



City Council Chamber
735 Eighth Street South
Naples, Florida 34102

City Council Regular Meeting – December 3, 2003 – 9:00 a.m.

Mayor MacKenzie called the meeting to order and presided.

ROLL CALLITEM 1

Present:

Bonnie R. MacKenzie, Mayor
Gary Galleberg, Vice Mayor

Council Members:

Joseph Herms
William MacIlvaine
Clark Russell (arrived 9:04 a.m.)
Penny Taylor
Tamela Wiseman

Also Present:

Robert Lee, City Manager
Robert Pritt, City Attorney
Ron Lee, Community Development Director
Tara Norman, City Clerk
David Lykins, Community Services Director
Jessica Rosenberg, Deputy City Clerk
Laura Spurgeon, Planner
Mary Margaret Gruszka, Recreation Supv.
Ann Walker, Planning Manager
Sandra Lea, Recording Specialist
Bonnie McNeill, Recording Specialist
Karen Kateley, Administrative Specialist
Pamela Stewart
Sharon Collins
Lana Hope
Carol Brown
Margaret Suleck
Bill Kroeschell
Arlene Guckenberger
Don Wirth
Kevin Bill
Gray Hall
Henry Kennedy
Falconer Jones III
Lois Selfon

Keith Alexander
Bruce Bacon
Carol Konigson
Al Konigson
Sylvia Holt
Gordon Mefford
Annie Scott
Vicki Tracy
Gene Scott
David Jensen
Byron Tracy
Regina Zimmer
Lynda Mefford
Marlan Neeley
Jim Clark
John Passidomo
David Corban
Marc Oates
Christian Spilker
John Ribes
Todd Turrell
George Hermanson
Other interested citizens and visitors.

Media:

Dianna Smith, Naples Daily News

INVOCATION AND PLEDGE OF ALLEGIANCE.....ITEM 2

Reverend Kathleen Korb, Unitarian Universalist Congregation.

ANNOUNCEMENTSITEM 3

None.

SET AGENDA.....ITEM 4

Add Item 22-a – Waterside Shops Expansion: Resolution objecting to the connection of Crayton Road to Seagate Drive at the entrance to Pelican Bay.

MOTION by Galleberg to ADD ITEM 22-a; seconded by Russell and unanimously carried, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Russell-yes, Taylor-yes, Wiseman-yes, Mackenzie-yes).

Add Item 22-b – Waterside Shops Expansion: Resolution requesting the Collier County Planning Commission grant the City of Naples a 60-day extension for scheduled hearings.

MOTION by Galleberg to ADD ITEM 22-b; seconded by Russell and unanimously carried, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Russell-yes, Taylor-yes, Wiseman-yes, Mackenzie-yes).

Add Item 23 – Discussion regarding beach-funding policy.

MOTION by Galleberg to ADD ITEM 23; seconded by Russell and unanimously carried, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Russell-yes, Taylor-yes, Wiseman-yes, Mackenzie-yes).

MOTION by Galleberg to SET AGENDA, CONTINUING ITEMS 8, 13, AND 18 TO THE REGULAR MEETING OF DECEMBER 17, 2003, REMOVING ITEM 9-b FROM THE CONSENT AGENDA FOR SEPARATE DISCUSSION, AND ADDING ITEMS 22-a, 22-b, and 23. This motion was seconded by Taylor and unanimously carried, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Russell-yes, Taylor-yes, Wiseman-yes, Mackenzie-yes).

PUBLIC COMMENT.....ITEM 5

Don Wirth, 2425 Tarpon Road, requested that the City consider development of a streetscape master plan for Sandpiper Street, providing consistency with development plans for Naples Bay Marina/Boat Haven and Ruffina (at the southeast corner of Sandpiper and US 41). **Falconer Jones III, 620 Sandpiper Street, President of Oyster Bay Homeowner's Association**, concurred with Mr. Wirth's comments and also listed various other issues relative to Sandpiper such as safety, the need for bridge railings, and coordination with Collier County and the building projects within that area. In response to Mr. Jones, City Manager Robert Lee also indicated that funding had been identified and that staff would be working with area residents.

RESOLUTION 03-10265.....ITEM 10

A RESOLUTION DETERMINING CONDITIONAL USE PETITION 03-CU7 FOR CELEBRATION COMMUNITY CHURCH TO CONDUCT SUNDAY MORNING SERVICES AT CAMBIER PARK, LOCATED AT 755 8TH AVENUE SOUTH, MORE PARTICULARLY DESCRIBED HEREIN SUBJECT TO THE CONDITIONS SET FORTH HEREIN; PROVIDING FOR THE CITY CLERK TO RECORD SAID CONDITIONAL USE; AND PROVIDING AN EXPIRATION DATE AND AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (9:15 a.m.). This being a quasi-judicial proceeding, Council Members disclosed the following ex parte communications: MacKenzie/no contact; Wiseman/attended church services and discussed Recreation Supervisor

Gruszka's memorandum with Pastor Scott; Russell, MacIlvaine, Taylor, and Herms/received correspondence but no contact; and Galleberg/received correspondence and viewed the Planning Advisory Board (PAB) meeting tape. Notary Public Jessica Rosenberg administered an oath to those intending to offer testimony; all responded affirmatively. City Manager Robert Lee then explained that Celebration Church had received conditional use approval for their outdoor services at Cambier Park for 2001, 2002, and 2003 and have had no complaints from nearby residents; therefore, Celebration Church was requesting continuation of park usage for 2004.

Vice Mayor Galleberg noted that a large number of members from Celebration Community Church were in attendance and asked that Celebration Church's Pastor Gene Scott represent the entire congregation. Pastor Scott expressed his appreciation and reviewed the circumstances of the church's park usage beginning in 1997 and culminating in authorization to use Cambier Park via the conditional use process, which required annual review and renewal.

Noting efforts to minimize impact, he said that the congregation was unable to provide a definitive date when another venue would be in place. Nevertheless, he said, many church members oppose leaving Cambier Park and requested approval with the restrictions depicted by City staff and the PAB.

Council Member Herms confirmed that no other formal petitions had been filed for church usage of Cambier Park. Mayor MacKenzie also pointed out that other churches had used the park on Christmas Eve, but had not held services on a regular basis. Council Member Herms moved for approval, and Council Member MacIlvaine seconded, based on the unanimous approval of the PAB and the staff recommendation; however further discussion ensued.

Pastor Scott concurred with Council Member Wiseman's suggestion that Celebration Church would appreciate usage of the bandshell, and Council Member Herms included this in his approval motion.

Confirming with Pastor Scott that funds were being raised for a future land purchase, Council Member Russell noted that members of the church often develop proprietary feelings when a park is consistently used. Vice Mayor Galleberg also stressed the importance of providing a specific relocation plan by the following year but nevertheless praised the congregation for its responsible usage of the park.

City Attorney Robert Pritt noted the addition of the following to Section 2(2) of the resolution: "The petitioner may use the bandshell or the area near the bandshell but does not have exclusive use of the bandshell or area near the bandshell and shall be required to contact the Community Services Department on a regular basis in order to ensure that church services will not conflict with other scheduled events at the bandshell." Council Member Herms also added this to his motion. In response to Mayor MacKenzie, Pastor Scott acknowledged that trucks may not drive through Cambier Park.

Council Member Wiseman said she disagreed that a future plan for the church be a condition of approval, however, and pointed out that such groups as the Naples Concert Band are not requested to provide its own auditorium, and that she considered regular church services as a

compatible and positive use of Cambier Park. Mrs. Wiseman said that she would in fact be saddened if Celebration Church were to leave the park.

Mayor MacKenzie, however, pointed out that other long-term users of public space eventually devised another plan, citing examples of the Girl Scouts, Naples Players, Sailing Club, and Naples Art Association. Only sporadic usage should not require plans, Mayor MacKenzie said.

In response to Council Member Wiseman, Pastor Scott quoted attendance at approximately 300-400 during the summer months and 500-700 during the winter season, with only special-use permits required for Christmas Eve and Easter services in order to accommodate greater attendance. Pastor Scott also noted that a group of parishioners ensures cleanliness of the park upon departure.

Council Member Taylor said that she supported park usage on a periodic but not on a regular basis without a plan for another permanent site in place.

Council Member Herms characterized the church's park use as minimal and consistent with other groups such as the Girl Scouts, Naples Art Association and others. Visitors enjoy the outdoor services unavailable in other regions, he also said.

Vice Mayor Galleberg and Council Member Russell agreed that their request for a plan had not been intended as a condition of approval. Council Member MacIlvaine concurred with Council Member Wiseman that a plan not be mandated. Council Member MacIlvaine also described the Celebration Church members as a positive influence and conveyed strong support.

Public Comment: (9:48 a.m.) None, pursuant to indication by Pastor Scott on behalf of the congregation members present.

MOTION by Herms to APPROVE RESOLUTION 03-10265, as amended, adding the following as the first sentence in Section 2(2): "The petitioner may use the bandshell or the area near the bandshell but does not have exclusive use of the bandshell or area near the bandshell and shall be required to contact the Community Services Department on a regular basis in order to ensure that church services will not conflict with other scheduled events at the bandshell." This motion was seconded by Herms MacIlvaine and carried 6-1, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Russell-yes, Taylor-no, Wiseman-yes, Mackenzie-yes).

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Council Member Taylor indicated that her negative vote is attributed to the lack of a requirement for a plan.

Recess: 9:49 a.m. to 9:55 a.m. It is noted for the record that Council Member Taylor was absent when the meeting reconvened. Miss Taylor returned at 9:58 a.m.

**RESOLUTION 03-10266.....ITEM 6
A RESOLUTION DETERMINING PETITION 03-AV2 FOR VACATION OF A 14' X 15'
PORTION OF AN ALLEY AT 309 NINTH STREET SOUTH, MORE PARTICULARLY
DESCRIBED HEREIN, SUBJECT TO THE CONDITION SET FORTH HEREIN; AND
PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (9:55 a.m.).
While Mr. Pritt indicated alley vacations are legislative matters, he recommended that Council**

Members nevertheless disclose ex parte communications and that oaths be administered. MacKenzie/visited the site and spoke to petitioner Mark Weakley regarding only the progress of the project but not the alley vacation petition; Wiseman, Russell, MacIlvaine, Herms, and Taylor/no contact; and Galleberg/viewed the Planning Advisory Board (PAB) proceedings but no contact. City Manager Robert Lee indicated the petition requested vacation of a 14' x 15' portion of a north-south alley located within the property at 309 Ninth Street South. (It is noted for the record that this site was formerly occupied by the Trail's End Motel and was also referred to as the Bomark project.)

Attorney William Dempsey of Cheffy, Passidomo, Wilson & Johnson, indicated that after a prior alley vacation in February, it had been determined that the small section of the alley had been inadvertently omitted. Staff, he said, had advised that requesting vacation of this small portion would be preferable to reopening the original proceedings Mr. Dempsey added.

Vice Mayor Galleberg confirmed that this had occurred as an oversight in the original legal description, and Attorney Dempsey clarified that the adjacent property owner of lots 6-10 in the southeast corner of the block had authorized him to indicate no objection. Further, Attorney Dempsey noted that a small portion of the alley would still provide access northward from Fourth Avenue South to adjacent properties. Attorney Dempsey also confirmed for Mayor MacKenzie that the alley accommodates refuse trucks as the alleyway had been widened for two-way traffic.

Although Council Member Herms noted a prior practice of conveying half an alleyway to each adjacent property owner, Vice Mayor Galleberg noted that with reference to this small portion, the same owner occupies both sides. Council Member MacIlvaine expressed his confidence that proper research had been done on this subject, and noted that the Planning Advisory Board (PAB) had recommended approval; therefore, he moved for Council approval. Council Member Russell seconded.

Public Comment: None. (10:13 a.m.)

MOTION by MacIlvaine to APPROVE RESOLUTION 03-10266 as submitted; seconded by Russell and carried 6-1, all members present and voting (Galleberg-yes, Herms-no, MacIlvaine-yes, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

It is noted for the record that Items 7-a, 7-b, 7-c, 7-d, and 7-e were considered concurrently.

**RESOLUTION 03-10267.....ITEM 7-a
A RESOLUTION DETERMINING CONDITIONAL USE PETITION 03-CU10 TO
ALLOW 85 TRANSIENT LODGING UNITS IN A MIXED-USE WATERFRONT
DEVELOPMENT, AT 1484 FIFTH AVENUE SOUTH, MORE PARTICULARLY
DESCRIBED HEREIN; PROVIDING FOR THE CITY CLERK TO RECORD SAID
CONDITIONAL USE; AND PROVIDING AN EXPIRATION DATE AND AN
EFFECTIVE DATE.**

**RESOLUTION 03-10268.....ITEM 7-b
A RESOLUTION DETERMINING CONDITIONAL USE PETITION 03-CU11 TO
ALLOW FOR A PARKING STRUCTURE WITHIN A MIXED-USE WATERFRONT
DEVELOPMENT, AT 1484 FIFTH AVENUE SOUTH, MORE PARTICULARLY**

DESCRIBED HEREIN; PROVIDING FOR THE CITY CLERK TO RECORD SAID CONDITIONAL USE; AND PROVIDING AN EXPIRATION DATE AND AN EFFECTIVE DATE.

**RESOLUTION 03-10269.....ITEM 7-c
A RESOLUTION DETERMINING PETITION 03-DSEI 1 FOR APPROVAL OF A DEVELOPMENT OF SIGNIFICANT ENVIRONMENTAL IMPACT AT 1484 FIFTH AVENUE SOUTH, MORE PARTICULARLY DESCRIBED HEREIN, AND PROVIDING AN EFFECTIVE DATE.**

**RESOLUTION 03-10270..... ITEM 7-d
A RESOLUTION DETERMINING SPECIFIC GENERAL DEVELOPMENT AND SITE PLAN PETITION 03-GDSP12 FOR A 10.11 ACRE MIXED-USE WATERFRONT DEVELOPMENT TO INCLUDE A MARINA WITH 98 SLIPS AND A FUELING FACILITY, 85 TRANSIENT LODGING UNITS, 30 RESIDENTIAL UNITS, A PRIVATE YACHT CLUB, 21,000 SQUARE FEET OF COMMERCIAL USE, AND A PARKING STRUCTURE LOCATED AT 1484 FIFTH AVENUE SOUTH, MORE PARTICULARLY DESCRIBED HEREIN, SUBJECT TO THE CONDITIONS LISTED HEREIN; AND PROVIDING AN EFFECTIVE DATE.**

**RESOLUTION 03-10271.....ITEM 7-e
A RESOLUTION DETERMINING A RESIDENTIAL IMPACT STATEMENT FOR PETITION 03-RIS17 LOCATED AT 1484 FIFTH AVENUE SOUTH, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.**

Titles for Items 7-a, 7-b, 7-c, 7-d, and 7-e were read by City Attorney Robert Pritt (10:13 a.m.).

Council Members disclosed the following ex parte communications: Mayor MacKenzie noted a brief telephone conversation with the petitioner's attorney, John Passidomo, regarding transient lodging and the purpose of including charter boats, restaurants, and transient lodging to encourage public access to the Naples Bay waterfront at market rates; she said that Attorney Passidomo had reported working with the Planning Department to determine the height of the existing Boat Haven building and the number of transient lodging rooms within the City. Mayor MacKenzie further indicated that she had informed Attorney Passidomo that she had had informal discussions with both the Hamilton Harbor and Naples Sailing Club developers regarding an informal agreement allowing the City to conduct dredging adjacent to stormwater outfalls adding to the spoils for this project. She also said that she considered The's on this site as one of her favorite restaurants. Council Member Wiseman said she had visited the site on many occasions and had received a voice mail from Attorney Passidomo asking whether there were other issues to be addressed prior to the meeting. Mrs. Wiseman said she had not deemed it necessary to return the call and had no contact. Council Member Russell said that he had visited the site several times and that he had conducted a prior conversation with project developer Jack Antaramian regarding the overall waterfront, prior to Mr. Antaramian's contract on the property. In addition, Mr. Russell disclosed a brief conversation with Attorney Passidomo regarding the operation of the hotel. Council Member MacIlvaine also reported a conversation with Attorney Passidomo regarding a provision and location for charter boat slips, building heights, density, green space, and development north of the canal. Vice Mayor Galleberg said that he had over the last several months occasionally spoken with developer Antaramian regarding property acquisition and plans but not specifically regarding the petitions before Council. He said he also had two brief conversations with Attorney Passidomo regarding any concerns or questions and briefly discussed transient lodging and charter boat provisions. Council Member Herms said he

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visited the site, read the correspondence, and received a telephone call from Attorney Passidomo asking whether he required any additional information. Council Member Taylor said she also discussed with Attorney Passidomo by phone her concerns regarding intensity, specifically the number of transient lodging units. She also said she had visited the site many times. Notary Public Bonnie McNeill then administered an oath to those intending to offer testimony; all responded affirmatively.

City Manager Robert Lee indicated no written responses had been received from a mailing to 194 neighboring property owners. Additionally, he noted that the Planning Advisory Board (PAB) had approved the petitions. In response to Mayor MacKenzie, City Attorney Pritt suggested that Attorney Passidomo address the two site plans presented to Council.

Attorney John Passidomo, representing the petitioner, Basil Street Partners, stated that the company is headed by Jack Antaramian, and the project, Naples Bay Marina, had formerly been known as Boat Haven. He provided a detailed recap of the proposed development (Attachment #1), and referred to a related annexation petition for Ruffina at Naples Bay Marina to be presented to Council on December 17. He then introduced David Corban of Architectural Network; Todd Turrell and Christian Spilker, environmental scientists from Turrell & Associates; George Hermanson of Hole Montes, civil engineer; and John Rebus and Jeff Curl of J. Roland Lieber and Associates, landscape architects.

Attorney Passidomo stated that the proposal does not include requests for rezoning, variances, waivers, or exceptions. The Naples Bay Marina project represented a reduction of 17,000 square feet from the former project approved in 2001, as well as a 17 percent reduction in trip generations, and improved public access to the waterfront.

Attorney Passidomo cited core principles including significant public access to Naples Bay; waterfront enhancement; uniform landscape/streetscape design; beautification of the eastern City entrance, reserved slips for charter ~~boats~~ boats (9-10), improved water circulation and quality; and the Curlew Canal dredging. Noting extensive public input to date in the process, Attorney Passidomo noted that the petitions had been recommended by the staff and the PAB.

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In response to Council Member Russell, Attorney Passidomo said that the Naples Bay Marina and Ruffina developments would function as one with a waterfront orientation, separated by Sandpiper Street. Attorney Passidomo also advised that a one-acre parcel at the corner of Sandpiper and US 41 would be improved and dedicated to the City within approximately one year, based on the rezoning of the property.

Responding to Vice Mayor Galleberg, Attorney Passidomo listed the petitioner's requests and Vice Mayor Galleberg further noted that the project with an existing approval could also be built. Attorney Passidomo reconfirmed that these items fit within existing zoning requirements. Also in response to Council Member Taylor, Mr. Passidomo indicated that parking requirements have been exceeded by 10 spaces (See Attachment #2).

Expressing concern that administrative changes would later be made, Mayor MacKenzie recommended limiting uses to 98 marina slips, 85 transient lodging units, and 30 residential

units. She also requested no less than nine charter boat slips be maintained. Agreeing to requiring no less than nine charter boat slips, Mr. Passidomo however said that other limits could be problematic for Council, staff, and the petitioner alike since it would eliminate staff's later flexibility for administrative approval of such items as increasing marina slips by a single unit. Although this would be an insignificant change, it would nonetheless necessitate reinstating the entire approval process while methods are contained in the Code for addressing diminutive changes.

Architect Dave Corban of Architectural Network indicated that the Design Review Board (DRB), had requested the following: 1) reduce linear frontage of the development along US 41; 2) provide a better hierarchy of public spaces, which they deemed as linear walks and gathering spaces for the public on the waterfront; 3) reduce the intensity of the development; and 4) provide better visual access to the waterfront. Architect Corban said that these issues were not only important to the DRB and the PAB, but to the developer in his vision of providing a public-oriented waterfront project on the Bay.

In order to reduce linear frontage, Mr. Corban explained, six transient lodging units and 5,000 square feet of commercial area were removed, thereby increasing the public gathering space on the waterfront and opening visual corridors from US 41 and the sidewalk on the remainder of the property. He said the changes would also improve economic viability.

Architect Corban then provided a project overview. He explained that the 30 residential units on the south edge of the peninsula bordering the Curlew Canal would buffer commercial uses from the neighbors but would have direct access to the waterfront. Additionally, the 85 transient lodging units, he said, would be located above the ground-floor commercial area.

Parking for the residential uses would be located beneath with vehicular access to the property on the western edge and at the midpoint of the property; commercial parking is located in front of the main building. Parking spaces, he said, were designed to be no farther than a five-minute walk from any part of the site and further noted that a combination of landscaping, berming, and architectural features would disguise the raised parking platform. Public access had been included along the northern edge of the boat basin, continuing down to the Curlew Canal with a substantial connection to the public park at the east end of the property, Mr. Corban said. Further explaining the improvements made in the past two years to the design, Mr. Corban said that commercial space, charter boat slips, a fueling facility, a pump-out station, and the dock master's office would be open to the public as designated waterfront usage. He depicted the marina uses and the transient lodging as components promoting the economic viability of the Naples waterfront, while decreasing traffic by an estimated 1,100 trips per day. Mr. Corban then characterized the architectural style and construction as similar to other Antaramian buildings on Fifth Avenue South. Mr. Corban further advised that the revised design not only complied with PAB's requests to decrease density but also significantly reduces intensity from the plan approved over two years before. In light of PAB's request for additional green space, Architect Corban further indicated the design team had proposed an extension of the City park.

In response to Council Member Russell, Architect Corban noted that physical barriers would prevent the public from entering the residential area although there would not be physical barriers restricting the public from walking along the dock.

Vice Mayor Galleberg asked for an analysis of the parking requirements. He was referred by Mr. Corban to the parking assessment (see Attachment #2, Page 3) and the staff report (see Attachment #3, Page 5), which depicts the specific parking statistics showing a total of 346 spaces, or an excess of 10 spaces from that required. Mr. Corban said that the parking meets City standards and confirmed that the project had taken advantage of the credits provided for waterfront property which amounts to an incentive in C-2A Districts of five percent. (It is noted for the record that a copy of the aforementioned Site Plan is contained in the file for this meeting in the City Clerk's office).

In response to Council Member Taylor, Architect Corban said that pervious parking surfaces had not been considered and would in fact not change the amount of water that must be retained on site prior to entry into the Bay. Miss Taylor nevertheless requested inclusion of more green space. Council Member Herms received clarification from Architect Corban that both parking garages had also been in the original plan and that lot coverage was approximately 41 percent. Architect Corban further explained that lot coverage had been determined by City Code and that it had been significantly higher with the former iteration of the project. In reply to Council Member MacIlvaine, Mr. Corban said that transient lodging was depicted as two stories over parking although clients of charter ~~bOates~~ boats would be required to park in available open parking spaces.

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Christian Spilker, marine biologist with Turrell & Associates, said the principal impact of this project would be a reconfiguration of the basin and some dredging. He mentioned a recommendation by the City's Natural Resources Manager Jon Staiger that the environmental impact be evaluated which would also offer an opportunity to consider positive impacts, noting that the covered-basin boathouse had been constructed over 50 years ago. Mr. Spilker stated their goal was to change the basin to increase flushing and improve water quality in that area; therefore, some modifications were made, including connecting the Curlew Canal with the rear of the basin by a box culvert.

The project had been designed within the Clean Marina standards, Mr. Spilker noted. Additionally, Mr. Spilker indicated that other positive changes would be the addition of riprap beneath the dock in the Curlew Canal, which he said would attract crabs and baitfish. He also noted that mangrove restoration would begin. Mayor MacKenzie said the Clean Marina standard indicates that this will be a hallmark marina and improve the quality of Naples Bay.

Public Comment: (11:37 a.m.) **Captain Kevin Bill of Day Star Charters**, who indicated that he is homeowner in Oyster Bay and past President of Oyster Bay Homeowner's Association, expressed his appreciation to the developer for including charter ~~bOates~~ boats and to City staff for representing charter-boat interests. He stressed the importance that these slips be afforded adequate patron parking. **Captain Gray Hall, owner of the charter boat Blue Fin**, said that he docked his boat at the Naples Bay Marina facility, having previously been moved from other locations. He, too, commended the project for allowing greater public access to Naples Bay.

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Project Civil Engineer George Hermanson said that Florida Department of Transportation (FDOT) would make any future decision regarding a traffic signal although he said he believed there to be a good chance that one might be placed at that location.

Attorney Passidomo concurred with Mayor MacKenzie that the GDSP approval could contain a provision for no less than nine slips dedicated exclusively to charter boat use at market rates, and also that the aforementioned request that five to six slips at the eastern terminus of the Curlew Canal be afforded sufficient spaces so as not to fall under the restricted parking designation applied to charters at other locations on the waterfront.

In response to Council Member Taylor, City Attorney Robert Pritt clarified that the petitioner had agreed to work with the City's urban designer but that significant changes would go back through the required approval process. Miss Taylor also commended the developer for agreeing to work with the urban designer, scheduled to begin in January/February, and characterized the development team as community-minded.

Vice Mayor Galleberg noted that the transient lodging would be taking the form of condominium-type ownership but that if it operated as a resort hotel, there would be less parking demand than for a residential use. Community Development Director Ron Lee confirmed that due to a length-of-stay requirement for the condominiums, it would in fact function as transient lodging. Council Member Wiseman also observed that the smaller size of the units would also dictate this use.

In further discussion of setting maximums in the approval resolution, Community Development Director Lee suggested establishing the following increased quantities to allow flexibility but to at the same time ensure that parking requirements would be met: 1) marina slips from 98 to 100; 2) transient lodging units from 85 to 87; 3) residential units from 30 to 33; and 4) increased commercial square footage provided all parking requirements are met.

Stating that she did not wish to grant a petitioner more than requested, Council Member Wiseman suggested establishing a specific percentage modification, relative to the Antaramian petition, and Mr. Lee concurred. Mrs. Wiseman suggested two percent. In response to Vice Mayor Galleberg, Mr. Lee however confirmed that staff may approve up to a 10 percent modification although concurring with the level suggested by Council Member Wiseman.

Council Member Russell however objected to treating a petitioner who had met or exceeded City requirements differently than any other applicant. Stating that differences from approvals could be significant, Mayor MacKenzie said that the applicant should be prepared to stay within or amend to reflect the maximums allowed. Mr. Russell however maintained that Council should be confident with the percentage procedures and staff's ability to interpret them properly or the underlying law.

Mayor MacKenzie however noted that the aforementioned 10 percent administrative approval limit had been established so that practicalities faced by property owners such as modernization or handicapped accessibility could be addressed. Additionally, she said there had been instances where applicants had been granted increases by staff in excess of this level. However, she said

her comments to Attorney Passidomo related to whether a decision should be made based on the figures contained in the resolution or on Code allowances; Attorney Passidomo had clearly stated the petitioner preferred a decision be made on the maximum allowed based on the Code, Mayor MacKenzie added.

In response to Vice Mayor Galleberg, Community Development Director Lee clarified that the aforementioned 10 percent rule relates to a stand-alone GDSP or one that is associated with a Planned Development (PD).

Citing concerns regarding density achieved through the use of parking structures and the appropriateness of utilizing the conditional use process for parking structures, Council Member Herms said that the current version of the project contains 78 more parking spaces than the previous plan approved approximately two years before. Additionally, he said that describing transient lodging as condominium units does not adequately account for the increase in traffic that would accrue and that the transient lodging standards should themselves be revised.

Recess: 12:01 p.m. to 1:32 p.m. It is noted for the record that the entire Council was present when the meeting convened.

In further discussion, Council also learned from staff that the Code requirement for yacht club parking is one space for 200 square feet of dining and one space for 300 square feet for the remainder; density in the C2-A residential zone occupied by the project is eight units per acre. City Attorney Robert Pritt also confirmed that staff, PAB, and DRB recommendations should be included in the motion for each item being considered relative to this project. Community Development Director Lee also confirmed that the DRB's recommendation for a corner lot improvement had been included in the revised Site Plan but stressed that the Site Plan reflecting that change must be cited.

Council Member Russell pointed out that applicable State criteria clearly establish the facilities in this project as a resort hotel and not as a condominium and Vice Mayor Galleberg cited the City's positive history with Antaramian developments. Council Member Taylor however said that the smaller size of the units would dictate that they be used as luxury hotel units rather than condominiums.

Council Member Russell suggested that charter boat customers be afforded the opportunity to use the 10 parking spaces over and above Code requirements to avoid the charter operations being designated as restricted as they pertain to provision of necessary parking. Council Member MacIlvaine stated a preference for designated parking places for the charter boats categorized as unrestricted.

Revised

Vice Mayor Galleberg moved approval for Item 7-a, the conditional use petition for transient lodging units, incorporating the recommendations of staff, DRB, PAB and the Site Plan dated November 25, 2003. Council Member MacIlvaine seconded.

Mayor MacKenzie cited a conversation initiated by Attorney Passidomo during the recess regarding concurrence with the aforementioned two-percent limit on administrative changes. Attorney Passidomo then confirmed that the petitioner would agree within the specific GDSP resolution that any increase of more than two percent in gross building area square footage,

traffic trip generation, or in parking would require the applicant to again undergo the approval process. He said that intensity and density as customarily measured by gross building area, traffic, and parking, would not exceed two percent. Council Member Taylor received confirmation from Attorney Passidomo that the percentage was an aggregate.

It was ascertained that the revised site plan, dated November 25, 2003, contained referenced changes including relocation of a building from the corner of the site which, according to Attorney Passidomo had no net effect on the overall plan except to enhance views and access to the waterfront. City Attorney Pritt summarized the language that would be added to the GDSP approval as follows: “Petitioner will return and complete approval process for any increase greater than two percent in gross building area, trip generation, or parking.”

In response to Council Member Herms, Community Development Director Lee clarified that the Antaramian project called Ruffina, located to the east on Sandpiper Street, would have 170 units.

MOTION by Galleberg to APPROVE RESOLUTION 03-10267, Item 7-a incorporating the recommendations of staff, Design Review Board, and the Planning Advisory Board; seconded by MacIlvaine and carried 6-1, all members present and voting (Galleberg-yes, Herms-no, MacIlvaine-yes, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

While Council Member Herms said that regardless of landscaping he found the parking structure for this plan to be unattractive and opposed to the prior plan which obscured it beneath the building. He also said that the number of residents would nearly double from the original plan, or from 100 to nearly 200 people. When combined with Ruffina residents, 487 more people would be living within a one-block area. He asserted therefore that insufficient capacity exists for that level of development and the attendant activity generated.

MOTION by Galleberg to APPROVE RESOLUTION 03-10268, Item 7-b incorporating the recommendations of staff, Design Review Board, and the Planning Advisory Board, and referencing the November 25, 2003 Site Plan; petitioner will return and complete the approval process for any increase greater than two percent in gross building area, trip generation, or parking. This motion was seconded by MacIlvaine and carried 6-1, all members present and voting (Galleberg-yes, Herms-no, MacIlvaine-yes, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

MOTION by Taylor to APPROVE RESOLUTION 03-10269, Item 7-c as submitted; seconded by Wiseman and carried 6-1, all members present and voting (Galleberg-yes, Herms-no, MacIlvaine-yes, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

Both Council Members Russell and MacIlvaine noted acceptance of the petitioner’s offer of sufficient parking so that charter boats would not be categorized as restricted operations but that the spaces however remain unmarked so as to be available for general usage.

Revised

Vice Mayor Galleberg however expressed the view that parking should in fact be so dedicated, referencing Captain Bill’s comments that it is to the charter’s benefit to operate as unrestricted.

In response to Council Member Herms, Community Development Director Lee indicated that traffic counts are monitored annually and that FDOT would advise if a traffic light were warranted. Mr. Lee also said that the petitioner would contribute a fair share based upon the amount of traffic the development generated.

MOTION by MacIlvaine to APPROVE RESOLUTION 03-10270, Item 7-d with the following conditions: 1) adding the following language to Section 1: "...98 slips with no less than nine boat slips maintained as unrestricted charter boats ..."; and 2) incorporating recommendations of staff, Design Review Board, and the Planning Advisory Board; seconded by Russell and carried 6-1, all members present and voting (Galleberg=yes, Herms=no, MacIlvaine=yes, Russell=yes, Taylor=yes, Wiseman=yes, MacKenzie=yes).

Revised

MOTION by Galleberg to APPROVE RESOLUTION 03-10271, Item 7-e incorporating recommendations of staff, Design Review Board, and Planning Advisory Board, referencing the November 25, 2003 Site Plan; seconded by Russell and carried 6-1, all members present and voting (Galleberg=yes, Herms=no, MacIlvaine=yes, Russell=yes, Taylor=yes, Wiseman=yes, MacKenzie=yes).

ORDINANCE (First Reading, Continued until December 17, 2003, See Item 4).....ITEM 8 AN ORDINANCE AMENDING SECTION 1.2 OF THE CHARTER OF THE CITY OF NAPLES, FLORIDA, IN ORDER TO ANNEX 12.77 ACRES, LOCATED AT 605 SANDPIPER STREET, MORE PARTICULARLY DESCRIBED HEREIN, AND TO REDEFINE THE BOUNDARIES OF THE CITY OF NAPLES TO INCLUDE SAID PROPERTY; AND PROVIDING AN EFFECTIVE DATE.

It is noted for the record that Items 11-a and 11-b were considered concurrently.

RESOLUTION 03-10272.....ITEM 11-a A RESOLUTION DETERMINING PETITION 03-LE11 FOR A LIVE ENTERTAINMENT PERMIT AT BISTRO 821 LOCATED AT 821 FIFTH AVENUE SOUTH, MORE PARTICULARLY DESCRIBED HEREIN; SUBJECT TO THE CONDITIONS LISTED HEREIN; AND PROVIDING AN EFFECTIVE DATE.

RESOLUTION 03-10273.....ITEM 11-b A RESOLUTION DETERMINING RESIDENTIAL IMPACT STATEMENT PETITION 03-RIS21 FOR BISTRO 821 LOCATED AT 821 5th AVENUE SOUTH, MORE PARTICULARLY DESCRIBED HEREIN; SUBJECT TO THE CONDITIONS LISTED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Titles read consecutively for Items 11-a and 11-b by City Attorney Robert Pritt (2:09 p.m.). Council Members disclosed the following ex parte communications: MacKenzie, MacIlvaine, Taylor and Herms/familiar with site but no contact on this petition. Wiseman/dined at restaurant and had brief conversation some time ago with representative of the restaurant who advised a petition would be forthcoming. Russell/visited the site and spoke to the petitioner and representatives regarding live entertainment throughout the district; and Galleberg/no contact but addressed the subject at Staff Action Committee (SAC).

City Manager Robert Lee advised that Bistro 821 was requesting a live entertainment permit for two indoor amplified performers and a disc jockey from 7:30 p.m. until 11:30 p.m. nightly.

Petitioner's attorney Marc Oates noted that the restaurant is in the C-1A limited commercial zoning in the Fifth Avenue South Special District Overlay. The petition proposed two types of uses, he said, the first in the form of two performers in a band with a guitarist and an electronic keyboard and, secondly, a disc jockey.

Attorney Oates further stated that the music would be provided from 7:30 – 11:30 p.m. nightly, with all doors and windows closed, with the exception that patrons and staff may enter and exit during the live performances. A written plan of operation and a configuration sketch was also enclosed with the petition, he said (a copy is contained in the file for this meeting in the City Clerk's Office). He assured Council that Bistro 821 had no intention of becoming a dance club or late-night bar and that the music would be jazz and other types of background music suitable for dining enhancement only.

Additionally, Attorney Oates informed Council that an exterior illumination plan and a mitigation plan were included. He said he had reviewed Code regarding live entertainment and noise restrictions as well as the existing list of live-entertainment permits for other restaurants and took the position that the petition was in compliance with Code. In response to Council Member Taylor, Attorney Oates explained that the entertainment area at the front of the restaurant was the location most conducive to table layout and explained that the sound system would move the music throughout the restaurant.

Public Comment: None. (2:16 p.m.)

MOTION by Russell to APPROVE RESOLUTION 03-10272 as submitted; seconded by MacIlvaine and unanimously carried, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

It is noted for the record that Council Member Herms left the meeting at 2:16 p.m.

MOTION by Russell to APPROVE RESOLUTION 03-10273 as submitted; seconded by MacIlvaine and carried 6-0 (Galleberg-yes, Herms-absent, MacIlvaine-yes, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

It is noted for the record that Items 12-a and 12-b were considered concurrently.

RESOLUTION 03-10274.....ITEM 12-a
A RESOLUTION DETERMINING PETITION 03-LE10 FOR A LIVE ENTERTAINMENT PERMIT AT BEAU'S PARADISE GRILL LOCATED AT 1100 9TH STREET NORTH, MORE PARTICULARLY DESCRIBED HEREIN; SUBJECT TO THE CONDITIONS LISTED HEREIN; AND PROVIDING AN EFFECTIVE DATE.

RESOLUTION 03-10275..... ITEM 12-b
A RESOLUTION DETERMINING RESIDENTIAL IMPACT STATEMENT PETITION 03-RIS19 FOR BEAU'S PARADISE GRILL LOCATED AT 1100 9TH STREET NORTH, MORE PARTICULARLY DESCRIBED HEREIN; SUBJECT TO THE CONDITIONS LISTED HEREIN; AND PROVIDING AN EFFECTIVE DATE.

Titles read consecutively for Items 12-a and 12-b by City Attorney Robert Pritt (2:22 p.m.). Council Members disclosed the following ex parte communications: MacKenzie, Galleberg, Taylor, MacIlvaine/no contact; Wiseman/visited establishment and advised by the petitioner's representatives of forthcoming petition; and Russell/received correspondence regarding petition but no contact. Notary Public Bonnie McNeill then administered an oath to those intending to offer testimony; all responded affirmatively.

Doug Hopkins, Proprietor of Beau's Paradise Grill at the Holiday Inn, said that the requested background music would enhance the dining experience from 5:00 p.m. until 10:00 p.m. Sunday through Thursday and from 5:00 p.m. until 11:00 p.m. on Fridays and Saturdays. Being incorporated into a hotel setting, he said he understood the importance of lower sound levels. Furthermore, Mr. Hopkins advised that the sound could be controlled and the live entertainment would be indoor amplified music.

In response to Council Member Wiseman, Mr. Hopkins advised that the doors would remain closed other than for service. After 9:00 p.m., he said, the doors would remain closed, noting that Beau's customers traditionally dine early, with the majority prior to 9:00 p.m.

In response to Council Member Taylor, Mr. Hopkins said the music is island-type, background music and that Beau's does not abut a residence.

Public Comment: None. (2:22 p.m.)

MOTION by Galleberg to APPROVE RESOLUTION 03-10274 as submitted; seconded by Wiseman and carried 6-0, all members present and voting (Galleberg-yes, Herms-absent, MacIlvaine-yes, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

MOTION by Galleberg to APPROVE RESOLUTION 03-10275 as submitted; seconded by Wiseman and carried 6-0, all members present and voting (Galleberg-yes, Herms-absent, MacIlvaine-yes, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

**RESOLUTION (Continued to December 17, See Item 4).....ITEM 13-a
A RESOLUTION DETERMINING CONDITIONAL USE PETITION 03-CU9 TO
ALLOW FOR 12 EXTERIOR BAR SEATS IN ADDITION TO THE EXISTING 24
OUTDOOR SEATS IN A PRIVATELY OWNED ALLEY, AT 837 FIFTH AVENUE
SOUTH, MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR THE
CITY CLERK TO RECORD SAID CONDITIONAL USE; AND PROVIDING AN
EXPIRATION DATE AND AN EFFECTIVE DATE.**

**RESOLUTION (Continued to December 17, See Item 4).....ITEM 13-b
A RESOLUTION DETERMINING A RESIDENTIAL IMPACT STATEMENT FOR
PETITION 03-RIS16 LOCATED AT 837 FIFTH AVENUE SOUTH, MORE
PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE .**

**RESOLUTION 03-10276.....ITEM 14
A RESOLUTION DETERMINING PETITION 03-N1 TO EXPAND A
NONCONFORMITY IN ORDER TO ALLOW AN ADDITIONAL 294 SQUARE FEET
TO A GUESTHOUSE AT 481 8TH AVENUE SOUTH, MORE PARTICULARLY
DESCRIBED HEREIN, AND PROVIDING AN EFFECTIVE DATE. Title read by City
Attorney Robert Pritt (2:23 p.m.).**

It is noted for the record that Council Member Herms returned to the meeting at 2:23 p.m.

Council Members disclosed the following ex parte communications: MacKenzie, Wiseman, Russell, MacIlvaine, Herms, and Taylor/no contact; and Galleberg/viewed Planning Advisory Board (PAB) proceedings. Notary Public Bonnie McNeill then administered an oath to those intending to offer testimony; all responded affirmatively. City Manager Robert Lee listed the proposed gatehouse upgrades: adding central air conditioning, a bathroom, new fixtures and

appliances, as well as a new sitting room or bedroom, with an expansion of the existing east bedroom. Both the guesthouse and the main house have existed since the mid to early 1940's, and the guesthouse is a legal nonconformity under current law. M. W. Schryver, petitioner, explained the guesthouse renovation is to accommodate his daughter's family.

Council Member Russell pointed out that a guesthouse size limitation had been proposed by the Old Naples Preservation Task Force recommendations, which he said, intended to prevent these structures from becoming second residences. In response to Council Member Wiseman, Mr. Lee said that the petitioner would not be able to rent this property, as it had not been registered when the guesthouse rental list was developed in the early 1990's.

City Attorney Robert Pritt clarified for Vice Mayor Galleberg, that although Mr. Galleberg lives near the petitioner, there would not be a voting conflict. Mr. Galleberg also indicated he had not received a letter of notification on the matter.

In response to Mayor MacKenzie and Council Member Wiseman, City Attorney Pritt said that usage as a zoning issue is considered before FEMA flood elevation regulations, which come into play during the building permit stage. He however pointed out that the petitioner may be able to use the property as a guesthouse but might not be able to make any significant changes to the guesthouse under FEMA requirements.

While Council Member Herms said that on occasion FEMA rules could be accommodated by raising the elevation and adding stairs, Council Member Russell said he preferred renovation of guesthouses that preserved the character of the neighborhood and were designated for family use. Council Member Wiseman suggested that approval be subject to FEMA requirements being met, allowing expansion without altering the elevation of the existing structure. Although Vice Mayor Galleberg suggested approval in accordance with the September 25, 2003, site plan as submitted, Mrs. Wiseman cautioned that since these were not construction plans, the height of the structure could not be evaluated.

Petitioner Schryver said that the elevation would not be significantly altered and that a gabled roof would replace the flat roof to correct drainage problems. Otherwise, Mr. Schryver said the changes were simple and modest, in compliance with FEMA regulations.

Council Member Wiseman however said that she remained concerned that compliance with FEMA would result in an elevated structure, thus altering the character of the neighborhood. Community Development Director Lee suggested imposing an elevation limit to maintain the character and appearance of the structure. However, City Attorney Pritt cautioned Council's action should reflect their understanding that federal and state policy encourages elevations be raised to comply with FEMA. Council Member Herms pointed out that improvements up to 50 percent of a structure's value could be done every year in this district without the necessity to increase elevations and suggested that the petitioner expend under that amount of funds every year. He said the issue was simply whether Council wanted to grant the improvement to the guesthouse. Council Member Taylor then suggested that approval could be given indicating that any change in elevation would require review by City Council. Council Member Wiseman said that while she approved of renovating a guesthouse, she could not support the expansion and

elevation, which she said is opposed by Old Naples residents, noting that the existing size of this particular unit meets the original intention.

Council Member Russell acknowledged that the Old Naples Preservation Task Force had discouraged a second family from living on a single-family lot; however, he said in this case it is the same family. Council Member Taylor noted that of the 77 letters mailed to property owners, only one letter of objection had been received. Council Member MacIlvaine stated he would not be able to support the petition as he disapproved of the increased number of individuals residing on the same lot, was contrary to the expressions of residents, and would cause additional traffic.

Public Comment: None. (2:43 p.m.)

Vice Mayor Galleberg said that the expansion of the guesthouse would not alter the fundamental use of the property since all would be within the building envelope. He said the petitioner could conceivably construct a hallway from one building to the next and receive approval and contended that approval would in fact not be in conflict with the broader principles stated by Council Members Wiseman and MacIlvaine. In response to Council Member Herms, Community Development Director Lee confirmed that a hallway built from the main house to the guesthouse would be acceptable. He said that if air-conditioned space were however connected, then it would not be considered a guesthouse.

MOTION by Herms to APPROVE RESOLUTION 03-10276 with the following conditions: expansion being at the same floor elevation and meeting FEMA requirements, with any change in either requiring Council approval. This motion was seconded by Taylor and carried 5-2, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-no, Russell-yes, Taylor-yes, Wiseman-no, MacKenzie-yes).

**ORDINANCE (First Reading).....ITEM 15
AN ORDINANCE RELATING TO SUBDIVISIONS; AMENDING SECTION 98-4 OF THE CODE OF ORDINANCES, CITY OF NAPLES, PERTAINING TO THE DEFINITION OF “SUBDIVISION”; CREATING A NEW SECTION 98-6 OF SAID CODE TO REQUIRE A SUBDIVISION PLAT FOR ANY DIVISION OF A PARCEL OF LAND AND PROHIBITING CERTAIN SUBDIVISIONS; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.**
Title read by City Attorney Robert Pritt (2:45 p.m.). City Manager Robert Lee noted that amending the definition of subdivision in Section 98-4 of the Code allows City Council formal review of any division of land within the City. The current definition of subdivision, he said, is the division of a parcel of land into three or more parcels for the immediate or future transfer of ownership.

While Mayor MacKenzie said that while language in Section 98-6 disallows subdivision in order to increase residential density, such decisions should be based on measurable standards such as a platted lot, lot size requirement for the zoning district, street frontage, and others.

City Attorney Pritt indicated that Council had requested the amendment to prevent the type of subdivision, which had occurred recently in the Moorings. It would however not stop such subdivisions in which one neighbor wished to convey a few feet to another but would apply to situations where the preexisting density would be increased.

However, Mayor MacKenzie cautioned relative to a scenario where an owner assembled two properties for aesthetic and visual reasons but later wished to disassemble the same lots. City Attorney Pritt suggested that Council state a policy on whether individuals could in fact assemble or disassemble lots.

Council Member Russell said he approved of allowing future disassembly of lots for economic reasons. Community Development Director Lee however said that disassembly could become problematic in areas such as Old Naples and Lake Park where the original platted lots are considerably lower than the minimum lot requirement for that zoning district. Mayor MacKenzie then suggested requiring a lot to be no less than an original platted lot but that it must meet the minimum lot size requirement currently existing within the zoning district.

After continued Council discussion of language changes, Council Member Wiseman received concurrence to her proposal to delete Section 1, 98-6 “Certain Subdivisions prohibited” in its entirety and amend Section 1, 98-4 “Definitions” to state: “Subdivision means a division of a parcel or parcels of land into one or more additional parcels of land, for the purpose, whether immediate or future, of transfer of ownership and when the purpose or effect of which is to create an additional buildable parcel. The term ‘subdivision’ includes a resubdivision, and, when appropriate to the context, shall relate to the process of subdivision or to the land subdivided.” Council Member MacIlvaine seconded. In response to Vice Mayor Galleberg, Council Member Wiseman stated that a transfer of a portion of a parcel from one person to another, without an extra buildable lot being created would not be applicable.

Public Comment: (3:04 p.m.) **Carol Brown, 508 Neapolitan Lane**, described the buildable lot situation as crucial, indicating her neighbor is attempting to subdivide a corner lot into two lots. She said this situation is unique wherein the property is on both County and City property. Additionally, she said the house straddles both lots and indicated that the County allowed for the subdivision, providing the lot with two different addresses. Ms. Brown expressed dismay that the County approved the demolition of part of the building and the City approved a building permit (a copy of which is contained in the file for this meeting in the City Clerk's office). She expressed disapproval of splitting corner lots, citing what she said are many corner lots in Park Shores and Coquina Sands, which could be subdivided, thereby increasing density and negatively affecting the character of the neighborhood.

Mayor MacKenzie indicated that letters from Pat Siedel and Judy Appleby of Neapolitan Lane had been included for the public record stating disapproval of subdivision of lots and preference for one single family residence for each platted lot in order to maintain the existing neighborhood character. (Copies are contained in the file for this meeting in the City Clerk's Office).

In response to Vice Mayor Galleberg, City Attorney Pritt indicated that two parcels into three would be covered under the revised language as well as one parcel into two, and Community Development Director Lee concurred. Mr. Pritt indicated the language “...into one or more additional parcels” would include any subdividing into another additional parcel whereby the purpose and effect is to create a buildable parcel. Mr. Galleberg approved of the previous

wording suggested by Council Member Wiseman in her motion, which included "...a division of a parcel or parcels of land into one or more additional parcels of land..."

Regarding a Notice of Intent to property owners relative to this proposed change, City Attorney Pritt said that staff should provide confirmation that no building permits regarding subdivision of property had been issued. He further indicated that while a person could sell off property by the inch without government intervention, various other case law states that the true subdivision of property must be recognized by the governmental entity for its building purposes. Therefore, he explained, while the government cannot prevent an owner from selling off property, it does not mean that the individual would be allowed to build on that property. That, he said, is where the government's rules take effect.

MOTION by Wiseman to APPROVE ITEM 15 at First Reading, amended as follows: 1) Change the ordinance title as follows: "AN ORDINANCE RELATING TO SUBDIVISIONS; AMENDING SECTION 98-4 OF THE CODE OF ORDINANCES, CITY OF NAPLES, PERTAINING TO THE DEFINITION OF "SUBDIVISION"; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE."

2) Change Section 1, 98-4 Definitions, Subdivision to read: "Subdivision means a division of a parcel or parcels of land into one or more additional parcels of land, for the purpose, whether immediate or future, of transfer of ownership and when the purpose or effect of which is to create an additional buildable parcel. The term 'subdivision' includes a re-subdivision, and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided." 3) Delete the entire Section 1, 98-6 "Certain Subdivisions prohibited." This motion was seconded by MacIlvaine and unanimously carried, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

Council Member Herms suggested that measurable standards be devised for subdivision decisions, noting that lot frontage, access, and square footage are the only current standards currently provided by Code. Mayor MacKenzie said that measurable standards would be a positive goal. Mr. Herms also said that the platted lot issue is an important component to add to an ordinance change regarding subdivision regulations.

RESOLUTION (Continued until December 17, 2003).....ITEM 16
A RESOLUTION DETERMINING CONDITIONAL USE PETITION 03-CU8 TO ALLOW FOR A GUEST UNIT ABOVE A DETACHED GARAGE, AT 445 GALLEON DRIVE, MORE PARTICULARLY DESCRIBED HEREIN, SUBJECT TO THE CONDITIONS LISTED HEREIN; PROVIDING FOR THE CITY CLERK TO RECORD SAID CONDITIONAL USE; AND PROVIDING AN EXPIRATION DATE AND AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (3:20 p.m.). Council Members disclosed the following ex parte communications: Russell, Wiseman, Herms, MacIlvaine, and Taylor/no contact; MacKenzie/viewed the site but no contact; and Galleberg/viewed the Planning Advisory Board (PAB) meeting but no contact. Notary Public Bonnie McNeill then administered an oath to those intending to offer testimony; all responded affirmatively.

City Manager Robert Lee noted that the petitioner is requesting conditional use approval to construct a guest unit above a detached garage consisting of less than 450 square feet for a

proposed home office. The office would not be used for home occupation and the six-to-seven foot difference in depth accommodates a staircase within the unit, he said.

Petitioner Adam Smith indicated adding a room and a bath above the detached, two-car garage would not change the height or width of the building and would not be used as a rental or guesthouse and did not include a kitchen area.

In response to Council Member Herms, Community Development Director Ron Lee indicated that a habitable, air-conditioned space is considered a guesthouse by definition although a hallway connecting the buildings would make the addition allowable. Director Lee also confirmed that lots over 30,000 square feet would not require a conditional use permit.

Public Comment: (3:25 p.m.) **Margaret Suleck, 3295 Port Charles Drive, Chair of the Port Royal Property Owners' Association Architectural Review Committee**, requested that the conditional use for this particular property be denied based on the fact that Code, Section 110-90, dealing with guest units, states that the lot must be 30,000 square feet or larger. This lot, she said, is slightly over 27,000 square feet. Additionally, the association had voted denial because the gross square footage of the unit cannot exceed 450 square feet, and it is believed that this unit would be 490 square feet. Furthermore, she said that this plan deviates from that submitted to the Architectural Review Committee, as the area above the garage had been listed as an attic.

In response to Vice Mayor Galleberg, Ms. Suleck indicated that the plans for the home had been submitted approximately two months before, and the plans currently before Council, she said, were not viewed by the Architectural Review Committee.

The footprint differential, Ms. Suleck advised, was attributable to an air-conditioned staircase which is considered part of the habitable space, thus increasing the square footage to 490. Ms. Suleck confirmed that the height did not change but an outer staircase had been proposed as well as the conversion from an attic space to an office space.

Council Member Russell suggested a two-week delay to allow the petitioner to address the Architectural Review Committee prior to appearing before Council. Mr. Smith explained he had however been advised that a request should first be made to City Council prior to a presentation to the Architectural Review Committee.

Community Development Director Lee explained that prior to the PAB meeting, no objections had been raised regarding the petition and that information was subsequently provided to Council. Mr. Lee also said that after further review it had been determined that the plan meets the 450-square foot maximum.

Vice Mayor Galleberg said he did not see what distinguishes this property from any other property under 30,000 square feet, particularly since this is new construction, and he suggested amending the code.

MOTION by Russell to CONTINUE Item 16 until December 17, 2003; seconded by MacIlvaine and carried 5-2, all members present and voting

(Galleberg-no, Herms-yes, MacIlvaine-yes, Russell-yes, Taylor-no, Wiseman-yes, MacKenzie-yes).

Recess: 3:35 p.m. to 3:45 p.m. It is noted for the record that the entire Council was present when the meeting convened.

RESOLUTION 03-10277.....ITEM 17
A RESOLUTION GRANTING A WAIVER FROM RESOLUTION 02-9689 TO ALLOW FOR THE EXPEDITED REVIEW OF A REZONE PETITION FOR THE NAPLES SAILING AND YACHT CLUB LOCATED AT 896 RIVER POINT DRIVE; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (3:45 p.m.). City Manager Robert Lee noted that in order to maintain the existing construction schedule, Naples Sailing and Yacht Club had requested an expedited review of the rezone request for the purpose of modifying the building design. If the waiver is granted, he said the schedule would be as follows: 1) Planning Advisory Board (PAB) Meeting on December 10; 2) City Council Meeting for First Reading on December 17; 3) Design Review Board (DRB) Meeting on December 19; and 4) City Council Meeting for Second Reading on January 7, 2004. Council Member MacIlvaine moved for approval and Mayor MacKenzie seconded. In response to Mayor MacKenzie, Community Development Director Ron Lee also confirmed that his department would be able to accommodate the petitioner's requests.

Council Member Russell received clarification from Community Development Director Lee that a determination had been made that any project that was approved prior to the establishment of the DRB ordinance or the appointment of the DRB, would not be required to go through that process. He indicated there are a few projects that fell into this category. Any project after the DRB formation however would be required to comply with that process, he said. Nevertheless, since the plans had been modified, it was staff's opinion that they should be presented to the DRB. City Attorney Pritt had provided a memorandum with a legal opinion regarding this item (Attachment #4).

Council Member Wiseman recommended the second whereas clause be modified to: "The Naples Sailing and Yacht Club has requested expedited consideration due to unique circumstances regarding the timing of their petition." This change would indicate that the request had been initiated by the Naples Sailing and Yacht Club and not by the City, she said. Motion maker MacIlvaine and seconder Mayor MacKenzie agreed with the revision.

Public Comment: None. (3:48 p.m.)

Prior to the vote, Council Member Russell voiced strong opposition to the expedited process, describing it as an inherently dangerous technique. However, he acknowledged the public interest would continue to be served by way of advertisement and due process regarding the Naples Sailing and Yacht Club changes. He said there were however special circumstances in this case to justify the expeditious review.

MOTION by MacIlvaine to APPROVE RESOLUTION 03-10277 approving the following meeting schedule: 1) Planning Advisory Board, December 10; 2) City Council First Reading December 17; 3) Design Review Board December 19; 4) City Council Second Reading, January 7; and changing the second whereas clause as follows: "Whereas, the Naples Sailing and Yacht Club has requested expedited consideration due to unique circumstances regarding the timing of their petition." This motion was seconded by MacKenzie and unanimously

carried, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

CONSENT AGENDA

APPROVAL OF MINUTES.....ITEM 9-a
October 13, 2003 Special Meeting, November 3, 2003 Workshop (as amended), and November 5, 2003 Regular Meeting (as amended).

RESOLUTION 03-10278.....ITEM 9-c
A RESOLUTION APPROVING AN AGREEMENT WITH HANNULA LANDSCAPING, INC. FOR FURNISHING AND INSTALLING LANDSCAPING AND IRRIGATION ON BANYAN BOULEVARD MEDIANS; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 03-10279.....ITEM 9-d
A RESOLUTION APPROVING AN AGREEMENT WITH BENTLEY ELECTRIC CO., INC. TO UPGRADE THE ELECTRICAL SERVICE AND INSTALL PERIMETER STREET LIGHTS IN CAMBIER PARK IN THE AREA OF NORRIS COMMUNITY CENTER; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 03-10281.....ITEM 9-e
A RESOLUTION APPROVING AN AGREEMENT WITH KYLE CONSTRUCTION, INC. TO PERFORM UNDERGROUND UTILITY WORK AT THE NORRIS COMMUNITY CENTER; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 03-10282.....ITEM 9-f
A RESOLUTION APPROVING AN AGREEMENT WITH SUPERIOR INTERLOCKING PAVING, INC. TO FURNISH AND INSTALL FIVE RETAINING WALLS AT THE NORRIS COMMUNITY CENTER; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 03-10283.....ITEM 9-g
A RESOLUTION APPROVING A REPLACEMENT OF NONEXCLUSIVE UTILITY EASEMENT AGREEMENT FOR THE CITY'S RAW WATER MAIN IN MOORINGS PARK; AUTHORIZING THE MAYOR TO EXECUTE THE EASEMENT AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 03-10284.....ITEM 9-h
A RESOLUTION APPROVING A UTILITY WORK AGREEMENT WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) FOR THE RELOCATION OF THE CITY'S RAW WATER MAIN AT I-75; AUTHORIZING THE CITY MANAGER TO EXECUTE THE UTILITY WORK AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 03-10285.....ITEM 9-i
A RESOLUTION APPROVING AN INTERLOCAL AGREEMENT WITH COLLIER COUNTY FOR THE PROTECTION OF A RAW WATER MAIN ON GOLDEN GATE PARKWAY EAST OF LIVINGSTON ROAD; AUTHORIZING THE MAYOR TO EXECUTE THE INTERLOCAL AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. Title not read.

MOTION by Galleberg to **APPROVE** the Consent Agenda (except Item 9-b); seconded by Taylor and unanimously carried, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

RESOLUTION 03-10286..... ITEM 9-b
A RESOLUTION APPROVING THE URBAN FORESTRY PLAN FOR THE YEAR 2004 AS REQUIRED IN SECTION 70-1 OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Robert Pritt (4:02 p.m.). Council Member Herms requested moving forward with the planting of approximately 340 trees which had been put on hold. Community Services Director David Lykins indicated that the price differential from 2000 was attributable to a request for larger trees to provide an improved canopy. City Manager Robert Lee further clarified that approximately an eight-month maintenance cost for each tree had also been included and Mayor MacKenzie received further clarification that the increased price also reflects planting methods for larger trees. Mayor MacKenzie noted Cambier Park tree plantings for sizeable trees at a much lower cost.

Citing the completion of only one year in a five-year, tree planting plan established in 1999, Mayor MacKenzie pointed out that the Capital Improvement Plan (CIP) did not include allocations for similar tree plantings the subsequent years. Mr. Lykins however explained that the \$75,000 designated in the current request was for the urban forestry plan which had already been approved as a CIP item and was intended to encompass plantings over five years with reevaluation at the conclusion of that time period. Due to an attrition rate of 100-150 trees per year, the net gain would be approximately 100 trees per year, Mr. Lykins noted, and urged that the program be a part of a continual replacement effort. Mayor MacKenzie further received clarification from Mr. Lykins that the \$100,000 Council Member Herms noted above would be derived from the parks bond issue. Mr. Herms said he would not oppose the planting of smaller trees but encouraged the expeditious tree planting within the 523 designated locations.

Council Member Russell pointed out that two separate issues were in actuality being discussed, the urban forestry issue and local tree planting. He suggested that they might be combined into one Master Plan with one funding source. Mayor MacKenzie however said the aforementioned \$100,000 was from the parks bond but had been used for a shortfall at Fleischmann Park. An update on the expenditures to date for Fleischmann Park had been requested, she said, and the anticipated expenses along with an analysis of the bond funds would be provided. Additionally, she said, Council Member Wiseman had suggested that the proceeds from the sale of the Wilkinson House would be well spent for Fleischmann Park improvements. City Manager Lee indicated staff had been working on the aforementioned issues and it would be presented to City Council in the near future and that the 1990 Tree Master would also be updated.

Council Member Herms made a motion for approval with instructions that staff proceed with funding sources for the \$100,000 program on hold so that the trees could be planted. The motion failed for lack of a second.

Vice Mayor Galleberg said he found no connection between the two programs, stating that one is a CIP plan currently before Council that day, and the other is an allocation from a park bond

issue. Nonetheless, that \$100,000 from the park bond issue affects other items such as Fleischmann Park, he noted, and moved approval of the current agenda item.

Public Comment: None. (4:03 p.m.)

MOTION by Galleberg to APPROVE RESOLUTION 03-10286 as submitted; seconded by Wiseman and unanimously carried, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

**RESOLUTION (Continued to December 17, 2003; See Item 4).....ITEM 18
A RESOLUTION APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH
THEODORE TRENT GREEN, R.A., FOR AN URBAN DESIGN STUDY FOR THE US 41
EAST CORRIDOR; AMENDING THE 2003-04 BUDGET AS ADOPTED BY ORDINANCE
03-10191; AND PROVIDING AN EFFECTIVE DATE.**

**.....ITEM 19
CONSIDER RE-ESTABLISHING A BEACH RENOURISHMENT AND
MAINTENANCE COMMITTEE; PROVIDING FOR POWERS, MEMBERSHIP,
APPLICABILITY OF ORDINANCES, AND OFFICERS; APPOINTING MEMBERS TO
THE COMMITTEE; AND PROVIDING FOR SUNSET.** Title read by City Attorney Robert Pritt (4:03 p.m.) who explained that since the prior committee had sunsetted, re-establishment of a new committee would be in order. Vice Mayor Galleberg suggested a continuation to January in order to provide more complete information.

Mayor MacKenzie voiced strong support of a Beach Renourishment Committee similar to that of Marco Island, thus maintaining an ongoing overview of beach project funding. Vice Mayor Galleberg concurred, but maintained his position for a few weeks' delay. Council Members Russell and Wiseman agreed, and Mrs. Wiseman pointed out that the City and County had been making positive strides toward a more cooperative working relationship.

Public Comment: (4:03 p.m.) **Bill Kroeschell, 272 Mooring Line Drive**, urged Council to re-establish the City's own committee but concurred with waiting until January.

MOTION by Galleberg to CONTINUE until January 21, 2004, as submitted; seconded by Wiseman and unanimously carried, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

**(Withdrawn by City Manager).....ITEM 20
A RESOLUTION AMENDING THE NAPLES PRESERVE SITE PLAN AUTHORIZING
THE ADDITION OF 7 PARKING SPACES AND INSTALLING TWO 6 FOOT
CONCRETE SIDEWALKS AT THE NAPLES PRESERVE; AND PROVIDING AN
EFFECTIVE DATE.** Title read by City Attorney Robert Pritt (4:11 p.m.). City Manager Robert Lee advised that the Community Services Advisory Board reviewed a staff request amending the Naples Preserve Site Plan permitting an additional seven parking spaces at the northeast end of the Naples Preserve, replacing an existing asphalt sidewalk with a concrete sidewalk on the northern end of the property, and installing a new concrete sidewalk on the southern end. Currently, he said, there are nine parking spaces on this property used for lectures, tours, and volunteer training programs; however, the current parking appears inadequate to accommodate the visitation and utilization.

Council Member Wiseman stated her support for improvements to the existing sidewalk but said that she was opposed to adding new sidewalks and new parking spaces saying it was counter to the original intent of the property acquisition as a passive-use green space and not a tourist destination. She also expressed disappointment that landscaping on the southwest corner of the property had not yet been accomplished. Vice Mayor Galleberg concurred but nevertheless commended volunteers for their efforts.

Council Member Taylor said that she approved of the proposed concrete sidewalk at the southern end of the property, stating it would connect the sidewalks along Tenth Street and US 41. She further noted that overflow parking from Pippins' Restaurant continues in that location, so the additional spaces would be helpful. In response to Miss Taylor, Community Services Director David Lykins said that the current sidewalk is in need of repair and leveling to the condition of the other sidewalks (Attachment #5).

Council Member Russell said that installing spaces into the actual park and not just parking on the right-of-way would be contrary to the original intent of preserving the site. However, he said he supported the sidewalk replacement to accommodate handicapped accessibility. In response to Council Member Taylor, he said he approved of the perimeter sidewalks, connecting Tenth Street North to US 41; however, he contended that the planned landscaping should be finished prior to starting additional improvements. Mr. Lykins then indicated that the sidewalk improvements were staff-generated, indicating a need to move people around the perimeter of the park, especially in the southern portion where there are no connections between Tenth Street to the US 41 walkways.

Council Member MacIlvaine received clarification that the proposed sidewalk would not disturb young trees planted along 14th Avenue South. He said increasing parking spaces from 9 to 16 spots would be reasonable and stated his approval.

Council Member Herms also supported replacing the uneven sidewalk but expressed concern regarding the southern installation. Pippins' patrons might use the sidewalk as a carryover parking location, he cautioned, but Mr. Lykins replied that this was not the intent and that the property slopes slightly with trees serving as a buffer making it unattractive as a parking location.

In response to questions regarding landscaping plans, Community Services Director Lykins advised that the allocation had been diverted to irrigation to coordinate with work by the same contractor used at Seagate Park, although funds were now available and the project should be completed within the near future. He reiterated that the Naples Preserve's southern end would be landscaped, as had been originally envisioned and designated as part of the Naples Preserve bond issue.

Although Mayor MacKenzie noted problems experienced at Pelican Bay with irrigating native landscaping, Council Member Taylor noted that the ability of the soil to generate nutrients in that location of the park had been diminished due to continual mowing; therefore, initial irrigation of the plants had been recommended. Mr. Lykins said that irrigation would however be discontinued when the plants were deemed to have adapted to natural conditions.

In response to Mayor MacKenzie's suggestion that the Naples Preserve install perimeter parking rather than within the confines of the park, Mr. Lykins said there was however no perimeter location

that would provide safe parking. Mr. Lykins also clarified to Council Member Russell that volunteers had been instructed to park in the Coastland Mall lot but that he could not confirm compliance. Mr. Russell received clarification that the Capital Improvement Program (CIP) funding is for parking lot improvements citywide. Mr. Russell said he opposed the parking lot construction and the use of funds for projects other than landscaping but he did approve of the sidewalk construction. He further stated that the installation of the sidewalks should be within the framework of other planned sidewalks throughout the City.

Public Comment: (4:29 p.m.) **Lois Selfon, 71 – 12th Avenue South, Director of the Volunteers for the Community Services Department**, indicated that in January 2003, she had been asked by Mr. Lykins to develop a volunteer group for the Naples Preserve Visitor's Center. After orientation, the Center is now manned by volunteers three days a week, she said, and described it as an eco-center, which had been a stated goal during the fund development campaign. Every program, she said, had been designed to inform the public about the eco-system within Naples and Collier County. Ms. Selfon further indicated that the volunteers have been attending presentations and training at the local sanctuaries and that the City's Naturalist, Dr. Gary Pettit, provides periodic educational presentations on the natural habitat.

Starting in January 2004, however, the building would be open five days a week, from Tuesday through Saturday, and visitors would be able learn about the eco-centers throughout this area, Ms. Selfon said. She also indicated that visitors from other countries and continents travel to Naples and visit the Naples Preserve.

Ms. Selfon said that volunteers find it safer to park in the Preserve's lot rather than crossing the street from the shopping mall. Therefore, she encouraged Council to approve additional parking and further noted that Saturday "Fishing Stories" are attended by approximately 25 people per week and that more children are becoming involved in the activities.

Vice Mayor Galleberg also praised and expressed gratitude for the efforts of the volunteers but said that expanding the use from a preserve property to what is now known as an eco-center was contrary to the original intent. City Manager Lee suggested that the item be continued, allowing consideration of the master plan approach, funding sources, and Council's concern regarding landscaping. He indicated that there might be an additional funding source for the sidewalks however.

Council Member Taylor noted that the building was prized not only for its architectural design but as an educational center which had been anticipated by the grant funding which contributed to repayment of bond indebtedness. Although the center donors who had contributed \$60,000 and the Tourist Development Council (TDC) had recommended that it function not only as an educational center but also as an important satellite for the ecological sites within the County, this had been stopped by Council opposition, Miss Taylor said. She then praised the volunteers and Ms. Selfon for her dedication and effort. Mayor MacKenzie disagreed with Miss Taylor's recollection, stating that Council Members had asked that this grant request be presented to them, as is the process for TDC grant requests. However, Miss Taylor said the grant had been defeated because it had been submitted for the full amount instead of a partnership with the County Commission. She said she would refer to the minutes on the subject.

Revised

Council Member Russell also commended the volunteers for exemplary work, but indicated that eliminating green space for parking is contrary to the original intent of establishing a preserve. Restating his support for the sidewalk, Mr. Russell also said that he approved City Manager Lee's suggestion to bring this item back for a full review of the Naples Preserve and the parks bond issues.

While Council Member MacIlvaine said that he supported the City Manager's request for continuation and further review of an overall master plan, he deemed the sidewalk request as reasonable and said that the seven parking spaces would benefit the Visitor's Center, the volunteers, and the current use of the Preserve.

Council Member Taylor asked that City Manager Lee obtain a copy of the grant awarded for the Visitor's Center to document that one of the conditions was that it should function as an educational center for the City; otherwise it would violate the grant conditions.

In response to City Manager Lee, City Attorney Pritt said that this item could in fact be withdrawn until a later date.

ORDINANCE 03-10287.....ITEM 21
AN ORDINANCE RELATING TO THE PUBLIC SERVICE TAX; AMENDING SECTIONS 58-106, LEVIED, 58-107, EXEMPTIONS, AND 58-108, COLLECTION BY SELLER FROM PURCHASER, OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES; AMENDING SECTION 58-111, APPROPRIATION, BY ADDING A SUBSECTION (c) OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES FOR THE PURPOSE OF MAKING CHAPTER 58, PUBLIC SERVICE TAX, CONSISTENT WITH FLORIDA STATUTES; PROVIDING FOR CODIFICATION; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.
Title read by City Attorney Robert Pritt (4:47 p.m.).

Public Comment: None. (4:47 p.m.)

MOTION by Wiseman to ADOPT ORDINANCE 03-10287 as submitted; seconded by Russell and unanimously carried, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

It is noted for the record that Items 22-a and 22-b were considered concurrently.

RESOLUTION 03-10288.....ITEM 22-a
A RESOLUTION OBJECTING TO THE CONNECTION OF CRAYTON ROAD TO SEAGATE DRIVE IN PELICAN BAY AS REFERENCED IN THE STAFF REPORT FOR PETITION NO. PUDA-03-AR-4008 (PELICAN BAY PUD), COLLIER COUNTY; REQUESTING THE ESTABLISHMENT OF IMPROVED CITY-COUNTY PROCEDURES FOR IDENTIFYING, COORDINATING AND PROCESSING LAND USE PETITIONS THAT CREATE THE POTENTIAL FOR A FUTURE CONNECTION OF CRAYTON ROAD TO SEAGATE DRIVE IN PELICAN BAY; AND PROVIDING AN EFFECTIVE DATE.

RESOLUTION 03-10289.....ITEM 22-b
A RESOLUTION REQUESTING THE COLLIER COUNTY PLANNING COMMISSION TO GRANT THE CITY OF NAPLES A SIXTY (60) DAY EXTENSION FOR SCHEDULING HEARINGS IN THE PROCESSING OF PETITION NO. PUDA-03-AR-

4008 (PELICAN BAY PUD) AND PETITION NO.DOA-03-AR-4777 (PELICAN BAY DRI); AND PROVIDING AN EFFECTIVE DATE. Titles read consecutively for Items 22-a and 22-b by City Attorney Robert Pritt (4:47 p.m.). Council Member Russell reported that the County staff would not recommend that Crayton Road be opened and that if a future traffic analysis supported it, prior public hearings would be held. This, Mr. Russell said, is an indicator of how important it is that the City staff communicate and work with the County. However, Mr. Russell said he was in support of the resolutions being considered as they included useful language.

City Manager Robert Lee said he had spoken with the County Manager explaining the City's proposal, and Vice Mayor Galleberg indicated that he had also spoken with the County Manager who had echoed Council Member Russell's statement. Therefore, Mr. Galleberg said he questioned the benefit of the City stating its objection. Mayor MacKenzie said however that because the above communications were not on public record, it was still considered an issue and stated support for the resolutions as a precautionary measure. She said that she believed the positive results to have been a direct result of the City's stated opposition.

Council Member MacIlvaine moved for approval of both resolutions, which was seconded by Council Member Taylor. Prior to the vote, discussion ensued with Vice Mayor Galleberg suggesting that a whereas clause indicate a City goal would be to move traffic off neighborhood streets to the main arterial roads, such as US 41 and would provide merit and foundation as to why the City opposes the opening of Crayton Road. Mayor MacKenzie concurred.

Public Works Director Dan Mercer expressed concern regarding Item 22-a in particular, stating that a traffic analysis would be beneficial; therefore, he urged Council to continue this item to provide staff further time for review. Additionally, he proposed hiring a traffic engineer, as suggested by Council Members at the December 1st Workshop. He advised Council that Kimley Horn & Associates had quoted a price much lower than anticipated; therefore, this might be an obtainable goal within the 60-day delayed period.

Revised language was then proposed by Council Member Wiseman in accordance with Vice Mayor Galleberg's comments: "Whereas, public policy dictates that through traffic should be routed to arterial roads rather than through neighborhood streets." Council Members MacIlvaine and Taylor agreed to the language addition for both resolutions.

Public Comment: None. (4:54 p.m.)

MOTION by MacIlvaine to APPROVE RESOLUTION 03-10288 and 03-10289 as amended, adding the following clause to both resolutions: "Whereas, public policy dictates that through traffic should be routed to arterial roads rather than through neighborhood streets." This motion was seconded by Taylor and unanimously carried, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

Council Member Herms supported Council's direction but also said that the City should oppose this level of development, citing the County estimate of 6,871 cars resulting from the expansion. When considering the additional growth within the County in conjunction with the Waterside Shops expansion, Mr. Herms said the intersection would not be able to handle the additional traffic and that within approximately five years there would be a request to open Crayton Road to alleviate traffic congestion. He said he strongly opposed the intensity that would be derived

from the proposed Waterside development, which he said would negatively impact the entire north end of the City. Mayor MacKenzie characterized the residents of Pelican Bay as also adamantly opposed to the opening of Crayton Road.

Council Member Russell said that City/County cooperation is being sought and that it would be more prudent to review the factual information. He again cautioned against an adversarial relationship and supported collaboration and cooperation. Vice Mayor Galleberg said the purpose of the 60-day delay would be to consider the facts before the City made a determination.

City Attorney Pritt said that City staff should attend the County meeting and make the request and be prepared to present the case if the request is denied. City Manager Lee confirmed that staff would be in attendance. Vice Mayor Galleberg said he assumed the City Manager's staff would be communicating with the County staff prior to the hearing, discussing the goal of a 60-day delay. Mr. Pritt noted that the entity that grants a delay would be the County's Planning Commission, and he presumed that would be done at the meeting as they are not allowed to meet prior.

.....**ITEM 23**
DISCUSSION REGARDING BEACH FUNDING POLICY. Vice Mayor Galleberg said that he had brought Council up to date on the pending and proposed Category A beach funding policy and received consensus to indicate to the County Commission that the City Council supports that policy. He further indicated that the Commission had met on December 2nd and agreed to delay their consideration for two weeks as they had accepted the request that the Tourist Development Council (TDC) review it one week later.

Vice Mayor Galleberg said that the beach funding policy had been received two days prior and the continuance would give Council Members time to request that the Mayor indicate Council support for the policy by letter. Mayor MacKenzie reported that she had sent to City Manager Lee the Marco Island resolution indicating support for the reserve fund, allocating some of the funds for beach access. She said it addressed many of the concerns raised by the Coastal Advisory Committee that had been resolved with the new policy, should the Board of County Commissioners approve it. She said she agreed with writing a point-by-point analysis of how this new policy would affect City of Naples beaches, thanking the County staff for agreeing to work on this and expressing appreciation to the County Commissioners for their consideration.

Vice Mayor Galleberg further stated that he considered a letter to be the appropriate form of communication at that time and could be accomplished that day with Council's authorization.

Public Comment: None. (5:04 p.m.)

MOTION by Galleberg to REQUEST MAYOR TO PREPARE A LETTER to the County Commission indicating support of the Beach Funding Policy (with the four changes made); seconded by Wiseman and unanimously carried, all members present and voting (Galleberg-yes, Herms-yes, MacIlvaine-yes, Russell-yes, Taylor-yes, Wiseman-yes, MacKenzie-yes).

PUBLIC COMMENT (5:05 p.m.).....
None.

CORRESPONDENCE & COMMUNICATIONS (5:05 p.m.)

Mayor MacKenzie extended best wishes to the Naples High School football team regarding the forthcoming competition in the Class 5-A State Semi-Finals.

Council Member Wiseman referenced Mayor/Council salaries and the requirement that a Blue Ribbon Committee be formed every four years, three months prior to the election. Mayor MacKenzie indicated this subject had been brought to her attention by City Clerk Tara Norman and noted that the Blue Ribbon Committee could be established, although the formation would be slightly behind schedule.

Council Member Russell requested an update on the usage of the Council Chamber and broadcasting capabilities. Mayor MacKenzie indicated that an item would be placed on the next agenda and had been based on a request by the League of Women Voters. City Attorney Robert Pritt had provided a legal opinion on that item, she said. Council Member Taylor asked City Manager Lee to provide a copy of Mr. Pritt's memorandum to the League of Women Voters as an update.

Council Member MacIlvaine noted a letter from a resident of the Brittany condominium complex regarding a fire inspection and the resulting violation whereby suitcases and other storage items were placed within the air-conditioning closets. Mr. MacIlvaine requested that City Manager Lee and City Attorney Pritt discuss this item and determine if this could be considered as an exception to the fire code. However, Council Member Herms interjected that Council does not have the ability to modify the State fire codes.

ADJOURN
(5:11 p.m.)

Bonnie R. MacKenzie, Mayor

Tara A. Norman, City Clerk

Minutes prepared by:

Bonnie McNeill, Recording Specialist

Minutes Approved: 1/7/04