from Boat Haven for eight years and suggested that the City purchase this Naples landmark. Captain Rosku also described Naples as a premier location for sport fishing.

End Public Comment: (5:08 p.m.)

Council Member Tarrant asked to interrupt these discussions in order for demonstrators outside City Hall to address Council. City Manager Kevin Rambosk, however, relayed that one of the rally's organizers, Jerome Van Hook, had indicated earlier that the group had not intended to speak to Council at this time.

Council Member Galleberg referred to prior claims that the City will put charters out of business and asked staff to provide information that is more definitive. Recreation Manager David Lykins distributed statistics regarding restricted charter boat activity and indicated that this information includes the majority if not all of the trips originating from the City Dock. (Attachment 3) Based upon these records, Mr. Lykins reported 271 trips by 44 vessels between October 2000,

and March 2001. Of the 44 vessels, there were 27 restricted charters and 17 unrestricted. Mr. Lykins also cited statistics regarding the number of trips per vessel but noted that existing Code provisions and the Dock's landside facility petition require unrestricted vessels operating from other marinas to be processed and logged in as restricted vessels. Mr. Lykins then provided further analysis of the information and Vice Mayor Herms observed that at least one half of the recorded restricted charters are sailboats.

MOTION by MacIlvaine to APPROVE THE ORDINANCE ON FIRST READING WITH THE REVISIONS AND CORRECTIONS RECOMMENDED BY THE CITY ATTORNEY (below); seconded by Herms. After the discussion that appears below, this motion carried 4-3, all members present and voting. (Taylor-yes, Herms-yes, MacIlvaine-yes, Tarrant-yes, Galleberg-no, Wiseman-no, MacKenzie-no). During the vote, Council Member Galleberg described the action as the tail wagging the dog while Mayor MacKenzie said it failed to provide a long-term solution.

City Attorney Bob Pritt recommended the following clarifications to the ordinance version provided to Council: 1) correct a typographical error in title (change from procedure to procedures); 2) amend the definition of *capacity* in Section 78-170 to read "*Capacity* means the maximum number of passengers as listed on the certificate of inspection provided by the Coast Guard. Vessels that do not require a certificate of inspection or are not otherwise provided for in this article are limited to a capacity of six passengers."; 3) amend the definition of *Charter boat* to read: "*Charter boat* means a vessel offered for hire or rent for periods of time which may or may not include the service of a captain or crew or both. This includes, without limitation, rental boats, sightseeing boats, ferry boats, head boats, personal watercraft, and similar vessels for rent or hire, and bareboat charters. Water taxis are excluded from this definition."; 4) correct certain grammatical corrections within the definition of *Public or chartered transportation*; 5) delete the words "as authorized by Coast Guard designated capacity" from the definitions of *Restricted charter boat* (Section 78-170) and *capacity* (Section 78-171); 6) delete the words "or less" from the definition of *water taxi* (Section 78-170); 7) amend definition of *capacity* (Section 78-171) to refer to a restricted charter boat license rather than occupational license and delete the word maximum from the sentence describing water taxi capacity; 8) amend Section 78-176 (Enforcement) to limit the suspension to 30 days; 9) correct other scriveners' errors.

Before the above vote, Council Member Wiseman asked Council Member Taylor to respond to Mr. Biasella's earlier allegations. Council Member Taylor explained that she accepted an invitation to view a Naples Sailing Club race from the water; the vessel used for this happened to belong to Elizabeth Bloch. Ms. Taylor said she, four other observers, and Ms. Bloch departed in the vessel at 8:00 a.m. to view the race but added that she returned to the Dock at noon on board another vessel. She further noted that she appeared at the Naples Sailing Club to award a charitable donation. Council Member Tarrant thanked Ms. Taylor for her participation in this event adding that it reflects well on the City.

CORRESPONDENCE and COMMUNICATIONS (5:23 p.m.).....

Council Member Wiseman noted that she would be meeting with the executive director of the Naples Players regarding Mr. Tarrant's suggestion that they participate in the 2001 Christmas Parade. Council Member Taylor requested future discussions regarding the City Attorney's contract and Mayor MacKenzie noted that this would take place at the next workshop. Council Member Galleberg requested research on possible Code revisions relating to setbacks for properties abutting lakes. Council Member MacIlvaine noted neglected property on the

southwest corner of Pine Grove Lane and Crayton Road, and City Manager Kevin Rambosk updated Council on complaints relating to live entertainment at the Galley Restaurant. City Manager Rambosk also reported that members of the Marvin Harris family had declined Council's invitation to speak at this meeting. Mayor MacKenzie advised that the new conference room next to her office was available to the Council Members. Council Member MacIlvaine again referred to the rally outside and said Council is ready to listen to this community's concern. Council Member Tarrant expressed doubts that those attending this rally understand that they are indeed welcome to address Council. Vice Mayor Herms then relayed the concerns of a resident on 7th Avenue North regarding alterations to an adjacent alley made by another property owner.

PUBLIC COMMENT.....

At the invitation of the Mayor and City Manager, Jerome Van Hook addressed Council as one of the organizers of the rally underway outside City Hall. Mr. Van Hook commended Council for its concern and interest and explained that this assembly was intended as a peaceful demonstration of the River Park community's displeasure with the April 28th incident and subsequent events. Further, he clarified that this was not an issue of racism or prejudice but rather a demonstration of this community's desire to learn the truth. Mr. Van Hook declined Council's invitation to meet at this time, but said he would contact the City in this regard in the near future.

ADJOURN.....
(5:43 p.m.)

Bonnie R. MacKenzie, Mayor

Tara A. Norman, City Clerk

Prepared by:

Virginia A. Neet, Deputy City Clerk

Minutes approved: 8/15/01

MDG-CAPITAL PARTNERS, INC.

2180 Immokalee Road Suite 308, Naples FL 34110 Phone (941)594-8700 Fax 596-4399

TO: Bonnie MacKenzie, Mayor
R. Joseph Herms, Vice Mayor
Gary Galleberg
William R. MacIlvaine
Fred Tarrant
Penny Taylor
Tamela E. Wiseman

Attachment #1
5/2/01 Regular Meeting
Page 1 of 4

FROM: MDG Capital Partners

RE: City Center Plaza PD Amendment

DATE: April 25, 2001

With great reluctance, we have significantly reduced square footage of the project. We believe that these revisions satisfy the concerns of the majority of the members of the City Council. We further feel that the revisions meet or exceed the spirit and intent all zoning requirements.

The majority of City Council and Staff concerns appear to be focused on project intensity. In response to this concern, we have deleted Building "E" comprised of nearly 9,000 sq. ft. from the scope of the project. This modification has had a positive profound effect on all of the issues that have been discussed in past meetings.

On Friday, April 20, 2001, Bill Klohn, President of MDG Capital Partners, Inc. and Jim Boughton of Boughton Architects met with Kevin Rambosk, City Manager, Ron Lee and Ann Walker to discuss the revisions and to obtain a response as to whether or not Staff support would be forthcoming for the project. We had a very productive meeting and Staff is now very positive about the project and substantially supports the project. We greatly appreciate the spirit that Kevin, Ron and Ann offered at the meeting regarding our revision concepts so that we could leave the meeting with positive solutions.

Listed below are the project revisions and status of various documents:

1. Total Project Square Footage - the deletion of Building "E" has reduced the total project area to 90,033 SF from the previous 99,023 SF. This is a reduction of 8,990 SF of commercial density and is several thousand SF less than the original approved PD.
2. Lot Coverage - Lot coverage has been reduced from 44.60% to 37.73%. This percentage far exceeds the legislation proposal for the redevelopment of the 41-10 area of 45%. This also exceeds standards of C-2 and R3-12 zoning requirements for this site.

3. Green Space - The existing PD has 21% green space. Green space in the prior plan was 22.51% and has now been increased to 23.65%. This new percentage greatly exceeds the existing PD and does not include the additional 1% of new open space which has been dedicated to the pool and deck for building “C”. This 23.65% open space exceeds the legislation proposed by this City Council for the redevelopment of the 41-10 area.
4. Reduced Parking Requirement - The deletion of Building “E” has reduced required parking from 231 spaces to 204 spaces. This is a reduction of 27 required parking spaces.
5. Increase Excess Parking - There is now a total of 218 parking spaces for the entire project. This results in 14 excess parking spaces than required by the PD.
6. Reduced Need for On Street Parking -The reliance of on-street parking has been minimized. There are now 43 required parking spaces on-street which is 21 % of the total required parking. The prior plan was 30%.
7. Increase Frontage Green Space on 8th Street N. - The front yard setback has been increased from 10 feet to 20 feet along the entire length of 8th Street which applies to and includes frontage at both buildings “C” and “D”. While the existing PD calls for 10 feet; we have increased the 8th Street setback to 20 feet.
8. On-Street Parking is the Same as Original PD - The on-street number of parking spaces has been reduced to exactly conform with the existing PD. This modification incorporates all Downtown “D” District parking requirements (maximum of six (6) spaces between landscape islands and ½ of the parking on 5th Avenue dedicated to residential parking). This plan also retains the green area south of Building “D” undisturbed (grading remains as existing) and visual clearance is maintained at the southeast street corner as recently requested by the Naples Engineering Department.
9. Building “C” Design - Building “C” has been redesigned to incorporate a masonry wall with residential character offering windows along 6th Avenue N (similar to exterior wall at 8th Street) to mitigate Staff’s concern of exposed under-building parking.

There has been considerable debate regarding the need for this project to be reviewed under and meet Downtown “D” District zoning which we and our legal counsel contends is not applicable or required since the original PD refers only to C-2 and R3-12 requirements. Notwithstanding, Downtown “D” zoning does permit under-building parking. The real issue has been the zoning requirement for twenty (20) feet of residential space between the frontage and under-building parking to visually portray ground level living area. We are sensitive to the Council and Staff concerns and believe this design modification addresses and mitigates the real concern of visually blocking “exposed parking” from the adjoining streets.

10. Under-building Parking at Building “B” - To mitigate the seven (7) spaces of under-building parking in Building “B” masonry screening walls have been added (between currently open columns) on the face of the building which fronts U.S. 41 in the area south of the drive-thru lanes. The wall shall be architecturally compatible with the building. We feel that this addresses and mitigates the concern of “exposed parking” from U.S. 41.
11. “Building “C” Address the Street - “Building “C” was designed to address the street. This is a Downtown “D” District requirement that is loosely written and with intent that is very subjective. In an effort to mitigate this concern, we designed a ground level pedestrian building entry at the northwest corner of the site (corner of 8th Street and 6th Avenue N.). A canopy was incorporated at this location as a main entry architectural feature. The use of additional ground level windows along the full length of the west and north elevations and the fact that all the residential units are focused on the street reinforces our contention that we have met the spirit and intent of the Downtown “D” District.
12. Sidewalk Changes to Preserve Trees - The sidewalk on 8th Street N. will be field designed as necessary to preserve the existing mahogany trees.
13. Parking Summary Chart - The Chart has been modified to reflect the above changes and requirements.
14. Parking and Vehicular Cross Easements - The proposed easement documents have been provided and will be recorded within 30 days following City Council’s approval of the PD modifications.
15. Reconveyance of Residential Land to TIB - The proposed sketch and legal description for the proposed conveyance from Newblock 1, Inc. to TIB Bank of the Keys is enclosed. This conveyance will occur and be recorded not later than 30 days following City Council’s approve of the PD modifications.
16. Neighborhood Support - While you have seen this chart before, we would like to remind you that we have tremendous support from neighboring properties (both residential and commercial) and as of this writing have received no objection from anyone.
17. PD Document Clarification and Revisions - Leo Salvatori, Esq. has worked closely with Beverly Grady to make the necessary revisions to the proposed PD Amendment Document.
18. Color Renderings - Color renderings of both the TIB Financial Centre and 12 unit residential condominium were shown to you at the April 18th meeting. These renderings have since been scanned and reduced to be incorporated into your packages.

Pg. 4
April 25, 2001

Attachment #1
5/2/01 Regular Meeting
Page 4 of 4

19. Color Elevations - The elevations of the TIB Financial Centre and 12 unit residential condominium have been modified to reflect the addition of the walls which obscure under building covered parking.
20. Landscape Plan - The Landscape Plan has been revised to reflect the deletion of Building "E", parking lot modifications, and increased setback of Building "C", etc.
21. Engineering Plans - Engineering Plans C-2 and C-3 have been modified to reflect proposed revisions outlined in this submission.
22. Site Plan and Tabulation Table - Boughton Architects has revised the Site Plan to reflect proposed revisions outlined in this submission.

We believe that we have successfully addressed all of the concerns that have been voiced in previous meetings with the Planning and Advisory Board, Planning Staff and City Council. We feel that we meet the intent of all zoning requirements that have been discussed and referenced by this project. This will be our final opportunity to agree on a plan for this property. Please do not ask us for any further revisions.

Copy: Patrick McCuan
Leo Salvatori, Esq.
Dr. Leslie and Rainey Norins
Kevin Rambosk
Ron Lee

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

LAST NAME—FIRST NAME—MIDDLE NAME <i>Wiseman, Tameca Eady</i>		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <i>Naples City Council</i>	
MAILING ADDRESS <i>P.O. Box 460</i>		THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON 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>Collier</i>	NAME OF POLITICAL SUBDIVISION: <i>City of Naples</i>	
DATE ON WHICH VOTE OCCURRED <i>5-2-01</i>		MY POSITION IS: <input checked="" type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTIVE	

WHO MUST FILE FORM 8B

Attachment #2
5/2/01 Regular Meeting
Page 1 of 2

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.

IF 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

TAMELA EADY WISEMAN, hereby disclose that on May 2, 2001

a) 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 LA Maison Club, Inc., 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.

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

Agenda Item 12 - Regular Meeting, Naples City Council,
May 2, 2001. Petition No. 01-CU5 (00-34)

I am the attorney for La Maison Club, Inc.
However, I did not counsel petitioner
regarding the petition.

Attachment #2
5/2/01 Regular Meeting
Page 2 of 2

5/2/01
Date Filed

Tamela Eady Wiseman
Signature

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.

NAPLES CITY DOCK
RESTRICTED CHARTER ACTIVITY
 NUMBER OF TRIPS PER MONTH

Attachment #3
 5/2/01 Regular Meeting
 Page 1 of 2

VESSEL	OCTOBER 2000	NOVEMBER 2000	DECEMBER 2000	JANUARY 2001	FEBRUARY 2001	MARCH 2001	TOTAL
Andiamo - r	2	2	4	3	4	3	18
Beaula Lee - r		1	2	2		1	6
Black Hills - r			1	1			2
Blue Fin	1						1
Capt. Kevin - r			1				1
Catch & Release - r			1				1
Day Dreamer				1			1
Dulcinea - r	1	2	3		3	3	12
Fish On - r	1	1		1		2	5
Friendly Native Charters - r					1		1
Glory Us - r	4	3	8	2	6	3	26
Gone With The Wind - r			2				2
Good Life - r	1		2		1	1	5
Grand Slam	1				1		2
Hanna Gram - r			2	1			3
High Calibre - r			1	2			3
IYS					1		1
Kalaha - r						1	1
Key Hopper - r	5	2	6	4	3	3	23
Lady Brett			1				1
Lone Wolf - r						1	1
Long Run	1			1			2
Light Sea - r	8	7	2	2	6	8	33
Magic Hat	2			3	2	1	8
Miss B Haven				1			1
Nautilus I - r			2				2
Nautilus II - r			2				2
Pegasus - r	1		2		2	1	6
Rod Bender	1	1		3	2	2	9
Rod Breaker				2	1	1	4
Ruling Passion - r						1	1
Sea Hooker		1		2	1	3	7
Sea Legs	1	1	1	1			4
Sea Lion		1		1			2
Sea Smoke - r			1			2	3
Serendipity - r		7	4	1	4	8	24
Shakila - r			1		1	2	4
Solo Lobo	1	1	1	2	2		7
Sun Dancer - r						1	1
Sunny Daze	1				2	3	6
Tall Tales	1	1	2	3			7
Tarpon Tamer	2	1		1	1		5
Tropic Island - r		1			1		2
White Star - r	1	3	3	1	2	5	15
TOTAL	36	36	55	41	47	56	271

(44 vessels - 27 are Restricted, 17 are Unrestricted)

4/26/2001

NAPLES CITY DOCK
RESTRICTED CHARTER ACTIVITY
MONTHLY AVERAGES

Attachment #3

5/2/01 Regular Meeting

Page 2 of 2

YEAR	MONTH				TOTAL # TRIPS	
2000	October (31 Days)		Sightseeing	1	36	
		# Ind. Days Booked	21	# of Different Vessels		19
		Avg. # Trips/Day	1.71	Highest # Trips 1 Day		5
		Avg. # Trips/Week	9	Bare Boat Trips		4
		Sailboats	6	City		6
		Fishing Boats	12	Non-City		13
2000	November (30 Days)		Sightseeing	1	36	
		# Ind. Days Booked	19	# of Different Vessels		17
		Avg. # Trips/Day	1.89	Highest # Trips 1 Day		10
		Avg. # Trips/Week	9	Bare Boat Trips		3
		Sailboats	6	City		4
		Fishing Boats	10	Non-City		13
2000	December (31 Days)		Sightseeing	5	55	
		# Ind. Days Booked	21	# of Different Vessels		24
		Avg. # Trips/Day	2.62	Highest # Trips 1 Day		12
		Avg. # Trips/Week	13.75	Bare Boat Trips		8
		Sailboats	10	City		8
		Fishing Boats	9	Non-City		16
2001	January (31 Days)		Sightseeing	2	41	
		# Ind. Days Booked	21	# of Different Vessels		23
		Avg. # Trips/Day	1.95	Highest # Trips 1 Day		11
		Avg. # Trips/Week	10.25	Bare Boat Trips		3
		Sailboats	5	City		5
		Fishing Boats	16	Non-City		18
2001	February (28 Days)		Sightseeing	1	47	
		# Ind. Days Booked	21	# of Different Vessels		21
		Avg. # Trips/Day	2.24	Highest # Trips 1 Day		4
		Avg. # Trips/Week	11.75	Bare Boat Trips		8
		Sailboats	8	City		4
		Fishing Boats	12	Non-City		17
2001	March (30 Days)		Sightseeing	2	56	
		# Ind. Days Booked	22	# of Different Vessels		22
		Avg. # Trips/Day	2.55	Highest # Trips 1 Day		7
		Avg. # Trips/Week	14	Bare Boat Trips		8
		Sailboats	12	City		4
		Fishing Boats	8	Non-City		18
TOTAL					271	

4/26/01



PROJECT DATA FOR PROPOSED PLANNED DEVELOPMENT

EXISTING ZONING: PD - PLANNED DEVELOPMENT

PROPOSED ZONING: PD - PLANNED DEVELOPMENT (AMENDED)

PROPERTY AREA: 2.74 ACRES (234,827 SF ±)

PROPOSED LOT COVERAGE:

BUILDING	AREA
BUILDING A	1,445.7 SF (0.03 ACRES)
BUILDING B	14,496.7 SF (0.33 ACRES)
BUILDING C	75,032.27 SF (1.74 ACRES)
BUILDING D	9,194.93 SF (0.21 ACRES)
BUILDING E	8,763.08 SF (0.20 ACRES)
TOTAL	104,932.68 SF (2.40 ACRES)

LOT COVERAGE: 104,932.68 SF (2.40 ACRES) = 44.4% X 234,827 SF ± = 44.4%

OPEN AREA: 131,895.12 SF = 54,264.5 SF ± X 2.40 ACRES = 2.35 ACRES (25,000 SF ±)

RESIDENTIAL DENSITY: 22 UNITS/2.74 ACRES = 7.99 UNITS/ACRE

MAXIMUM DWELLING UNITS ALLOWED: 24 UNITS (MIN. AREA=600 SF)

MAXIMUM DWELLING UNITS PROVIDED: 22 UNITS (MIN. AREA=1,275 SF)

MINIMUM YARDS AND MINIMUM SEPARATION:

- FRONT YARD SETBACK (4 SIDES): 10 FEET WITH 6 FEET LANDSCAPED AREA
- MINIMUM BUILDING SEPARATION: 30'-0"

REQUIRED PARKING:

BUILDING A	14,445.7 SF (0.33 ACRES)	40 SPACES
BUILDING B	14,496.7 SF (0.33 ACRES)	40 SPACES
BUILDING C	75,032.27 SF (1.74 ACRES)	18 SPACES
BUILDING D	9,194.93 SF (0.21 ACRES)	25 SPACES
BUILDING E	8,763.08 SF (0.20 ACRES)	25 SPACES
TOTAL REQUIRED PARKING		128 SPACES (INCLUDING 14 L.L. SPACES)

PROVIDED PARKING:

ON SITE	145 SPACES
ON STREET	40 SPACES
TOTAL PROVIDED PARKING	185 SPACES (INCLUDING 14 L.L. SPACES & 10 OFF-STREET SPACES)

BUILDING	AREA	HEIGHT
BUILDING A	14,445.7 SF	1 STORY EXISTING
BUILDING B	14,496.7 SF	1 STORY EXISTING (SHADEST POINT)
BUILDING C	75,032.27 SF	2 STORIES OVER PARKING LOT (SHADEST POINT)
BUILDING D	9,194.93 SF	2 STORIES EXISTING
BUILDING E	8,763.08 SF	2 STORIES OVER PARKING LOT (SHADEST POINT)
TOTAL	104,932.68 SF	

LANDSCAPING REQUIREMENTS:

FRONT (4 SIDES):
- 1 TREE EVERY 30 FEET (SHADEST)
- 2 FEET HIGH HEIGHTS BETWEEN TREES
- 4 FEET DEPTH

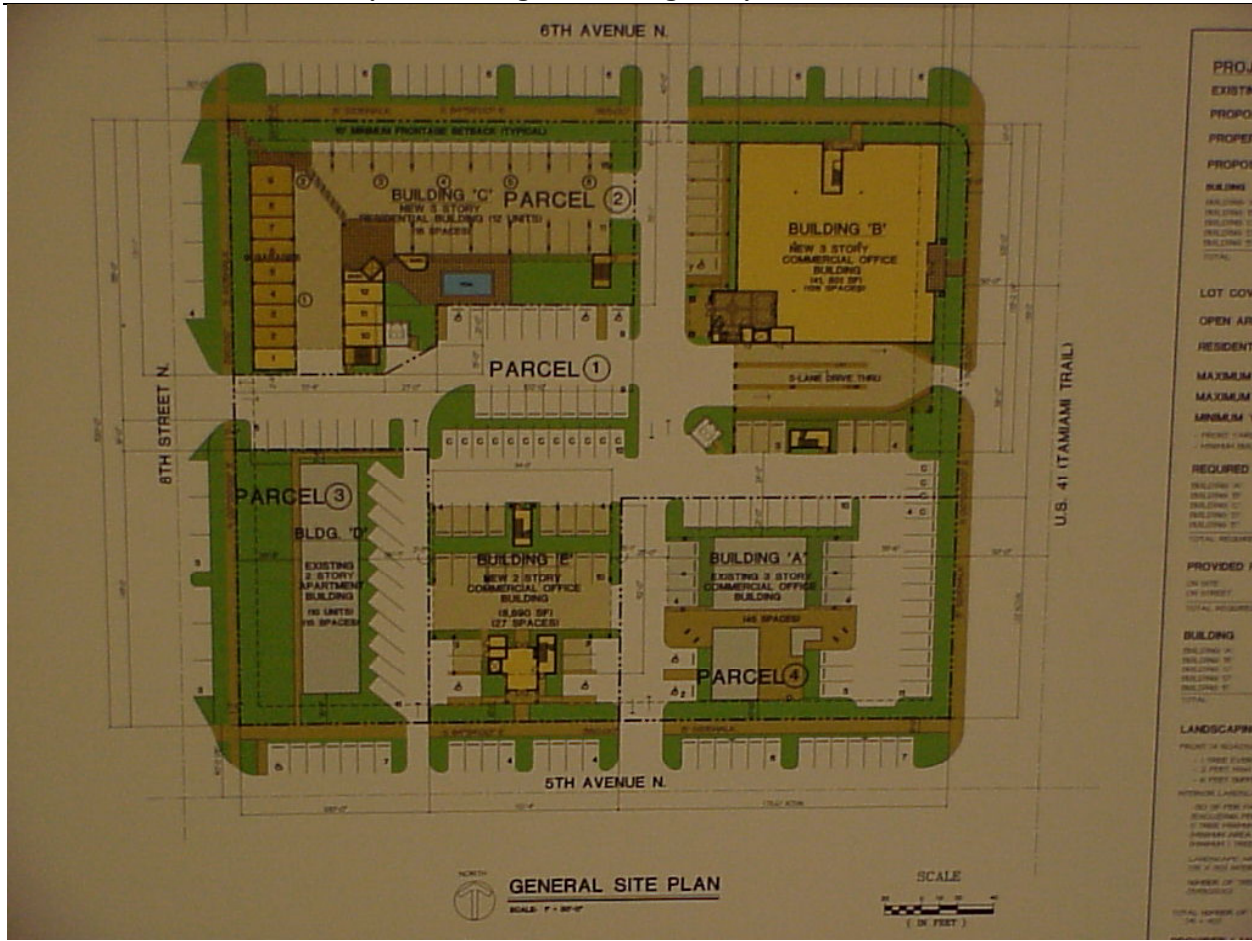
INTERIOR LANDSCAPING:

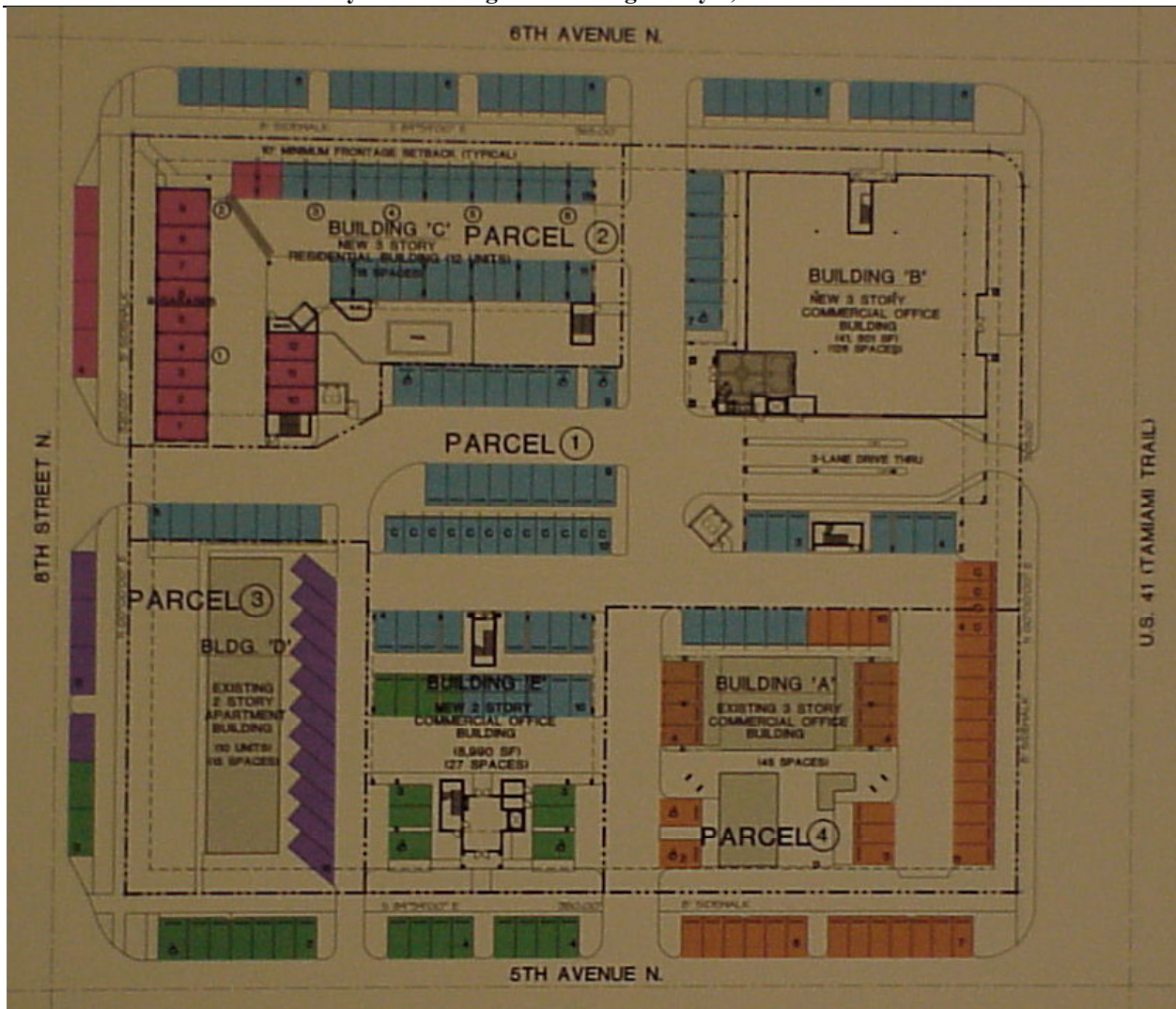
100 SF PER PARKING SPACE
(EXCLUDING PERIMETER SPACES)
1 TREE PER 100 SF PER AREA
(MINIMUM 1 TREE PER LOT OF TOTAL)
LANDSCAPE AREA REQUIRED:
ON A LOT INTERIOR PARKING SPACES: 2,000 SF
NUMBER OF TREES REQUIRED:
(MINIMUM): 40 TREES

TOTAL NUMBER OF TREES REQUIRED:
(MIN. 140): 140 TREES

PROVIDED LANDSCAPING:

INTERIOR LANDSCAPED AREA: 12,000 SF
LANDSCAPED AREA PER LOT: 140 TREES X 100 SF PER TREE = 14,000 SF
TOTAL LANDSCAPED AREA: 26,000 SF





LEGEND:



45 SPACES FOR EXISTING COMMERCIAL OFFICE BLDG-'A'



126 SPACES FOR NEW COMMERCIAL OFFICE BLDG-'B'



18 SPACES FOR NEW 12 UNIT RESIDENTIAL BLDG-'C'



15 SPACES FOR EXISTING 10 UNIT RESIDENTIAL BLDG-'D'



27 SPACES FOR NEW COMMERCIAL OFFICE BLDG-'E'