

City Council Chamber
735 Eighth Street South
Naples, Florida 33940

City Council Regular Meeting - April 3, 1996 - 9:00 a.m.

Mayor Barnett called the meeting to order and presided.

ROLL CALL

ITEM 2

Present: Bill Barnett, Mayor
Marjorie Prolman, Vice Mayor

Council Members:
Bonnie R. MacKenzie
John R. Nocera
Fred L. Sullivan
Fred Tarrant
Peter H. Van Arsdale

Also Present:

Dr. Richard L. Woodruff, City Manager
Maria J. Chiaro, City Attorney
William Harrison, Assistant City Manager
Missy McKim, Planning Director
Dan Mercer, Utilities Director
Flinn Fagg, Planner I
Terry Fedelem, Construction Proj. Coord.
Rebecca Couchman, Solid Waste Coord.
Robert Middleton, Operations Supt.

Joseph Racut
James Hiatt
Ray Schepperly
Jennie Perez
Toni Mizwicki
George Henderson, Sergeant-at-Arms
Tara Norman, Deputy City Clerk
Dr. Charles M. Lewis

Media:

Jerry Pugh, Continental Cablevision
Michael Cote, Naples Daily News

Other interested citizens and visitors
See also Attachment 1

INVOCATION and PLEDGE of ALLEGIANCEITEM 1

Dr. Charles M. Lewis, Community Congregational Church

ITEMS TO BE ADDEDITEM 3

None

ANNOUNCEMENTSITEM 4

Community Services employees recognized for their efforts in cleaning beaches after the recent outbreak of red tide.

CONSENT AGENDA

APPROVAL of MINUTESITEM 14

March 4, 1996 Workshop

.....ITEM 17

AUTHORIZATION TO ISSUE A PURCHASE ORDER FOR A FRONT LOADING GARBAGE TRUCK. VENDOR: PETERBILT OF CENTRAL FLORIDA, WINTER GARDEN, FLORIDA \ PRICE \$120,301.00 \ FUNDING: CIP PROJECT #96P10

.....ITEM 18

AUTHORIZATION TO ISSUE PURCHASE ORDERS FOR RECONSTRUCTION OF TWO WASTEWATER PUMP STATIONS. 1) PUMP STATION 32 - CONTRACTOR: KYLE CONSTRUCTION \ COST \$71,400.00 \ FUNDING: CIP PROJECTS #95X20, #95X19 AND #95X05; AND 2) PUMP STATION 49 - CONTRACTOR: CROSS COUNTRY PIPE & RAIL \ COST \$141,801.00 \ FUNDING: CIP PROJECTS #96X03, 96X02 AND #96X04

.....ITEM 19

AWARD OF BID FOR SUBMERSIBLE WELL WATER PUMPS AND MOTORS. VENDOR: COAST PUMP & SUPPLY, NAPLES, FLORIDA \ PRICE \$23,329.50 \ FUNDING: CIP PROJECT #96X01; VENDOR: NAPLES ARMATURE WORKS, NAPLES, FLORIDA \ PRICE \$17,534.50 \ FUNDING CIP PROJECT #96X01

.....ITEM 20

AUTHORIZATION TO WAIVE COMPETITIVE BIDDING IN ORDER TO PURCHASE WASHWATER TRANSFER PUMPS FOR WATER PLANT. VENDOR: EDWARDS ASSOCIATES, FORT MYERS, FLORIDA \ TOTAL PRICE \$18,262.00 \ FUNDING: CIP PROJECT #95K21 AND #96K21

.....ITEM 21

CONSIDER A BUDGET AMENDMENT TO FUND PROJECT #95Y12, GEOGRAPHIC INFORMATION SYSTEM (GIS)

RESOLUTION 96-7674.....ITEM 23

A RESOLUTION SUPPORTING THE CITY'S APPLICATION FOR FLORIDA BEACH EROSION CONTROL ASSISTANCE FUNDS TO IMPLEMENT THE DOCTORS PASS INLET MANAGEMENT PLAN; AND PROVIDING AN EFFECTIVE DATE. (Title not read.)

.....ITEM 24

AWARD OF BID FOR CONSTRUCTION OF STORM SEWERS IN AVION PARK.

**CONTRACTOR: KYLE CONSTRUCTION, NAPLES, FLORIDA \ PRICE \$12,804.00 **
FUNDING: STORMWATER ACCOUNT

MOTION by Sullivan, seconded by VanArsdale, to **APPROVE** Consent Agenda Items 14, 17, 18, 19, 20, 21, 23 and 24, and to remove Items 15, 16 and 22 from the Consent Agenda for separate consideration; unanimously carried, all members present and voting (MacKenzie-yes, Nocera-yes, Prolman-yes, Sullivan-yes, Tarrant-yes, VanArsdale-yes, Barnett-yes).

.....ITEM 15
AUTHORIZATION TO ENTER INTO A CONTRACT WITH TECH GROUP, INC., TO PROVIDE A TRAFFIC STUDY FOR FIFTH AVENUE SOUTH FROM EIGHTH STREET SOUTH TO U.S. 41.

Council Member VanArsdale explained that one of the purposes was to study restoration of parking on Fifth Avenue South by eliminating some turn lanes which would enhance pedestrian use. In response to Council Member MacKenzie, Mr. VanArsdale confirmed that a round-about at Fifth Avenue and Eighth Street might be one alternative. Council Member Nocera, however, indicated a preference to installing some modifications as a test rather than expending funds for a study.

Public Input: None.

MOTION by Sullivan to **TABLE** this item pending a workshop discussion with the City Engineer; unanimously carried, all members present and voting (MacKenzie-yes, Nocera-yes, Prolman-yes, Sullivan-yes, Tarrant-yes, VanArsdale-yes, Barnett-yes).

RESOLUTION 96-7675.....ITEM 16
A RESOLUTION APPOINTING A SELECTION COMMITTEE FOR THE PURPOSE HEREINAFTER SET FORTH, RELATING TO THE SELECTION OF A LANDSCAPE ARCHITECT TO PERFORM LANDSCAPE DESIGN SERVICES FOR THE CITY; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Chiaro.

Public Input: None.

MOTION by Sullivan, seconded by Tarrant to **APPROVE** Resolution 96-7675 **AS AMENDED** to appoint Council Members MacKenzie and VanArsdale, and expand membership to include a citizen to be selected by the committee and the Community Services Board chairman or designee (in addition to Terry Fedelem and William Harrison already listed); unanimously carried, all members present and voting (MacKenzie-yes, Nocera-yes, Prolman-yes, Sullivan-yes, Tarrant-yes, VanArsdale-yes, Barnett-yes).

It was determined that Council Members would provide written input to the staff with reference to the scope of services.

RESOLUTION 96-7676.....ITEM 22
A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A JOINT PROJECT AGREEMENT BETWEEN THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION AND THE CITY OF NAPLES FOR THE CONSTRUCTION OF CITY UTILITIES AS PART OF THE RECONSTRUCTION OF THE GORDON RIVER BRIDGES ON U.S. 41; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Chiaro.

In response to Council's questions at the April 1, 1996, workshop regarding the timing of payment in Paragraph 8 of the agreement, Assistant City Manager Harrison noted that the Florida Department of

Transportation would have no problem with the City paying the amount indicated after October 1 from the 1997 fiscal year. Further questions were then raised regarding installation of water reuse lines, the final height of the reconstructed bridge, and its impact on surrounding buildings. It was therefore determined that staff would schedule a workshop for the Council with the FDOT and that additional questions would be directed in advance to the staff.

Public Input: None.

MOTION by VanArsdale to ***APPROVE*** Resolution 96-7676; seconded by Sullivan and unanimously carried, all members present and voting (MacKenzie-yes, Nocera-yes, Prolman-yes, Sullivan-yes, Tarrant-yes, VanArsdale-yes, Barnett-yes).

RESOLUTION 96-7677.....ITEM 5
A RESOLUTION GRANTING CONDITIONAL USE PETITION 96-CU7, IN ORDER TO PERMIT THE CONSTRUCTION OF A GUEST UNIT ON THE PROPERTY LOCATED AT 3660 FORT CHARLES DRIVE, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Chiaro.

Public Input: None.

MOTION by VanArsdale to ***APPROVE*** Resolution 96-7677; seconded by Prolman and unanimously carried, all members present and voting (MacKenzie-yes, Nocera-yes, Prolman-yes, Sullivan-yes, Tarrant-yes, VanArsdale-yes, Barnett-yes).

RESOLUTION 96-7678.....ITEM 6
A RESOLUTION GRANTING CONDITIONAL USE PETITION 96-CU8, IN ORDER TO PERMIT FIVE OFF-SITE PARKING SPACES LOCATED ON THE "TIN CITY" PROPERTY FOR CHARTER BOAT OPERATIONS AT SLIPS 1 AND 2 OF THE OLE MARINA DOCKS, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Chiaro.

In response to an inquiry by Council at the April 1, 1996, workshop, it was clarified that funds had been dispersed to the court in conjunction with a separate litigation between the City and Gene Luciano, the petitioner; therefore the City Attorney stated that this would allay concerns with reference to additional operations by Mr. Luciano.

Public Input: None.

MOTION by VanArsdale to ***APPROVE*** Resolution 96-7678; seconded by Tarrant and unanimously carried, all members present and voting (MacKenzie-yes, Nocera-yes, Prolman-yes, Sullivan-yes, Tarrant-yes, VanArsdale-yes, Barnett-yes).
A prior motion by table by Sullivan, seconded by MacKenzie, failed 3-4 (MacKenzie-yes, Nocera-no, Prolman-yes, Sullivan-yes, Tarrant-no, VanArsdale-no, Barnett-no).

RESOLUTION 96-7680.....ITEM 7
A RESOLUTION GRANTING CONDITIONAL USE PETITION 96-CU5, IN ORDER TO PERMIT AN EXPANSION OF THE SHELTON IMPORTS, INC., CAR DEALERSHIP, WHICH WILL INCORPORATE A PORTION OF THE PARKING LOT LOCATED BEHIND TOMFOOLERY'S RESTAURANT AT 900 9TH STREET NORTH, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Chiaro. (9:41 a.m.)

Len Berlin appeared on behalf of Shelton Imports and the Townsend Trust, property owner. He took exception to the staff's recommendation, adopted by the Planning Advisory Board, that landscape buffers be installed on the west, north and east boundaries of the parking lot. He urged the

Council to take into consideration the mature plantings already installed at neighboring residences and other mature trees already in the parking area, together with the loss of ten parking spaces to the proposed landscaping. He said that the required paving would correct deterioration caused by City utility work rather than by delivery of automobiles to the dealership.

Public Input: None.

MOTION by VanArsdale to ***APPROVE*** Resolution 96-7680 ***AS AMENDED*** to delete requirement for landscape buffers; seconded by Nocera and carried 4-3, all members present and voting (MacKenzie-no, Nocera-yes, Prolman-no, Sullivan-no, Tarrant-yes, VanArsdale-yes, Barnett-yes).

ORDINANCE (First Reading).....ITEM 8
AN ORDINANCE AMENDING SUBSECTION (a), (b), (c), AND (d) OF SECTION 66-24 OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES, AND AMENDING CODE SECTION 66-24 OF APPENDIX "A", "FEE SCHEDULE" OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES TO ELIMINATE THE REQUIREMENT FOR A DEPOSIT PRIOR TO SERVICE FOR RESIDENTIAL WATER SERVICE AND TO PROVIDE FOR A REFUND OF EXISTING RESIDENTIAL WATER DEPOSITS; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title read by City Attorney Chiaro. (9:50 a.m.)

Assistant City Manager William Harrison explained that since utility accounts must be in the name of the property owner and not the tenant, a prior non-payment problem had been eliminated; therefore, staff time and the requirement to pay interest on these deposits would be alleviated with the above amendment.

Public Input: None.

MOTION by Sullivan to ***APPROVE*** this Ordinance on First Reading; seconded by VanArsdale and unanimously carried, all members present and voting (MacKenzie-yes, Nocera-yes, Prolman-yes, Sullivan-yes, Tarrant-yes, VanArsdale-yes, Barnett-yes).

RESOLUTION 96-7679.....ITEM 9
A RESOLUTION DECLARING THE INTENTION OF THE CITY OF NAPLES TO CREATE A SPECIAL ASSESSMENT DISTRICT FOR BIG CYPRESS HOMEOWNERS IN THE COUNTRY CLUB OF NAPLES FOR THE PURPOSE OF PROVIDING A CENTRAL SEWAGE SYSTEM; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Chiaro. (9:52 a.m.)

Assistant City Manager William Harrison explained that this was the first step to establish an assessment district, as required by Florida Statute. This neighborhood had experienced flooding which resulted in raw sewage in roadside swales, so the residents had by straw ballot indicated their desire for central sewers. It was determined that this area had been receiving City water service for over 30 years.

Public Input: None.

MOTION by Sullivan to ***APPROVE*** Resolution 96-7679; seconded by Tarrant and unanimously carried, all members present and voting (MacKenzie-yes, Nocera-yes, Prolman-yes, Sullivan-yes, Tarrant-yes, VanArsdale-yes, Barnett-yes).

RESOLUTION 96-7681.....ITEM 10
A RESOLUTION APPROVING THE PRELIMINARY AND FINAL PLAT FOR A UNIQUE LAND DEVELOPMENT SUBDIVISION INCORPORATING 20 SINGLE FAMILY LOTS AND 10 OUT PARCELS LOCATED ON THE NORTHERN 60 ACRES OF

KEEWAYDIN ISLAND, TO BE KNOWN AS KEEWAYDIN ISLAND PLAT, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Chiaro (9:54 a.m.)

Attorney Donald Pickworth represented the petitioner and requested that two minor amendments be made in the resolution as embodied in the motion below.

Public Input: None.

MOTION by Sullivan to approve Resolution 96-7681 AS AMENDED to refer to the form of Declaration of Protective Covenants and to delete Section 2-3 regarding work on the downstream side of the property; seconded by Prolman and unanimously carried, all members present and voting (MacKenzie-yes, Nocera-yes, Prolman-yes, Sullivan-yes, Tarrant-yes, VanArsdale-yes, Barnett-yes).

Break: 9:59 a.m. to 10:07 a.m. It is noted for the record that the same Council Members were present when the meeting reconvened.

ORDINANCE (First Reading).....ITEM 11

AN ORDINANCE APPROVING REZONE PETITION 96-R1, AMENDING A PREVIOUSLY APPROVED PLANNED DEVELOPMENT FOR THE HARBORTOWNE PROPERTY LOCATED IN THE 400 BLOCK OF GOODLETTE ROAD SOUTH, MORE PARTICULARLY DESCRIBED HEREIN, IN ORDER TO REVISE THE DEVELOPMENT PLAN FOR THE PROPERTY; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title read by City Attorney Chiaro. (10:07 a.m.)

Paul Ostergaard of UDA Architects reviewed the features of the proposed planned development known as Bayfront Marketplace which he indicated was actually a revision to a plan approved in 1990. He displayed renderings and noted that, while on a smaller scale, this project is comparable to Mizner Park of Boca Raton. Mr. Ostergaard called attention to a graphic prepared as part of the 41-10 area study indicating the extension of Third Avenue South to Goodlette-Frank Road which would allow the main entrance to the Bayfront Marketplace to be thus aligned, moving the current traffic light at the entrance to Grand Central Station north and also providing improved access to the Comfort Inn on the southwest corner of the site. However, the project could go forward if Third were not extended, he said. (It was clarified later in the discussion by Planning Director Missy McKim that although there is no current plan to extend Third, she had informed Naples Community Hospital, the lessor renovating Grand Central Station, of this proposal, and Ms. McKim indicated that there was an appreciation by NCH of the importance of the extension of Third to the Bayfront Marketplace site.) Included in this mixed use project would be approximately 211 residential units along with commercial activities such as retail, restaurant and cultural activities. To provide water access, 21 public recreational boat slips would be installed. While parking for the first phase of the project would be accommodated by surface lots, a second phase would necessitate construction of a single raised deck parking structure. Building heights would be stepped down from interior of the property with a maximum height of 60 feet. This Mr. Ostergaard compared to the 45 foot height of the Mariner's Cove condominium to the east and noted that the originally approved building height of this project was 65 feet and that the maximum residential height permitted in the City is 75 feet. He also noted that his group had met with residents of Mariner's Cove and had addressed their concerns in the project design, including installation of a wall to control wandering access between the site and Mariner's Cove. (In response to a request by Council Member Tarrant, Architect Ostergaard indicated that he would provide the City with a preliminary three-dimensional scale model which had been created for the project in order to illustrate relationships of buildings.)

John Moore, traffic planner, indicated that traffic generated by the proposed development would not significantly impact the traffic flow on Goodlette and cited an overall reduction in projected traffic of 5% from the original plan.

After receiving clarification from Planning Director Missy McKim that Mr. Ostergaard's firm, UDA Architects (Ray Gindroz), was being engaged for the second phase of the 41-10 area plan, Council Member Tarrant said he felt that this was a conflict of interest and would therefore oppose any further City funding of the 41-10 project.

Petitioner's Attorney J. Dudley Goodlette explained what he termed the important role played by the parcel in the 41-10 plan and that greater density would have been realized if the project were built to the maximum of its current commercial zoning; the new proposal is at a density of 18 units per acre which is consistent with the City's Comprehensive Plan. Mr. Goodlette also said that its character as a self-contained, mixed-use project would make it economically viable. Council Member Prolman, however, said she felt that high density remained a major concern and disputed the Mizner Park comparison in relation to density. She also expressed concern that with downtown redevelopment and the expansion of Coastland Mall, there would be little market for additional commercial units and that the project's residential units would be insufficient to support its retailers.

Staff then reviewed the public input received by the Planning Advisory Board, the staff's recommendation and the PAB action (Attachment 2).

Public Input

Christopher Dell, 307 Goodlette Road South (11:30 a.m.), a Mariner's Cove resident, stated that while he wished the project to thrive, he was opposed to five story buildings which was in his opinion contrary to the small town character of Naples. He also disputed the claim that traffic on Goodlette would not be significantly impacted and said he hoped that the wall to be installed separating Mariner's Cove from the project would not destroy trees; he asked for an approximate 50 foot of green space separation. **Kathleen Dell, 307 Goodlette Road South** (11:36 a.m.) noted that some members of the Planning Advisory Board had been absent when this project was approved and urged the Council to take time for a thorough review. She also registered opposition to density, potential for increased traffic, and building height. **Penny Taylor, 995 13th Street North** (11:40 a.m.), a resident of Lake Park, said she supported the overall mixed-use concept but was concerned about density and traffic on Goodlette, particularly in light of the widening of the Gordon River bridges. **Kim Kobza, 4001 North Tamiami Trail, representing Comfort Inn**, (11:43 a.m.) spoke in support of the project and requested that the left-turn access from Goodlette into the Comfort Inn remain a part of the Planned Development document.

In further Council discussion it was determined that the boardwalk to be installed under the Gordon River bridge would be connected to the project and that construction of a new swimming pool at Comfort Inn would not result in loss of parking.

MOTION by VanArsdale to APPROVE this ordinance on First Reading with the main entrance to the project at the extension of Third Avenue South and allowing a southbound left turn from Goodlette-Frank Road at the south property access; seconded by Sullivan and carried 4-3, all members present and voting

(MacKenzie-no, Nocera-yes, Prolman-no, Sullivan-yes, Tarrant-no, VanArsdale-yes, Barnett-yes).

Prior to the vote on this motion, Council Member VanArsdale declined a request by Council Member Tarrant to include prohibiting UDA Architects from playing a further role in the 41-10 program. Attorney Goodlette, however, accepted Council Member MacKenzie's suggestion that purchasers and lessors be advised of the project's proximity to airport landing patterns.

Recess: 11:52 a.m. to 1:30 p.m. It is noted for the record that the same Council Members were present when the meeting reconvened.

**RESOLUTION (Failed).....ITEM 12
A RESOLUTION GRANTING CONDITIONAL USE PETITION 96-CU6, IN ORDER TO
PERMIT STAGED ENTERTAINMENT AT MANGO'S RESTAURANT, LOCATED AT
1350 9TH STREET NORTH, MORE PARTICULARLY DESCRIBED HEREIN; AND
PROVIDING AN EFFECTIVE DATE.** Title read by City Attorney Chiaro. (1:30 p.m.)

Attorney J. Dudley Goodlette appeared on behalf of the petitioner and indicated agreement with the conditions recommended by the Planning Advisory Board (Attachment 3). He also indicated that the restaurant had made an effort to be a good neighbor to the surrounding residential area and that no complaints had been filed, even when occasional outdoor musical entertainment had been offered in the past. Mr. Goodlette also pointed out that the area where musical entertainment would now be presented was at the front of the building, farthest away from residences at the rear of the property, and provided a diagram showing this location, a copy of which is contained in the file for this meeting in the City Clerk's Office. Mr. Goodlette then read into the record a letter from John Hisler of Bayou Productions reviewing the restaurant design, the entertainment to be offered, and sound levels which he deemed appropriate (Attachment 4). (It was clarified that the requested days for entertainment were Tuesday through Saturday rather than Wednesday through Sunday as set forth in the proposed resolution.)

Public Input:

Valerie Farino, Farino's Restaurant, 4000 North Tamiami Trail (2:12 p.m.), spoke in support of the petition, urging Council not to allow the pending litigation with Magiero's Restaurant over revocation of their conditional use permit to influence them to deny Mango's. She said the petitioner in this case appeared to be making an effort to be responsible. **Chester Naiman, 195 Fourth Street South** (2:17 p.m.), spoke in support of the petition as a consumer of musical entertainment and that the entertainment to be offered at Mango's would be geared to a more mature audience which would be less likely to cause disturbances in the parking lot. **Rick Compton, 1288 Rainbow Court** (2:20 p.m.), a musician, cautioned against equating noise level with number of performers, noting that, as a single performer with certain equipment, he could recreate the sound of a multiple piece rock orchestra. **Nancy Neumeyer, 1216 Tenth Street North** (2:23 p.m.), noted that the former restaurant sign being changed to advertise a bar/bistro revealed the owners' real intent and stated that one of the main disturbances was parking lot noise late at night. **William H. Thralls, 1355 Tenth Street North** (2:26 p.m.), indicated his home was directly behind Mango's and would therefore be most affected. He supported the petition, pointing out that parking lot noise and vehicle lights are currently a disturbance and by granting of the conditional use, remedial measures would be taken. **Sandy Hackney, 1281 Tenth Street North** (2:30 p.m.), said that allowing entertainment as proposed would negatively impact the lives of Lake Park residents five of seven nights each week and urged Council to deny the request. **Betsy Jones, 1075 Seventh Avenue North** (2:31 p.m.), said she was very much opposed to staged entertainment at Mango's and that the Lake Park neighborhood had been disturbed too many times in the past few years. She predicted other

restaurants which also border Lake Park would make similar requests if this permit were approved. **Virginia Clement, 1020 13th Street North** (2:23 p.m.), representing Lake Park Association, pointed out that William Thralls, a prior speaker who supported the application, would profit from rezoning Tenth Street from residential to commercial which he had proposed in a letter regarding this petition. Mrs. Clement also noted that as part of the City's neighborhood meetings in the comprehensive planning process, Lake Park residents had stated as a priority protecting residential neighborhoods from such intrusions. **Nicholas Long, 1541 Mandarin Road** (2:38 p.m.), representing the Coquina Sands Association, pointed out that Mango's is across the street from a church and the Coquina Sands residential neighborhood and allowing staged entertainment there would cause an unnecessary noise increase. **Edward Dotter, 2911 Tenth Street North** (2:43 p.m.), urged the Council to reject the petition stating that several establishments like Mango's bordered Tenth Street residences. He said that regardless of whether the City Council grants or revokes permits for staged entertainment, establishments tend to proceed as they wish. **Penny Taylor, 995 13th Street North** (2:47 p.m.), urged the Council to recognize that most of the speakers as well as 67 petition signatories opposed allowing staged entertainment at this establishment in their neighborhood. She also pointed out that the Tenth Street residential area was very vulnerable to disturbances and that the City should honor these residents' need for peace and quiet.

MOTION by VanArsdale to APPROVE this resolution AS AMENDED to change days of operation to Tuesday through Saturday, deleting Section 2-7 regarding a finding of violation by the Code Enforcement Board, and inserting a new Section 2-7 to the effect that the restaurant management will ensure that noise from the establishment will not disturb immediately adjacent neighbors; seconded by Nocera. This motion failed 3-4, all members present and voting (MacKenzie-no, Nocera-yes, Prolman-yes, Sullivan-no, Tarrant-no, VanArsdale-yes, Barnett-no).

Prior to the vote on this item, further discussion included Council Member Nocera pointing out that the main concern seemed to be noise in the parking lot and that this was being dealt with in the petition. Council Member Sullivan, however, said that the neighboring residents should be protected, noting that Naples is fundamentally residential and therefore could not support such intensifications of commercial activity.

ORDINANCE (Not considered)ITEM 13
AN ORDINANCE AMENDING DIVISION 5, "THIRD STREET COMMERCIAL AREA SPECIAL OVERLAY DISTRICT", OF CHAPTER 102 OF THE COMPREHENSIVE DEVELOPMENT CODE OF THE CITY OF NAPLES FOR THE PURPOSE OF IMPLEMENTING THE THIRD STREET COMMERCIAL AREA MASTER CONCEPT PLAN; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION, AND AN EFFECTIVE DATE. (Title not read) It had been noted at the April 1, 1996, workshop that this item would not be considered at this meeting.

CORRESPONDENCE and COMMUNICATIONS.....
 Council Member Sullivan noted an account at First National Bank established to benefit City Clerk Marilyn McCord who is undergoing experimental medical treatment and that a silent auction would also be held for her benefit. He urged the public to participate and to contact the City Manager's Office for further information. Council Member Tarrant asked for additional information on security at the Fishing Pier due to recent vandalism and stated that Sheriff Don Hunter had indicated a willingness to be of assistance. As an alternative to securing rest rooms at night, Council Member VanArsdale suggested that a guard patrol 24 hours a day so that law abiding citizens would not be inconvenienced. Assistant City Manager Harrison indicated that the staff would report back after

researching various alternatives.

ADJOURN.....

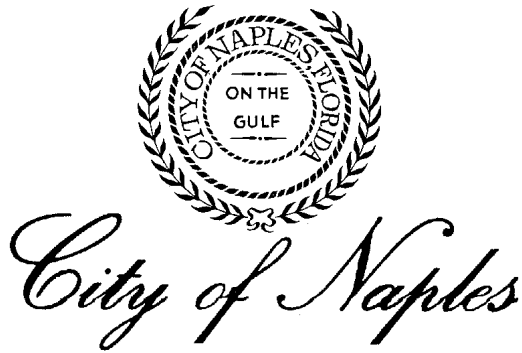
3:09 p.m.

Bill Barnett, Mayor

Minutes prepared by:

Tara A. Norman, Deputy City Clerk

Minutes approved: 5/1/96



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City Council Regular Meeting
April 3, 1996
Convened 9:00 a.m. / Adjourned 3:09 p.m.

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Len Berlin
Janice McWard
Dudley Goodlette
Gene Luciano
Kim Kobza
Chris Bundschup
Penny Taylor
Edward Dotter
Valerie Farino
Christopher Dell
Kathleen Dell
Rick Compton
Chester Naiman
Nicholas Long
Virginia Clement
Betsy Jones
Sandy Hackney
Edward Dotter
William Thralls
Nancy Nevmeyer
Paul Ostergaard
Kevin Stoneburner
John Ward

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