



City of Naples

City Council Minutes

Regular Meeting 05/02/90

City Council Chambers
735 Eighth Street South
Naples, Florida 33940

-SUBJECT-	Ord. No.	Res. No.	Page
ANNOUNCEMENTS:			
MAYOR CRAWFORD: Welcomed the French foreign exchange students who were visiting Naples for a few weeks.			2
CITY MANAGER JONES: Recognized two City employees, City Clerk Janet Cason and Police Officer Manny Enestrozia.			2
APPROVAL OF MINUTES: April 11, 1990, Workshop Meeting April 18, 1990, Regular Meeting			2
PURCHASING			
-BID AWARD for one marine boat, Police.		90-6106	2
-BID AWARD for inventory items, Utilities.		90-6107	4
RESOLUTIONS			
-APPROVE request to modify a stormwater retention lake.		90-6108	5
-TABLE alley vacation petition No. 90-AV1.		90-_____	9
-APPROVE intention to issue NCH revenue bonds.		90-6111	12
-TABLE annexation/development agreements, Pelican Bay.		90-_____	14
-APPROVE appointments to the "Blue Ribbon" Committee.		90-6112	22
ORDINANCES - SECOND READING			
-ADOPT rezone of property at Southwest corner of River Point Drive.	90-6109		6
-ADOPT permit to sell alcohol on Sunday, May 6, 1990.	90-6110		11
-TABLE annexation of Pelican Bay.	90-_____		21
ORDINANCES - FIRST READING			
-APPROVE issuance of NCH revenue bonds.	90-_____		11
CORRESPONDENCE AND COMMUNICATIONS:			
-Discussion of upcoming workshop items.			
-Workshop meeting at 7:00 p.m. regarding Naples Urban Core Study.			22

City Council Chambers
735 Eighth Street South
Naples, Florida 33940



Date May 2, 1990

ITEM 2
ROLL CALL: Present: Alden R. Crawford, Jr.,
Mayor

Also Present:
Franklin C. Jones,
City Manager
David W. Rynders,
City Attorney
Mark W. Wiltsie,
Asst. City Manager
Ann "Missy" McKim,
Com. Development Dir.
Michael Fernandez,
Planner III
Bruce Davidson,
Police Lieutenant
Jon C. Staiger, Ph.D.,
Natural Res. Mgr.
Tara Norman,
Administrative Asst.
John Reble,
Fire Lieutenant
Jodie O'Driscoll,
Recording Secretary

Paul C. Reble,
Police Chief
Ann Walker,
Planner II
Carol Carlson,
Planning Technician
Mary Kay McShane,
Personnel Director
Stewart K. Unangst,
Purchasing Agent
James L. Chaffee,
Utilities Director
Gerald L. Gronvold,
City Engineer
Janet Cason,
City Clerk
George Henderson,
Sergeant-At-Arms

See Supplemental Attendance List - Attachment #1.

INVOCATION: Kim Anderson ITEM 1
Councilwoman

ANNOUNCEMENTS ITEM 3

CITY OF NAPLES, FLORIDA

May 2, 1990

City Council Minutes

Date _____

COUNCIL MEMBERS	M O T I O N	S E C O N D	VOTE		A B S E N T
			Y E S	N O	

MAYOR CRAWFORD: Welcomed the French foreign exchange students who were visiting Naples for a few weeks. He noted that sometime in June, several students from Seagate Elementary will participate in an exchange by visiting these same students in their native country.

Regarding another matter, Mayor Crawford asked that members of Council keep their comments and questions to the agenda item being addressed. Any suggestions, comments, and questions relative to other issues should be addressed by Council members individually contacting the City Manager.

CITY MANAGER JONES: Recognized two City employees for their outstanding achievements. Police Officer Manny Ynestroza was cited for being named Police Officer of the Year by the VFW (Attachment #2). Mr. Jones noted that Officer Ynestroza is a member of the newly implemented motorcycle patrol which has received much favorable response from citizens.

Mr. Jones then recognized City Clerk Janet Cason for receiving the Robert N. Clark Memorial Award from the Florida Association of City Clerks (FACC) (Attachment #3). Mr. Jones also expressed appreciation for the depth of experience and knowledge Mrs. Cason provides because of her many years with the City.

-----CONSENT AGENDA-----

APPROVAL OF MINUTES

ITEM 4

April 11, 1990, Workshop Meeting
April 18, 1990, Regular Meeting

Mayor Crawford noted that directions to the City Manager are underlined in the minutes for future reference.

PURCHASING

ITEM 5

CITY OF NAPLES, FLORIDA

City Council Minutes

May 2, 1990

Date _____

COUNCIL MEMBERS	M O T I O N	S E C O N D	VOTE		A B S E N T
			Y E S	N O	

---RESOLUTION NO. 90-6106

Item 5-a

A RESOLUTION AWARDDING CITY BID 90-57 FOR ONE (1) MARINE PATROL BOAT; AUTHORIZING THE CITY MANAGER TO ISSUE A PURCHASE ORDER THEREFOR; AND PROVIDING AN EFFECTIVE DATE.

Title not read.

In response to Councilman Herms, Police Chief Reble noted that the Florida Marine Patrol utilizes Johnson Evinrude engines, and the Sheriff's Department uses Mercury engines. The Naples Police Department maintains Yamaha and Suzuki engines and has experienced very few problems with that equipment.

Councilman Sullivan suggested that the Police Department research the feasibility of maintaining a spare engine to reduce down time in the event of major repairs are needed for one of its vessels. Councilman Muenzer concurred. Police Chief Reble advised that the boat engine to be replaced by this purchase would be kept as a spare.

Mr. Larry Biela of 1484 Fifth Avenue South, representing Boat Haven of Naples, Inc., said that he believed his Steiger watercraft met the specifications outlined in the bid documents and was the best and most responsible purchase. He contended that the City may have to patrol an eleven mile stretch of the Gulf due to future annexations and this watercraft would be the safest vessel to perform that duty. Mr. Biela further noted that in the event of an emergency, the vessel could transport emergency victims.

Councilman Herms said that he believed it was his sworn duty to review each of the boats and their capabilities before rendering his decision. However, Mayor Crawford pointed out that Council delegates responsibility for such review to the staff, and he said that he believed the City Manager's recommendations in such matters to be prudent and sensible.

CITY OF NAPLES, FLORIDA

May 2, 1990

City Council Minutes

Date _____

COUNCIL MEMBERS	M O T I O N	S E C O N D	VOTE		A B S E N T
			Y E S	N O	

Councilman Anderson said that she believed it was important for Council to review such purchase requests and this was why such items were placed on the Consent Agenda for individual consideration whenever necessary. She, however, said that she did not believe the additional cost for the Steiger watercraft (approximately \$8,000+) was acceptable if the cheaper vessel met all the specifications.

Police Officer Wayne Exum advised that he was comfortable with the selection and supported the City Manager's recommendation. He further noted that the City was not called upon for emergency transport as such activities are provided for by the Coast Guard.

Referring to previous comments regarding review of purchases, Councilman Passidomo said that the Charter clearly outlines Council's responsibilities. Mr. Passidomo further said that he was satisfied with the staff's recommendation for purchase.

Councilman Herms said that he would support this purchase only because Officer Exum had expressed his support for the same.

---RESOLUTION NO. 90-6107

Item 5-b

A RESOLUTION AWARDED CITY BID 90-59 FOR INVENTORY ITEMS TO BE USED BY THE WATER DISTRIBUTION AND WASTEWATER COLLECTION DIVISIONS; AUTHORIZING THE CITY MANAGER TO ISSUE PURCHASE ORDERS THEREFOR; AND PROVIDING AN EFFECTIVE DATE.

Title not read.

MOTION: To APPROVE the Consent Agenda as presented.

-----END CONSENT AGENDA-----

Anderson
Barnett
Herms
Muenzer
Passidomo
Sullivan
Crawford
(7-0)

X

X

X
X
X
X
X
X
X

CITY OF NAPLES, FLORIDA

City Council Minutes

May 2, 1990

Date _____

COUNCIL MEMBERS	M O T I O N	S E C O N D	VOTE		A B S E N T
			Y E S	N O	

---RESOLUTION NO. 90-6108

ITEM 6

A RESOLUTION AUTHORIZING A REQUEST TO MODIFY A STORMWATER RETENTION LAKE AT THE COLONADE AT PARK SHORE, SUBJECT TO THE CONDITIONS SET FORTH HEREIN; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Rynders.

Natural Resources Manager Staiger advised that the petitioner has requested permission to dredge and fill portions of a stormwater retention lake at the Colonade at Park Shore to bring the area back into conformance with its original subdivision plat.

In response to Mayor Crawford, Dr. Staiger explained that the petitioner would re-conform the lake by increasing its volume while decreasing its configuration. By preparing the lake in this manner, he continued, it would have a larger capacity to hold stormwater runoff without the hazard of flooding.

Councilman Herms asked if the property in question was privately owned. Dr. Staiger confirmed that it was, however, the maintenance for the stormwater discharge structures would be the responsibility of the City. Mr. Herms said that he was concerned about the safety hazards this proposed configuration proposed. He believed children and small animals would be at risk if the petitioner was permitted to construct a five foot retaining wall as proposed in his application. This wall would make it virtually impossible for children to escape in the event of an accidental fall into the water, he contended.

City Attorney Rynders advised that the City cannot place itself in a position to require safety features for the proposed retaining wall or the remaining property as it could be liable in the event of an accidental drowning or other mishap. Mayor Crawford suggested that the City should prepare a letter advising the petitioner of Council's concerns relative to safety. City

May 2, 1990

City Council Minutes

Date _____

COUNCIL MEMBERS	M O T I O N	S E C O N D	VOTE		A B S E N T
			Y E S	N O	
Anderson		X	X		
Barnett	X		X		
Herms				X	
Muenzer			X		
Passidomo			X		
Sullivan			X		
Crawford (6-1)			X		

Attorney Rynders said that he did not believe a letter to the Homeowner's Association would place the City at risk.

Discussion then ensued as to the water quality and filtration of the proposed lake. Councilman Muenzer asked if it was necessary to stipulate placement of some impervious material at the lake's bottom to increase its filtration process. Natural Resources Manager Staiger said that he was satisfied that the lake would filter sufficiently before the water reaches the water table.

MOTION: To APPROVE the resolution as presented.

Councilman Herms said that he could not support this resolution as he believed it would not benefit the public safety. Councilman Passidomo, however, said that he believed Council had fulfilled its responsibility by advising the property owner of potential tort liability, and could, therefore, support the resolution as resented.

COMMUNITY DEVELOPMENT DEPARTMENT/ NAPLES
PLANNING ADVISORY BOARD

---ORDINANCE NO. 90-6109

ITEM 7

AN ORDINANCE REZONING PROPERTY LOCATED AT THE SOUTHWEST CORNER OF RIVER POINT DRIVE AND U.S. 41 FROM "C2A", COMMERCIAL WATERFRONT DISTRICT, TO "PD", PLANNED DEVELOPMENT, DESIGNATED FOR COMMERCIAL WATERFRONT USE, FOR A 38 SLIP CONDOMINIUM MARINA AND CLUBHOUSE AMENITY, SUBJECT TO THE CONDITIONS SET FORTH HEREIN; AND PROVIDING AN EFFECTIVE DATE. PURPOSE: TO REZONE THE PROPERTY AT THE REQUEST OF THE PROPERTY OWNER TO ALLOW FOR A 38 SLIP CONDOMINIUM MARINA AND CLUBHOUSE AMENITY.

Title read by City Attorney Rynders.

CITY OF NAPLES, FLORIDA

May 2, 1990

City Council Minutes

Date _____

COUNCIL MEMBERS	M O T I O N	S E C O N D	VOTE		A B S E N T
			Y E S	N O	

PUBLIC HEARING: Opened: 10:04 a.m.
Closed: 10:20 a.m.

Community Development Director McKim explained that this was the second reading of the proposed ordinance for construction of a 38 slip condominium marina. Council during its previous discussion had directed that a three foot retaining wall be installed along the waterfront for safety purposes as well as language regarding the prohibition of commercial activity at the marina.

The only other point that has not yet been addressed, she continued, is that of maintaining adequate right-of-way along U.S. 41 for possible expansion. The Federal Department of Transportation (FDOT) will also require that adequate right-of-way be retained at the intersection of River Point Drive and U.S. 41.

Councilman Sullivan suggested the ordinance contain a provision that all liveaboard activities shall be prohibited. He then moved to approve the ordinance at second reading with the foregoing amendment. Councilman Herms seconded the motion.

Citizen J. Sandy Scatena of 2990 Binnacle Drive spoke in opposition to the ordinance and said that he believed this project would negatively impact the water quality of Naples Bay and the Gordon River as well as impact traffic along U.S. 41. He said that he further believed additional tests and studies should be completed.

Councilman Herms asked if maintenance of the proposed boardwalk would be the responsibility of the City. Mrs. McKim said that the petitioner would be responsible for such maintenance and any liability resulting from the facility.

Attorney Bruce Anderson, representing the petitioner, said that he had drafted the proposed language regarding permanent residences at the marina to allow the yacht owners the ability to "liveaboard" for two weeks at a time. This ability would allow the crew and owners the

May 2, 1990

City Council Minutes

Date _____

opportunity to ready the vessel for trips. Attorney Anderson further pointed out that the City Dock allows for these types of transient activities by boat owners for up to two weeks.

Mayor Crawford said that he could support the same "one night" provision given to recreational vehicles in order to ready the vessels for their trips.

Discussion then ensued relative to the definition of liveaboards. City Attorney Rynders said that he was comfortable with applying the definition commonly associated with land use regulation issues to liveaboards. The term "liveaboard", however, is commonly understood to refer to people living on boats.

Councilman Passidomo expressed concern that the City Dock provides for liveaboard activities on a limited basis, but this marina would not be allowed to do the same. The same restrictions should be imposed consistently throughout the City, he said.

A general discussion relative to the negative aspects of liveaboard activities then ensued. Councilman Sullivan said that such facilities could increase the need for police enforcement and other services paid for by property taxes. It could also adversely impact the quality of the surrounding water systems, he said.

Attorney Anderson, however, pointed out that the only reason his client must obtain this rezoning approval was the project's close proximity to the airport high noise district as outlined in the Comprehensive Plan. This particular use is already permitted under the C2A Waterfront District, he noted.

Mr. Kris Dane of Coastal Engineering, also representing the petitioner, said that he was sorry for misleading the Council relative to liveaboards. His definition of such activity includes a boat which never leaves port and has some amenities (such as potted planters) along the

COUNCIL MEMBERS	M O T I O N	S E C O N D	VOTE		A B S E N T
			Y E S	N O	

CITY OF NAPLES, FLORIDA

City Council Minutes

May 2, 1990

Date _____

COUNCIL MEMBERS	M O T I O N	S E C O N D	VOTE		A B S E N T
			Y E S	N O	
Anderson			X		
Barnett			X		
Herms		X	X		
Muenzer			X		
Passidomo			X		
Sullivan	X		X		
Crawford (7-0)			X		

dock. Mr. Dane further advised that he did not believe this facility would adversely affect the water quality or impact the traffic flow along U.S. 41.

MOTION: To ADOPT the ordinance at second reading amending Section 1, Item 3, to include the prohibition of liveboards.

Councilman Passidomo said that he could not support this ordinance, as amended, because it was not consistent with permitted uses at similar facilities.

---RESOLUTION NO. 90-_____

ITEM 8

A RESOLUTION APPROVING ALLEY VACATION PETITION NO. 90-AV1 BY VACATING AND ABANDONING A 20 FOOT ALLEY LOCATED APPROXIMATELY 215 FEET NORTHWEST OF THE INTERSECTION OF U.S. 41 AND RIVER POINT DRIVE; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Rynders.

PUBLIC HEARING: Opened: 10:35 a.m.
Closed: 10:50 a.m.

City Attorney Rynders advised that the State Department of Environmental Regulation (DER) had not yet given its "Intent to Permit" for this project, and once Council vacates this property, it cannot recapture it without purchasing it back from the new property owners at a greater cost.

City Manager Jones, however, said that he was not concerned with the proposed vacation as the petitioner has agreed to enter into a joint use agreement between the adjacent properties to ensure access.

Councilman Muenzer expressed concern about the formula used for compensation relative to alley vacations. He said he was especially troubled by the fact that the City would have to pay more to buy back the alley than it would receive by the

CITY OF NAPLES, FLORIDA

May 2, 1990

City Council Minutes

Date _____

COUNCIL MEMBERS	M O T I O N	S E C O N D	VOTE		A B S E N T
			Y E S	N O	

petitioner to vacate it. The petitioner has agreed to pay \$22,265.00 to the City for the alley vacation.

Councilman Sullivan moved to continue this item until such time as the DER has rendered its decision relative to the proposed project. Councilman Herms seconded the motion.

Referring to the many documents proposed by the petitioner, Councilman Passidomo said that he believed the quit claim deeds and cross easements provided were sufficient to protect all the adjacent property owners. He further noted that all expenses for the recording and preparation of these documents could be borne by the petitioner.

Attorney Bruce Anderson, representing the petitioner, said that his client would be agreeable to sell the property back to the City at the same price it paid for it if that became a necessity. He said he also would be willing to make the alley vacation contingent upon DER approval.

Attorney James S. Willis, representing the Port-O-Call marina, advised that his client supported this alley vacation providing access to his client's property was provided through cross easements. However, he further noted that he did not believe the vacation was necessary if the State denied the project as proposed.

Discussion then ensued relative to the quit claim deeds and cross easements. City Attorney Rynders advised that the property should be vacated and deeds provided to all abutting property owners. Attorney Willis, however, expressed concern that the Combs Fish Company has yet to agree to provide for such a cross easement.

Mr. Kris Dane of Coastal Engineering, representing the petitioner, asked Council to consider this alley vacation at today's deliberations. He also supported making the alley vacation contingent upon DER approval.

CITY OF NAPLES, FLORIDA

City Council Minutes

May 2, 1990

Date _____

Councilman Passidomo said that the effective date of the vacation could also be delayed to provide for DER approval. City Attorney Rynders, however, pointed out that once the Council resolves to approve this vacation, that action is final. While a delayed effective date might postpone the vacation, the inevitable is that the alley will ultimately be vacated regardless of whether DER approves it or not.

MOTION: To TABLE this resolution until the DER has rendered its decision relative to the proposed marina.

Mayor Crawford advised that the Council would defer its discussion of Items 9 and 10 until the end of the agenda.

---ORDINANCE NO. 90-6110

ITEM 11

AN ORDINANCE PERMITTING THE SALE OF ALCOHOLIC BEVERAGES ON SUNDAY, MAY 6, 1990, BETWEEN THE HOURS OF 12:00 NOON AND 4:00 P.M. BY THE COLLIER COUNTY RESTAURANT ASSOCIATION OR THEIR AUTHORIZED AGENTS AT THE "SEVENTH ANNUAL TASTE OF COLLIER" FUND RAISING EVENT HELD IN THE CITY OF NAPLES; AND PROVIDING AN EFFECTIVE DATE. PURPOSE: TO APPROVE THE REQUEST TO SELL ALCOHOLIC BEVERAGES FOR THE PURPOSE OF RAISING FUNDS FOR THE MENTAL HEALTH ASSOCIATION OF COLLIER COUNTY AND THE SCHOLARSHIP FUND OF THE FLORIDA RESTAURANT ASSOCIATION, CHAPTER 15.

Title read by City Attorney Rynders.

PUBLIC HEARING: Opened: 10:58 a.m.
Closed: 10:58 a.m.

No one present to speak for or against.

COUNCIL MEMBERS	M O T I O N	S E C O N D	VOTE		A B S E N T
			Y E S	N O	
Anderson			X		
Barnett			X		
Herms		X	X		
Muenzer			X		
Passidomo					X
Sullivan	X		X		
Crawford (6-1)			X		
Anderson			X		
Barnett	X		X		
Herms			X		
Muenzer			X		
Passidomo		X	X		
Sullivan					X
Crawford (6-0)			X		

CITY OF NAPLES, FLORIDA

May 2, 1990

City Council Minutes

Date _____

COUNCIL MEMBERS	M O T I O N	S E C O N D	VOTE		A B S E N T
			Y E S	N O	

MOTION To ADOPT the ordinance as presented at second reading.

-----FIRST READINGS-----

---ORDINANCE NO. 90-_____

ITEM 12

ORDINANCE AUTHORIZING THE ISSUANCE OF CITY OF NAPLES, FLORIDA, HOSPITAL REVENUE BONDS (NAPLES COMMUNITY HOSPITAL, INC., PROJECT), SERIES 1990, IN A PRINCIPAL AMOUNT NOT EXCEEDING \$30,000,000 PURSUANT TO THE PROVISIONS OF PART II OF CHAPTER 159, FLORIDA STATUTES, AS AMENDED; PROVIDING FOR THE LENDING OF THE PROCEEDS OF SAID BONDS TO NAPLES COMMUNITY HOSPITAL, INC., TO REFUND, ON A CURRENT BASIS, THE OUTSTANDING PRINCIPAL AMOUNT OF CITY OF NAPLES, FLORIDA, HOSPITAL REVENUE BONDS (NAPLES COMMUNITY HOSPITAL, INC., PROJECT), SERIES 1989A AND 1989B AND TO PAY THE COSTS OF A CAPITAL PROJECT FOR A A HEALTH CARE FACILITY; AND PROVIDING FOR SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE. PURPOSE: TO ISSUE INDUSTRIAL REVENUE BONDS FOR NAPLES COMMUNITY HOSPITAL.

Title read by City Attorney Rynders.

Ms. Suzanne Braddock, Finance Specialist for Naples Community Hospital (NCH), advised that NCH was asking to refinance these loans from a variable rate to a fixed rate to better provide for budgeting and cash flow.

In response to Councilman Herms, Ms. Braddock said that she could not estimate at this time what the interest savings on the issue would be.

MOTION: To APPROVE the ordinance as presented at first reading.

Anderson
Barnett
Herms
Muenzer
Passidomo
Sullivan
Crawford
(7-0)

X
X
X
X
X
X
X

CITY OF NAPLES, FLORIDA

City Council Minutes

May 2, 1990

Date _____

COUNCIL MEMBERS	M O T I O N	S E C O N D	VOTE		A B S E N T
			Y E S	N O	

-----END FIRST READINGS-----

--RESOLUTION NO. 90-6111

ITEM 13

RESOLUTION EXPRESSING AN INTENTION OF THE CITY OF NAPLES TO ISSUE ITS CITY OF NAPLES, FLORIDA, HOSPITAL REVENUE BONDS (NAPLES COMMUNITY HOSPITAL, INC. PROJECT), SERIES 1990, IN A PRINCIPAL AMOUNT NOT TO EXCEED \$30,000,000 PURSUANT TO THE PROVISIONS OF PART II OF CHAPTER 159, FLORIDA STATUTES, AS AMENDED, THE PROCEEDS OF WHICH ARE TO BE LOANED TO NAPLES COMMUNITY HOSPITAL, INC., TO REFUND THE OUTSTANDING PRINCIPAL AMOUNT OF CITY OF NAPLES, FLORIDA, HOSPITAL REVENUE BONDS (NAPLES COMMUNITY HOSPITAL, INC. PROJECT), SERIES 1989A AND 1989B AND TO PAY THE COSTS OF A CAPITAL PROJECT FOR A HEALTH CARE FACILITY CONSISTING OF MAJOR MOVABLE EQUIPMENT TO BE ACQUIRED AND INSTALLED AT NAPLES COMMUNITY HOSPITAL; APPROVING THE ISSUANCE OF SAID BONDS, THE PLAN OF FINANCING, THE REFUNDING AND THE LOCATION AND NATURE OF THE PROJECT; AUTHORIZING A MEMORANDUM OF AGREEMENT RELATING TO THE BONDS; AND PROVIDING FOR SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE. PURPOSE: TO ISSUE "INDUSTRIAL REVENUE BONDS" FOR NAPLES COMMUNITY HOSPITAL, INC.

Title read by City Attorney Rynders.

Councilman Herms expressed concern relative to Naples Community Hospital (NCH) paying the City Attorney directly for his services rendered. The City should, instead, be reimbursed by NCH for such expenditures, he said. City Manager Jones asked, Mr. Herms if this would apply to all expenditures paid by NCH for this issue, and Councilman Herms confirmed that it would.

However, Mayor Crawford, Mrs. Anderson, and Mr. Barnett said that such a procedure would add to the proposed fee amount for this refunding and

CITY OF NAPLES, FLORIDA

City Council Minutes

May 2, 1990

Date _____

	M	S	VO
	O	E	
	T	C	Y
	I	O	E
	O	N	S
	N	D	
COUNCIL MEMBERS			

further said they did not believe such action was necessary.

Mayor Crawford proposed that Mr. Herms' suggestion be placed on a workshop agenda for discussion of future issues. It was clarified that this particular issue would not be subject to the above discussion regarding the issuance of checks by NCH to the City Attorney for his services and/or other expenditures.

MOTION: To APPROVE the resolution as presented.

RECESS: 11:05 A.M. UNTIL 11:15 A.M.

---RESOLUTION NO. 90-_____

ITEM 9

A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A DEVELOPMENT/ANNEXATION AGREEMENT WITH WESTINGHOUSE COMMUNITIES OF NAPLES, THE ASSOCIATION OF UNIT OWNERS OF THE REGISTRY HOTEL AT PELICAN BAY, INC., THE RITZ-CARLTON HOTEL CORPORATION, THE PELICAN BAY OF NAPLES FOUNDATION, INC., AND THE PHILHARMONIC CENTER FOR THE ARTS, SUBJECT TO THE CONDITIONS SET FORTH HEREIN; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Rynders.

PUBLIC HEARING: Opened: 11:35 a.m.
Closed: 1:05 p.m.

City Manager Jones advised that the intent of the proposed development, annexation, and planned development documents was not to identify the pros or cons of annexation, but to address land use issues and the City's ability to hold a referendum on the proposed annexation of Pelican Bay. The Comprehensive Plan addresses the issue of annexing previously approved planned unit developments

Anderson
Barnett
Herms
Muenzer
Passidomo
Sullivan
Crawford
(7-0)

X

X

X

X

X

X

X

X

CITY OF NAPLES, FLORIDA

City Council Minutes

May 2, 1990

Date _____

COUNCIL MEMBERS	M O T I O N	S E C O N D	VOTE		A B S E N T
			Y E S	N O	

(PUD's) and their existing land use regulations. The proposed documents, he continued, tend to recognize the vested rights of the property owner as well as provide the City with the ability to place the question of annexation on the ballot for referendum.

Community Development Director McKim then compared the amount of residential, open space, commercial, and right-of-way areas in Pelican Bay to those same areas in the City. Many of the permitted uses under the existing site plan have been eliminated under these agreements, she said, including auto dealerships, commercial schools, and the like. Mrs. McKim further advised that the City has requested the remaining ten acres dedicated for government use be given to the City to help meet its service needs for Pelican Bay. The staff and Planning Advisory Board (PAB) have recommended approval of the documents subject to the deletion of all secession clauses and to allow for a 90-day acceptance period.

Councilman Passidomo asked if the documents provided any additional rights to the property owners which were not currently enjoyed by them. City Manager Jones confirmed that these documents did not; City Attorney Rynders concurred.

Councilman Passidomo then noted that the existing Development of Regional Impact (DRI) development order has been in place since 1977, and it would be difficult to substantially modify that order in accordance with the Florida State Statutory rights relative to estoppel of such developments. City Attorney Rynders added that a DRI cannot be altered or amended without the developer's permission.

Mr. David Bennett of 4745 Whispering Pine Way said that he did not believe the Registry Hotel should be permitted to sell alcohol on the beach from their "Chickee" facility as proposed. This is in direct violation of City and County codes and should not be allowed, he said. He further advised that he was against the proposed documents in their current form.

May 2, 1990

City Council Minutes

Date _____

COUNCIL MEMBERS	M O T I O N	S E C O N D	VOTE		A B S E N T
			Y E S	N O	
Locke Galbreath of 4000 Gulf Shore Boulevard North, representing the Park Shore Homeowners Association, asked Council to consider adding a section to the documents which would address the continued closure of Crayton Road. The Park Shore Homeowners Association is concerned about the potential of that road being opened and are seeking some assurance from Council that Crayton Road will remain closed.					
Mrs. Audrey Barbera of 590 Regatta Road, a member of the Moorings Property Owners Association, also the ad hoc chairman for the Pelican Bay Annexation Question, spoke in opposition to the documents. She said that a survey of Moorings residents resulted in a 13% response from those residents polled of which 94% was opposed to this proposed annexation. Mrs. Barbera cited several provisions in the documents specifically relating to future site plan approvals and the issuance of building permits in support of her opposition to the documents.					
Mr. Fred Hardt, President of Pelican Bay Property Owners Association, 705 Buttonbush Lane, advised that his group was not included in the documents considered at today's deliberations, but was the original petitioner for the proposed annexation of the southern portion of Pelican Bay. He then referred to an annexation brochure previously distributed by the City outlining the benefits for future annexations and said that he believed the annexation of Pelican Bay was in the best interest of the City.					
Mr. Robert Imhoff of 2728 Crayton Road was called upon but was not present to speak.					
Mr. J. Sandy Scatena of 2990 Binnacle Drive advised that he was strongly opposed to the proposed documents and urged the Council to deny the petitioners' request.					
Mr. John Van Arsdale of 3333 Rum Row, representing the Citizens Political Action Committee, said that he did not believe these documents should be approved because of the many disparities among the					

CITY OF NAPLES, FLORIDA

City Council Minutes

May 2, 1990

Date _____

COUNCIL MEMBERS	M O T I O N	S E C O N D	VOTE		A B S E N T
			Y E S	N O	

City's fire and zoning codes in that area. He further believed that the City should not commit itself to future donations to the Philharmonic via the wavier of franchise and utility fees.

Mr. Hubert Howard of 3541 Gordon Drive, who has served on Planning Advisory Board (PAB) for seven years, urged Council to approve these documents. The people of Pelican Bay at build out will be utilizing many of the City's services and amenities and should be paying for use of the same, he said. By successfully annexing this area, the City can receive a higher percentage of Federal and State revenue sharing funds which are based solely on population figures. Mr. Howard then took issue with the derogatory comments previously made relative to staff, and he said that he believed the City had a fine and competent staff and supported them fully.

Mr. J.R. "Dick" Young of 3323 Gin Lane spoke in opposition to the documents and said that he did not believe these annexation agreements were viable for the citizens of Naples. In response to Councilman Passidomo who posed the same question earlier regarding the petitioners' development rights prior to annexation, Mr. Young said that he had no basis to disagree with that statement.

Mr. Ron Pennington of 289 Spring Line Drive, President of Moorings Property Owners Association, expressed concern that the proposed annexation would change the character of the City of Naples. He then briefly cited his concerns regarding new development, zoning issues, and the like. Referring to the R/UDAT report recommendations, Mr. Pennington said that report indicates aggressive annexation would destroy the character of the City.

Mr. Ron Sanson of 1845 Tarpon Road, a current PAB member, said that he also was opposed to the annexation of Pelican Bay as he did not believe the City should have dual standards for different portions of its tax base. Codes and policies should be consistent throughout the City, Mr. Sanson contended. He said that if the majority of this Council did not believe annexation was in the

CITY OF NAPLES, FLORIDA

May 2, 1990

City Council Minutes

Date _____

best interest of its citizens, then it should be denied now before it goes to referendum.

Mr. James McGrath of 650 Banyan Circle spoke of the originally proposed development of Pelican Bay when he was on Council many years ago. He then urged Council to deny this request.

Mr. W. W. Haardt of 4900 Whispering Pine Way, a member of Park Shore Property Owners Association, said that he supported the annexation of Pelican Bay and believed it would be an asset to the City.

Ms. Fern Aitchison of 613 14th Avenue South said she did not believe the annexation of Pelican Bay would be financially advantageous to the City. She said that she would, however, fully support the incorporation of Pelican Bay.

Councilman Sullivan said that he believed these three documents set forth the terms of annexation and development for the remaining areas until build-out of Pelican Bay. He expressed concern that the City would be operating under two completely different sets of zoning codes, thereby not allowing it to be one unified government entity. Mr. Sullivan further expressed reservations about the Community Development Director having the authority to approve and/or reject site plans which should be part of Council's responsibility, he contended.

Referring to the first reading of the ordinance, Councilman Sullivan said that he believed the voters should decide whether to accept this proposed annexation, but the three agreements were hard to understand and did not clearly reflect whether this annexation would be in the best interest of the City. Mr. Sullivan, therefore, moved to deny the resolution setting forth approval of the three agreements (annexation, development and planned development). Councilman Herms seconded the motion.

MOTION: To **DENY** the resolution as presented.

This motion failed by a vote of (3-4).

COUNCIL MEMBERS	M O T I O N	S E C O N D	VOTE		A B S E N T
			Y E S	N O	
Anderson					X
Barnett					X
Herms		X	X		
Muenzer			X		
Passidomo					X
Sullivan	X		X		
Crawford (3-4)					X

May 2, 1990

City Council Minutes

Date _____

COUNCIL MEMBERS	M O T I O N	S E C O N D	VOTE		A B S E N T
			Y E S	N O	

Mayor Crawford said that he believed there were both negatives and positives relative to the proposed agreements and that he further believed that Council should work through them outlining concerns.

A general discussion among Council then ensued with suggested changes and amendments made to the Annexation Agreement, Development Agreement and Planned Development Agreement (See Attachment #4 for the proposed changes).

Councilman Muenzer asked whether churches and schools were provided the same exemption from franchise and utility taxes as provided to the Philharmonic in these documents. City Manager Jones advised that churches and schools, but not hospitals, were exempt.

Discussion then ensued as to what amenities in Pelican Bay would be open to the public. City Manager Jones said he understood that the public would be able to access all areas except the private beach area, private boardwalk, and golf course.

Councilman Muenzer said that he voted in favor of the annexation of Pelican Bay at first reading, but could not support this request because his concerns have not yet been addressed. He strongly opposed the concept of dual zoning regulations for the City of Naples; this will only result in chaos, he said. Mr. Muenzer further stated that he believed Pelican Bay should seek incorporation rather than the proposed annexation.

Councilman Herms said that he could not support this proposed annexation either because of the higher density provided in the DRI development order. He further noted that the lack of public accesses to the beach and streets in Pelican Bay was another deterrent and that this proposal was against the public interest.

Councilman Anderson said that she was not a proponent of annexation, but was instead a proponent of educating the public relative to

CITY OF NAPLES, FLORIDA

May 2, 1990

City Council Minutes

Date _____

annexation and issues of growth management. She further said that she did not want to usurp the rights of the voters to decide whether they wanted this area annexed to their City or not.

In response to Councilman Herms, City Manager Jones said he has reviewed the costs of services to this area, and the revenue to be received, and found that a November referendum would not place the City in a financial loss for providing services to Pelican Bay. Councilman Herms said that he believed the referendum should be placed on the ballot for September so that the City can realize approximately \$850,000 in additional revenues from the proposed annexation.

Councilman Barnett said that he would vote for this annexation resolution because he believed it was his obligation to let the voters decide what they want and did not feel comfortable deciding for them.

Mayor Crawford said that there was no question as to the different standards for development proposed at these deliberations. He further said he believed that it was up to the citizens to decide whether annexation was in their best interest. The Council can only provide them with the opportunity to make such a decision, not make it for them. Such action on Council's part, Mayor Crawford continued, is not an aberration of its leadership or responsibility.

MOTION: To APPROVE the resolution with the aforementioned changes (See Attachment #4), and providing that Council could respond to the same within five working days as to the validity of the amendments.

This motion failed by a vote of (3-4).

Councilman Passidomo said that there were strong arguments for Council to deny this request, but had it decided not to annex adjacent areas many years ago neighborhoods such as the Moorings, Aqualane Shores, Port Royal, Coquina Sands, etc.,

COUNCIL MEMBERS	M O T I O N	S E C O N D	VOTE		A B S E N T
			Y E S	N O	
Anderson		X	X		
Barnett	X		X		
Herms					X
Muenzer					X
Passidomo			X		
Sullivan					X
Crawford (3-4)					X

CITY OF NAPLES, FLORIDA

City Council Minutes

May 2, 1990

Date _____

would not be part of the City and its quality of life might have been altered. Annexation addresses the pressures associated with growth, urban land use, planning, zoning, traffic, and resource management, Mr. Passidomo continued, and provides for a means, or tool, with which to deal with such growth.

MOTION: To TABLE this resolution until the Council's May 16, 1990, regular meeting to provide for the preparation of amended documents for Council's consideration and action.

---ORDINANCE NO. 90-_____

ITEM 10

AN ORDINANCE PROPOSING THE ANNEXATION OF PELICAN BAY UNIT ONE, EXCEPT THAT PORTION EAST OF WEST BOULEVARD AND SOUTH OF PELICAN BAY BOULEVARD AND EXCEPT THAT PORTION OF PARCEL D PRESENTLY BEING USED BY COLLIER COUNTY AS A PUBLIC PARKING LOT AND EXCEPT THAT PORTION OF PARCEL D NORTH OF THE DORCHESTER; UNIT TWO, EXCEPT THAT PORTION OF THE GOLF COURSE NORTH OF GULF PARK DRIVE AND EXCEPT THE VILLAS OF PELICAN BAY; UNIT FOUR, EXCEPT PARCEL B; UNIT FIVE WEST OF THE WEST RIGHT-OF-WAY LINE OF GREEN TREE DRIVE, SAID AREA BEING MORE PARTICULARLY DESCRIBED IN THE ATTACHED EXHIBIT "A"; AMENDING SECTION 1.2 OF THE CHARTER OF THE CITY OF NAPLES, RELATING TO THE BOUNDARIES OF THE CITY; PROVIDING FOR A REFERENDUM OF SAID ANNEXATION ON _____; PROVIDING FOR A BALLOT QUESTION; AND PROVIDING AN EFFECTIVE DATE. PURPOSE: TO ANNEX THE AREA SHOWN ON THE ATTACHED EXHIBIT "A", AND TO REDEFINE THE BOUNDARIES OF THE CITY OF NAPLES TO INCLUDE SAID PROPERTY.

Title not read.

See discussion under Item 9.

COUNCIL MEMBERS	M O T I O N	S E C O N D	VOTE		A B S E N T
			Y E S	N O	
Anderson			X		
Barnett			X		
Herms	X		X		
Muenzer			X		
Passidomo			X		
Sullivan		X	X		
Crawford (7-0)			X		

May 2, 1990

City Council Minutes

Date _____

MOTION: To TABLE this resolution until the Council's May 16, 1990, regular meeting to provide for the preparation of amended documents for Council's consideration and action.

---RESOLUTION NO. 90-6112

ITEM 15

A RESOLUTION ESTABLISHING A "BLUE RIBBON" COMMITTEE RELATING TO EMPLOYMENT BENEFITS FOR ELECTED OFFICIALS; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Rynders.

Mayor Crawford asked each member of Council for a nominee.

The following citizens were then appointed: Steve Spahr (Herms); W.W. Haardt (Anderson); J.R. "Dick" Young (Crawford); James Weigel (Sullivan); Robert Bennett (Barnett); Beth Watt (Muenzer); and _____ (Passidomo).

Councilman Passidomo advised that he would submit his nomination at a later date to the City Manager once his appointee had consented to serve.

MOTION: To APPROVE the resolution with the foregoing appointees.

CORRESPONDENCE AND COMMUNICATIONS:

Councilman Muenzer asked if the Council could act on the sales tax issue at today's proceedings. City Manager Jones advised that it could not inasmuch as the interlocal agreement had not been advertised on the published agenda for Council's consideration.

Mayor Crawford advised that there would be a workshop this evening at 7:00 p.m. to discuss the

COUNCIL MEMBERS	M O T I O N	S E C O N D	VOTE		A B S E N T
			Y E S	N O	
Anderson		X	X		
Barnett	X		X		
Herms			X		
Muenzer			X		
Passidomo			X		
Sullivan			X		
Crawford			X		
(7-0)					
Anderson			X		
Barnett					
Herms			X		
Muenzer			X		
Passidomo		X	X		
Sullivan			X		
Crawford	X		X		
(6-0)					
Anderson					
Barnett					
Herms					
Muenzer					
Passidomo					
Sullivan					
Crawford					
(6-0)					

CITY OF NAPLES, FLORIDA

City Council Minutes

May 2, 1990

Date _____


COUNCIL MEMBERS	M O T I O N	S E C O N D	VOTE		A B S E N T
			Y E S	N O	


models prepared by the University of Florida students relative to the Naples Urban Core Study. Councilman Herms asked that it be clearly understood at the workshop that he did not support the funding of the study.

Councilman Muenzer then asked that the following items be added to a future workshop agenda: formula regarding compensation for alley and easement vacations; review of matter at 2700 Gordon Drive situation; Third Street South parking problems; and possible guidance to Police Chief Reble relative to capital expenditures for the upcoming CIP budget.

Councilman Herms asked that an item regarding reimbursement of fees for hospital bond issues should also be addressed at an upcoming workshop session.

ADJOURN: 2:45 p.m.


ALDEN R. CRAWFORD, JR.,
Mayor


JANET CASON
City Clerk

JODIE O'DRISCOLL
Recording Secretary

These minutes of the Naples City Council were approved on May 16, 1990.

SUPPLEMENTAL ATTENDANCE LIST

C.A. Reinbolt
Charles Andrews
George Vega
Fred Hardt
Russ Mudge
Harry Timmins
Robert Galloway
Fern Aitchison
M/M W.M. Fraser
Jim Logie
John Van Arsdale
Dick Sykes
David Bennett
Robert Imhoff

Egon Hill
W.W. Haardt
Ron Pennington
Herb Anderson
Alan Korest
Ron Sanson
Dick Young
Lee Layne
J.A. Bieber
Kris Dane
Willie Anthony
Larry Biela
Locke Galbreath
Hubert Howard

George Law
Norman Reinertsen
Tom Brown
Bruce Anderson
A. Bruce Durkee
J. Sandy Scatena
Suzanne Braddock
Ann Colabrese
M. Shatten
Mary Ann Smiley
Andrew Wolfe
James Willis
Audrey Barbera
Jim McGrath

Other interested citizens and visitors.

NEWS MEDIA

Jeff Reble, Palmer TV 10
Michelle Mendleson, News Press
Gina Binole, Naples Daily News
Todd Fitzgerald, WEVU-26

TO:


Manny Ynestroza

OFFICER OF THE YEAR

Congratulations on being named "Officer Of The Year" by VFW Post 7721. It is particularly significant in light of your relatively short time on the force. As indicated by Chief Reble, your alterness and self-discipline resulted in a safe and effective solution to a dangerous situation involving a stolen vehicle in the possession of armed suspects.

April 18, 1990

FROM:


 Franklin C. Jones
 City Manager


City Manager - Green Copy


Use this form to acknowledge the good work and accomplishments of your fellow employees. Address it, write a brief message in the center and sign your name. Please distribute copies as shown at the bottom of each.

TO:Janet Cason
City Clerk**YOU'RE
A STAR**

Congratulations on receiving the prestigious Robert N. Clark Memorial Award from the Florida Association of City Clerks. This award is given for ourstanding effort in promoting and enhancing excellence in the City Clerk profession. It is particularly significant when one is honored in this way by one's peers.

Among the comments from those submitting your name in nomination, I particularly noted the one from a city clerk who said, "Janet has been an unsung heroine of FACC," and another who said, "her office has always served as an example for other cities throughout the state."

Your work and dedication are equally appreciated here in the City of Naples.

**FROM:**

 Franklin C. Jones
 City Manager

5/2/90



THE FOREGOING CHANGES SHALL
BE CARRIED THROUGHOUT ALL
THREE DOCUMENTS WHEREVER
APPROPRIATE.

2057.rwm

MC/PA = delete all SECESSION clauses.

DRAFT FOR DISCUSSION
PURPOSES ONLY

REVISED: April 16, 1990

PA = delete all ref. to changing City's
Code to accommodate Sunday
Alcohol Sales.

PA = Agree to close Clayton Rd thru the turn of New Age.

ANNEXATION AGREEMENT

This Agreement, effective as provided herein, is made and entered into by and between WESTINGHOUSE COMMUNITIES OF NAPLES, INC., a Florida corporation, hereinafter "WCN", 801 Laurel Oak Drive, Suite 500, Naples, Florida 33963, the PHILHARMONIC CENTER FOR THE ARTS, a Florida corporation, hereinafter "Philharmonic", 5833 Pelican Bay Boulevard, Naples, Florida 33963, the RITZ-CARLTON HOTEL CORPORATION, a Georgia corporation, hereinafter "Ritz-Carlton Hotel", 280 Vanderbilt Beach Road, Naples, Florida 33963, the ASSOCIATION OF UNIT OWNERS OF THE REGISTRY HOTEL AT PELICAN BAY, INC., a Florida not-for-profit corporation, hereinafter "Registry Hotel", 475 Seagate Drive, Naples, Florida 33963, the PELICAN BAY OF NAPLES FOUNDATION, INC., a Florida not-for-profit corporation, hereinafter the "Foundation", 6251 Pelican Bay Boulevard, Naples, Florida 33963, (WCN, the Philharmonic, the Ritz-Carlton Hotel, the Registry Hotel, and the Foundation are hereinafter collectively referred to as the "First Parties") and the CITY OF NAPLES, a municipal corporation of the State of Florida, hereinafter "City".

height are regulated by the PDD attached as Schedule "A" to the Development Agreement.

4. The Property is served by existing public facilities, including water and sewer systems. Such facilities are adequate to serve the Property and The Property may be served upon the payment of applicable systems development and other appropriate connection charges.

5. All local government permits approved or needed to be approved for the development of the Property shall be those issued by the City to conform to the requirements of this Agreement, the Development Agreement and the PDD attached thereto.

6. The development pattern in Pelican Bay is well established, having been initiated in 1977. The City endorses WCN's intention to complete development of the Property as planned, even though the design standards incorporated in the Property development plan may ^{DIFFER FROM (PA)} those which have been utilized heretofore in development elsewhere in the City.

7. The development permitted or proposed to be permitted under the PDD is consistent with the City's comprehensive plan and land development regulations.

8. The conditions, terms, restrictions and requirements contained in the PDD are intended for the protection of the public health, safety and welfare of the citizens of Naples and shall be binding on the First Parties.

but shall not be obligated to cancel and terminate this Agreement and withdraw its respective approval of the annexation of Pelican Bay.

ARTICLE 4

1. The City shall do what is reasonably necessary and within its governmental powers and authority to grant and allow the necessary approvals for the orderly development of the Property, such development to be in accordance with the City

Code (as defined in the PDD) and all rules and regulations promulgated thereunder, to the extent not inconsistent with this Agreement, the Development Agreement and the PDD. It is the intention hereof that WCN or its authorized representative shall submit to the City such applications and documentation as required by the PDD, this Agreement and the Development Agreement.

2. The parties agree that the First Parties have acted and may act in the future in reliance upon this Agreement and, to the degree that such action occurs, ~~rights shall be deemed to be vested~~ ^{TO BOARD - NEEDS CLARIFICATION (MC)} in the First Parties, their

successors and assigns, to the degree that such vested rights are recognized to exist in law. The First Parties' consent to the annexation of the Property by the City is expressly conditioned upon the City's compliance with the terms of this Agreement, the Development Agreement and the PBB- ~~content not submitted by City~~ ^{indicate what documents (PA)}

~~content not submitted by City~~ ^{indicate what documents (PA)} Nothing contained herein shall otherwise preclude or inhibit the City from exercising its proper zoning and development review powers for the protection of the public and in accordance with a legitimate exercise of the police power for the protection of the community insofar as the exercise of such powers does not unduly interfere with the vested rights accruing to First Parties arising from the execution of this Agreement and any action in reliance thereon.

add
preface: (P) In recognition of its obligation to support cultural affairs and in recognition of its *plans* to do so, the City shall provide the contribution otherwise stipulated!

3. The City shall include in each annual City budget an amount in support of the Philharmonic, which shall be equivalent to the City's utility and franchise taxes levied upon the Philharmonic for the 12-month period (or portion thereof in the first fiscal year in which annexation occurs) preceding the adoption of such budget.

delete (mc)
 4. In the event the County park at the beach at the westerly terminus of Seagate Boulevard shall become City property, the Registry Hotel shall have the right to sell alcoholic beverages at its beach facility in such park, in accordance with Chapter 3 of the City Code. The Registry Hotel understands that its operation of the restaurant and bar will be governed by City ordinances and that it will comply with all appropriate state and local ordinances concerning the sale and consumption of alcoholic beverages. The Registry Hotel agrees that the sale of alcoholic beverages will be incidental to the sale of food and that at no time shall the gross sales of food be less than 51% of the total sales of the beach facility.

5. The Registry Hotel's child care facility known as "Kids Limited" operated at the Bay Club, c/o The Registry Resort, 475 Seagate Drive, Naples, Florida 33940, shall be accepted by the City as a licensed day care center and that, subject to City requirements, the property shall be rezoned for commercial use limited to a child care facility. The day care facility shall be operated in accordance with all City and State ordinances and in such a way as not to be a nuisance to the neighboring

property owners.

6. The Ritz-Carlton Hotel shall be permitted to ^{use} ~~construct~~ a tent upon its hotel site. The use of the tent shall be limited to meetings, banquets and similar social functions. It shall not be used as a permanent restaurant or lounge facility open to the general public, other than in connection with its use for meetings, banquets and similar social functions. The hotel shall provide additional off-street parking spaces to replace all parking spaces lost as a result of the erection of the tent or any permanent pavilion-type structure erected to replace the tent. The total number of parking spaces to be provided shall be 873 spaces as set forth in an agreement dated December 8, 1983 between W. B. Johnson Properties, Inc. (the predecessor in title of the Ritz-Carlton) and Collier County.

7. In addition to the rights of the City and WCN to terminate this Agreement pursuant to Article 3 above, this Agreement shall, automatically and without notice to any party, terminate in the event the annexation of Pelican Bay is not approved in the referendum vote of the residents of the City and Pelican Bay currently scheduled for November 6, 1990.

PA) 90-day acceptance period OK
(PA) delete
~~the following events:~~
 notice to the other
 in the following events:

(a) if any material statement made by any party in this Agreement, the Development Agreement or the PDD shall prove to be untrue or substantially misleading;

delete

(b) if the rights or obligations of any party herein shall be determined to be legally unenforceable; or

(c) if any party herein shall determine this Agreement not

~~to be binding and enforceable~~

8. WEN and the City, by executing this Annexation Agreement, agree that upon the annexation of the Property into the City it is their intention and plan to execute as soon as practicable thereafter, the Development Agreement attached hereto as Exhibit No. 1. So long as this Agreement has not been terminated under Article 3, paragraph 2 or Article 4, paragraph 7 above, the First Parties and the City each agree to duly execute and deliver the Development Agreement as soon as practicable after the annexation of Pelican Bay to the City.

clms
0 DAY
ACCEPTANCE
ADUOD
SEE P. 14-17

9. The City Council has adopted Resolution No. ____ on the day of ____, 1990, authorizing the Mayor to execute this Annexation Agreement. This Agreement shall be effective as of ____, 1990.

WITNESSES:

WESTINGHOUSE COMMUNITIES
OF NAPLES, INC.

By: _____
Byron R. Koste, President

WITNESSES:

PHILHARMONIC CENTER
FOR THE ARTS

By: _____

Its: _____

*delete
secession
clause
(PA)*

The City acknowledges and agrees that its promises and commitments to the First Parties under this Agreement and the PDD were a material inducement to the First Parties to enter into this Agreement and without which none of the First Parties would have agreed to the annexation of its respective Property into the City. It is, therefore, agreed that, in addition to any other available remedies at law or equity, any of the First Parties shall have the right, but not the obligation, to secede and withdraw from the City, in the event the City, for whatever reason, shall have breached any material obligation of the City under this Agreement or the PDD or if any material obligation of the City or material right of any First Party under the PDD shall prove to be legally unenforceable.

8. The duration of the Development Agreement is five (5) years from its effective date, which period of time may be extended as provided in the Act in order to provide to WCN the assurance and certainty of the development as detailed in the Development Agreement, the PDD and as contemplated in the Act as well as to further the other objectives set out in F.S. Section 163.3220(1) through (5) of the Act. Notwithstanding the foregoing, the parties agree that (i) if F.S. Section 163.3229 is amended to extend the minimum duration of development agreements beyond five (5) years, this Agreement shall be automatically extended for such additional period, and (ii) neither the PDD nor the DRI-development order are limited to the

BUILDING PERMITS FOR NOT MORE:

FACILITY OR SITE	400 Units	700 Units	1600 Units
Golf Course	9 holes	9 holes	
Clubhouse		X	
Canoe Launch/Canoe Dock**		X	
Nature Trail**		X	
Government Administration Site***			X
Community Park Site***			
5 acres per each 1,000 units for first 4,000 Units			

- (mc)
SD
BE
Public
Facilities
- * Golf Clubhouse - 5,000 square feet minimum.
 - ** Neighborhood parks to total a minimum of 20 acres. Canoe launch/canoe dock and nature trail are included as part of the neighborhood parks.
 - *** Government administration site/community Park site to be a maximum of 20 acres.

2.10 AMENDMENT OF ORDINANCE

Both the City and the Developer, with knowledge that the long range development plan permitted by the ordinance will not be complete for a period of approximately 25 years, recognize that exceptions, variances, or amendments to this ordinance may be necessary in the future. Obviously, there may be changes in planning techniques, engineering techniques, transportation methods, and other factors that would warrant this ordinance being amended to meet standards of the time. All petitions or requests for exceptions, variances and amendments shall conform with the procedures existing at the time of the application for the exception or amendments.

2.11 TREE REMOVAL

All clearing, grading, earthwork, and site drainage work shall be performed in accordance with the approved PDD site plan and all applicable codes. Prior to any such removal, a site clearing plan must be submitted to the Director for review and approval to insure that said removal shall be carried out under proper FORESTRY MANAGEMENT PRINCIPALS. Protected trees shall be flagged, clearly marked and/or fenced during periods of construction so as to eliminate or minimize their damage.