



City Council Chamber
735 Eighth Street South
Naples, Florida 33940

City Council Regular Meeting - November 20, 1996 - 9:00 a.m.

Mayor Barnett called the meeting to order and presided.

ROLL CALL

ITEM 1

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
Donald Wirth, Community Services Dir.
Missy McKim, Planning Director
Ralph LaCivita, Comptroller
Anne Middleton, Budget & Invest. Mgr.
Flinn Fagg, Planner I
Philip Buck, Parks & Parkways Supt.
Tara Norman, City Clerk
Shirley Moore, Recording Secretary
Hugh Henderson, Equip. Oper. III
Dr. Jon Staiger, Natural Resources Mgr.
Joanne Bradford, Admin. Assist.
James Rideoutte, Planning Advisory Board

See also Supplemental Attendance List
(Attachment 1)

Media:

Gina Edwards, Naples Daily News
Dave Taylor, Continental Cablevision
Ben Gray, Naples Daily News
Jim Waltz, WINK-TV
Michelle McGowan, FOX-TV
Frank Kinsman, WNOG
Valerie Boy, WINK-TV

INVOCATION and PLEDGE OF ALLEGIANCE (9:31 a.m.).....**ITEM 2**
Reverend John Morgan, Praise Temple of Golden Gate

ANNOUNCEMENTS (9:32 a.m.)**ITEM 3**

City Manager Richard Woodruff invited Council and the public to the official ribbon cutting ceremony for the new skateboard facility at Fleischmann Park, 9:00 a.m., Saturday, November 23rd.

Assistant City Manager Bill Harrison presented the Government Finance Officers Association Certificate for Excellence in Finance Reporting to Comptroller Ralph LaCivita and the City accounting staff, noting that the award is the highest city governments can receive. Mr. Harrison also recognized KPGM Peat Marwick, the City's auditing firm, and noted that bond rating agencies, in their decision making, consider both this particular award and the auditing firm involved.

ITEMS TO BE ADDED (9:35 a.m.)**ITEM 4**

City Manager Richard Woodruff requested that Item 19, appointment of Blue Ribbon Committee on Council Salary and Benefits, be added to the agenda and Item 6, Wilderness PUD, be deleted due to a flaw in the legal description which caused incorrect advertising.

MOTION by Sullivan to SET AGENDA, ADDING ITEM 19 and DELETING ITEM 6; seconded by Van Arsdale and unanimously carried, all members present and voting. (MacKenzie-yes, Nocera-yes, Prolman-yes, Sullivan-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes)

RESOLUTION 96-7859**ITEM 18**

A RESOLUTION APPOINTING ONE MEMBER TO THE CITY OF NAPLES AIRPORT AUTHORITY; AND PROVIDING AN EFFECTIVE DATE. Title not read. (9:37 a.m.)

Mayor Barnett invited public input before taking nominations for the airport authority.

Public Input: (9:37 a.m.)

Russell Ferguson, 540 12th Avenue South, commended candidate Louis Amato for his past service to the airport and recognized his experience with the Federal Aviation Administration (FAA). **Christopher Dell, 307 Goodlette Road**, FOCUS Committee Member, spoke in opposition to Mr. Amato's appointment, citing what he described as Mr. Amato's inclination to close the airport.

Boris Kutner, 753 18th Avenue South, recommended that a city resident be appointed.

MOTION by Van Arsdale, to APPOINT LOUIS X. AMATO to the Airport Authority; seconded by Sullivan, and carried 4-3; all members present and voting. (MacKenzie-no, Nocera-yes, Prolman-no, Sullivan-yes, Tarrant-no, Van Arsdale-yes, Barnett-yes)

(See Attachment 2 for preliminary nominations)

.....**ITEM 5**

PRESENTATION OF ANNUAL INVESTMENT REPORT BY PALM BEACH INVESTMENT ADVISERS, INC. (9:56 a.m.)

Assistant City Manager Bill Harrison introduced John Thompson of Palm Beach Investment Advisers. Mr. Thompson reported that the return on the City's investments after the firm's first full year of reporting was 5.89%, an amount substantially in excess of treasury bills, and noted that the City's investment portfolio is extremely conservative and of extremely high quality. (A copy of the Annual Investment Report is contained in the file for this meeting in the City Clerk's Office.)

**ORDINANCE 96-7860.....ITEM 7
AN ORDINANCE APPROVING TEXT AMENDMENT 96-T9, AMENDING
SUBSECTIONS 78-172(a) AND 78-173(b) OF THE CODE OF ORDINANCES IN ORDER
TO PERMIT UNRESTRICTED CHARTER BOATS TO PARTICIPATE IN PICK-
UP/DROP-OFF ACTIVITY; PROVIDING A SEVERABILITY CLAUSE, A REPEALER
PROVISION AND AN EFFECTIVE DATE. Title read by City Manager Woodruff (9:59 a.m.)**

In response to Council Member Sullivan, City Manager Richard Woodruff reported that amphibious tour vehicles ("ducks") must meet all charter vessel requirements, and whether the vessel is restricted or unrestricted would be determined after a business plan is submitted and reviewed by the City.

Public Input: None. (9:59 a.m.)

MOTION by Sullivan to ***APPROVE*** Ordinance 96-7860 as submitted; seconded by Van Arsdale and unanimously carried, all members present and voting. (MacKenzie-yes, Nocera-yes, Prolman-yes, Sullivan-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes)

**ORDINANCE (First Reading)ITEM 8
AN ORDINANCE AMENDING ARTICLE III., "PLANNING ADVISORY BOARD FEES,
"SECTION 118-61., "PETITION FEES," OF THE COMPREHENSIVE DEVELOPMENT
CODE OF THE CITY OF NAPLES RELATING TO PROCESSING FEES FOR
PLANNING ADVISORY BOARD PETITIONS; PROVIDING A SEVERABILITY
CLAUSE, A REPEALER PROVISION, AND AN EFFECTIVE DATE. Title read by City
Manager Woodruff (10:03 a.m.)**

City Manager Richard Woodruff pointed out that this fee schedule resulted from a request by Council during budget adoption.

Public Input: None. (10:03 a.m.)

MOTION by Sullivan to ***APPROVE*** this ordinance on first reading; seconded by Tarrant and unanimously carried, all members present and voting. (MacKenzie-yes, Nocera-yes, Prolman-yes, Sullivan-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes)

RESOLUTION 96-7861.....ITEM 9
A RESOLUTION APPROVING A WAIVER FROM THE FIFTH AVENUE SOUTH SPECIAL OVERLAY DISTRICT MINIMUM FIRST-STORY SETBACK REQUIREMENT AND MINIMUM GLAZING REQUIREMENT IN ORDER TO PERMIT THE CONSTRUCTION OF A BUILDING WITH A FIVE-FOOT SETBACK AT THE FRONTAGE LINE AND LESS THAN 70% GLAZING ALONG ONE FACADE, SAID BUILDING TO BE LOCATED AT 603-605 FIFTH AVENUE SOUTH; AND PROVIDING AN EFFECTIVE DATE. Title read by City Manager Woodruff. (10:04 a.m.)

Petitioner William Meek presented a brief history of the Harmon Meek Gallery. Planning Director Missy McKim also advised Council that the Staff Action Committee recommended approval of the waiver. She however noted two outstanding issues: 1) her recommendation that the backflow prevention device be placed on private property rather than the public right-of-way; and 2) the need for an underground stormwater vault which, she added, was discussed during a meeting between Mr. Meek's architect and Development Services Director Richard Gatti. The petitioner agreed to be responsible for landscaping around the backflow preventer if placed in the right-of-way. He also requested that street lighting be installed for the business area on Sixth Street South.

Council Member MacKenzie expressed concern about vehicles from the garage backing onto Sixth Street South and requested that the backflow preventer be placed on private property. Vice Mayor Prolman noted the design of the building as an improvement to the street.

Public Input: None. (10:20 a.m.)

MOTION by Van Arsdale to APPROVE Resolution 96-7861 as submitted; seconded by Nocera and unanimously carried, all members present and voting. (MacKenzie-yes, Nocera-yes, Prolman-yes, Sullivan-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes)

Following the motion, Alfred French, architect for the petitioner, explained that there is no room on the site for either the backflow preventer or water retention without modification to the building plan. He requested approval to place the backflow preventer on the right-of-way and also asked to divert roof runoff directly into the storm sewer due to the prohibitive cost of an underground vault.

After further discussion, City Manager Richard Woodruff responded that staff would follow-up with Mr. French on the two outstanding issues. Council Member Tarrant recommended installing the backflow device vertically and suggested that the architect assist with a design to create a less obtrusive location for the device.

RESOLUTION 96-7862.....ITEM 10
A RESOLUTION APPROVING AN APPEAL OF A DECISION OF THE STAFF ACTION COMMITTEE ON OCTOBER 1, 1996, WHICH REQUIRED THAT A SIGN IN THE FIFTH AVENUE SOUTH SPECIAL OVERLAY DISTRICT FOR "ROSE DE PARIS &

PROVENCE", 457 FIFTH AVENUE SOUTH, BE LIMITED TO ONE LINE OF TEXT, WITH LETTERING NO HIGHER THAN 12 INCHES IN VERTICAL DIMENSION, THAT THE BOTTOM OF THE LETTERS BE NO LOWER THAN THE "BULLY'S BAGELS" SIGN IN THE ADJACENT STORE, AND THAT THE WORD "ANTIQUES" BE ELIMINATED FROM THE SIGN; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Chiaro. (10:21 a.m.)

Planning Director Missy McKim explained that the Staff Action Committee had recommended a line of lettering no higher than twelve inches and no lower than adjacent signs, such as Bully's Bagels and the Book Nook. Petitioner representative William A. Carter of Carter's Sign Shop provided a drawing which, he said, showed copy extending below the acceptable line on the Bully's Bagels sign and stressed that the sign he is proposing is within the two foot sign band.

Council Member Van Arsdale noted that SAC felt the sign was much larger and inconsistent with the rest of the building, and therefore denied the waiver. Council Member Sullivan, however, pointed out that the sign's purpose is to inform and identify, and removing the word "antiques" from this sign defeats that purpose. Council Member Tarrant concurred and Council Member MacKenzie took the position that the proposal was within the prevailing rules. Council Member Van Arsdale, however, reiterated that it is the responsibility of SAC to make such determinations. Vice Mayor Prolman noted that SAC's goal was consistency throughout the Fifth Avenue Overlay District.

Public Input: None. (10:35 p.m.)

MOTION by Tarrant to ***APPROVE*** Resolution 96-7862 as submitted; seconded by Sullivan and carried 5-2, all members present and voting. (MacKenzie-yes, Nocera-yes, Prolman-no, Sullivan-yes, Tarrant-yes, Van Arsdale-no, Barnett-yes)

Break 10:35 to 10:42 a.m. It is noted for the record that the same Council Members were present when the meeting reconvened.

RESOLUTION 96-7863.....ITEM 11
A RESOLUTION NOTIFYING MARIA J. CHIARO, CITY ATTORNEY, OF NON-CONTINUANCE OF THE CITY ATTORNEY EMPLOYMENT AGREEMENT BETWEEN THE CITY OF NAPLES AND MARIA J. CHIARO, DATED JUNE 2, 1995; AND PROVIDING AN EFFECTIVE DATE. Title not read. (10:42 a.m.)

City labor attorney Peter Hurtgen indicated that City Attorney Chiaro would make a statement.

City Attorney Maria Chiaro then offered her resignation effective January 1, 1997, in accordance with the terms proposed by Mr. Hurtgen in a resignation agreement. (A copy of this material is contained in the file for this meeting in the City Clerk's Office.) Ms. Chiaro briefly noted the accomplishments of her department and the efforts of her staff, and expressed her intention to work with any new City Attorney to facilitate the transition. Attorney Hurtgen then commended City

Attorney Chiaro for her abilities and accomplishments.

Public Input: (10:49 a.m.)

Samuel Del Mauro, 777 Fountainhead Lane, expressed to City Attorney Chiaro disappointment in her resignation. He also referred to recent newspaper articles and asserted that questions relating to her job description should be answered. **Elaine Luckhart, 3500 Crayton Road**, declined to speak when called. **Jane Cheffy, 2375 Tamiami Trail North, Suite 207**, expressed support for City Attorney Chiaro noting that she is the only Board Certified government lawyer in Collier County. Ms. Cheffy pointed out that an in-house attorney's function is to advise as to the pros and cons of government matters but it is the political function to make decisions. She added that the in-house attorney also manages outside legal counsel for litigation. **Elizabeth Van Arsdale, 2148 Arbor Walk Circle**, declined to speak when called but chose to speak during Open Public Input below.

Council Member Van Arsdale thanked City Attorney Chiaro for her work and acknowledged her willingness to do what is best for the City. Council Member Nocera also thanked City Attorney Chiaro expressing concern about locating a successor.

MOTION by Van Arsdale to APPROVE Resolution 96-7863 as submitted; seconded by Prolman and carried 5-2; all present and voting. (MacKenzie-yes, Nocera-yes, Prolman-yes, Sullivan-no, Tarrant-yes, Van Arsdale-yes, Barnett-no)

Following the motion, City Attorney Chiaro noted that this action would be embodied in resolution form.

CONSENT AGENDA

APPROVAL OF MINUTES.....ITEM 12
November 4, 1996 Workshop Meeting

.....**ITEM 13**
APPROVAL OF AFTER-THE-FACT CHANGE ORDER IN THE AMOUNT OF \$7,652.98 TO CROSS COUNTRY PIPE & RAIL, INC. FOR ADDITIONAL WORK AT PUMP STATION #49 (BROAD AVENUE & 8TH STREET SOUTH) Funding: Project #96X03 (Pump Station Conversion Account)

.....**ITEM 14**
APPROVAL OF AFTER-THE-FACT CHANGE ORDER IN THE AMOUNT OF \$17,665.25 TO KYLE CONSTRUCTION, INC. FOR ADDITIONAL WORK RELATING TO THE RUDDER ROAD DRAINAGE IMPROVEMENT PROJECT. Funding: Stormwater Budget.

RESOLUTION 96-7864.....ITEM 15
RESCHEDULING OF JANUARY 1, 1997 REGULAR CITY COUNCIL MEETING TO JANUARY 15, 1997. Title not read.

.....**ITEM 16**
AWARD OF BID FOR GOLDEN GATE PARKWAY MEDIAN MAINTENANCE (ANNUAL CONTRACT). Contractor: Commercial Land Maintenance, Inc., Naples, Florida \ Annual Total: \$12,589.32 \ Funding: Parks & Parkways 31-04 Account (Other Contractual

Services)

END CONSENT AGENDA

MOTION by Sullivan to **APPROVE** Consent Agenda as submitted; seconded by Van Arsdale and unanimously carried, all members present and voting. (MacKenzie-yes, Nocera-yes, Prolman-yes, Sullivan-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes)

.....**ITEM 17**
AUTHORIZATION TO ISSUE A PURCHASE ORDER FOR TWO (2) ADMINISTRATIVE VEHICLES. Vendor: Don Reid Ford, Inc., Maitland, Florida \ Total: \$42, 588.00 \ Funding: CIP Project #97Y07 (Engineering) and CIP Project #97U04 (Streets) (11:07 a.m.)

In response to Council, City Manager Richard Woodruff explained that the 2-wheel drive utility vehicles were selected in order to better travel through high water.

Public Input: None. (11:07 a.m.)

MOTION by Van Arsdale to **APPROVE** Item 17 as submitted; seconded by Sullivan and unanimously carried, all members present and voting. (MacKenzie-yes, Nocera-yes, Prolman-yes, Sullivan-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes)

CORRESPONDENCE and COMMUNICATIONS.....
None. (11:08 a.m.)

OPEN PUBLIC INPUT (11:08 a.m.)

Elizabeth Van Arsdale, 2148 Arbor Walk Circle, spoke on Item 11 (City Attorney) and questioned the rationale of Council's decision not to renew Ms. Chiaro's employment agreement. Speaking on behalf of the Women's Political Caucus, Ms. Van Arsdale asserted that since Council Members did not speak about their reasons for a no confidence vote, there may have been bias in their decision not to support Ms. Chiaro. The message to the community is that Council's decision is based on bias, personal or professional interests and, she added, since Council Members did not reveal their reasons for a no confidence vote, their decision may not justify their non-support of Ms. Chiaro.

Council Member Tarrant addressed Ms. Van Arsdale's comments noting that her statements may not encompass the entire issue. Ms. Van Arsdale responded that Council's silence may indicate that their reasons are illegal. Council Member Tarrant, however, commented that since Ms. Chiaro had retained an attorney, individual Council Members were precluded from commenting on the issue publicly. He further stated that he was offended by accusatory correspondence to Council regarding Mayor Barnett and asserted his position that Mayor Barnett had always acted fairly.

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Ms. Van Arsdale reiterated that Council must consider if there had been bias and be constantly vigilant in these decisions as there may have been bias in the decision not to support Ms. Chiaro.

ADJOURN
11:12 a.m.

Bill Barnett, Mayor

Tara A. Norman
City Clerk

Prepared by:

Shirley Moore
Recording Secretary

Minutes approved:12/18/96.

Attachment 1
11/20/96 Regular Meeting
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Supplemental Attendance List

Reverend John Morgan
Charles Andrews
Larry Martin
Tony Pires
Louis X. Amato
Richard A. Matheis
Al French
Arline Guckenburger
John Passidomo
Peter Hurtgen
John C. Thompson
Janice Maline, McMiller Reporting Services, Inc.
William Meek
William Carter

NOVEMBER 20, 1996 CITY COUNCIL REGULAR MEETING
AIRPORT AUTHORITY
NOMINATIONS

Round 1	Kingston	MacKenzie	Van Arsdale	Failed	2-5 Tarrant and MacKenzie in f
	Gentil	Nocera	Van Arsdale	Failed	2-5 Prolman and Nocera in favo
	Soulard	Tarrant	MacKenzie	Failed 1-6	Tarrant in favor
	Matheis	Prolman	Barnett	Failed 1-6	Prolman in favor
	Amato	Van Arsdale	Sullivan	Failed 3-4	Van Arsdale, Barnett, Sull in favor
Round 2	Kingston			Failed 2-5	Tarrant and MacKenzie in f
	Matheis			Failed 0-7	None in favor
	Soulard			Failed 1-6	Tarrant in favor
	Amato			Passes 4-3	Nocera, Sullivan, Van Ars favor