



City Council Chamber
735 Eighth Street South
Naples, Florida 34102

City Council Regular Meeting - December 18, 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
Bill Harrison, Asst. City Manager
Missy McKim, Planning Director
Flinn Fagg, Planner I
Don Wirth, Community Services Dir.
George Henderson, Sergeant of Arms
Virginia Neet, Deputy City Clerk
Rich Locker
Ralph Carter
Tom Hogan
Dudley Goodlette
John Passidomo
Kathleen Passidomo
Charlie Andrews
Other interested citizens and visitors

See also Supplemental Attendance List
(Attachment 1)

Media:

Gina Edwards, Naples Daily News
Dave Taylor, Continental Cablevision
Frank Kinsman, WNOG
Fox News

INVOCATION AND PLEDGE OF ALLEGIANCE (9:00 a.m.).....**ITEM 2**
Pastor Michael Teston, Calvary Community Church

ANNOUNCEMENTS (9:02 a.m.)**ITEM 3**
City United Way Chairman Don Wirth reported that employees had exceeded the \$5,000 goal and that employee participation had increased from 24 to 82. City Manager Woodruff recognized Mr. Wirth's leadership and noted that Planning Director Missy McKim would be president of the United Way of Collier County next year. Dr. Woodruff also noted that prior to this meeting, two benches at the entrance to Council Chamber were dedicated to the memory of former City Clerk, Marilyn McCord.

ITEMS TO BE ADDED (9:04 a.m.)**ITEM 4**
Vice Mayor Prolman requested that Item 32, (discussion relating to the City Manager's letter to Florida Department of Transportation relating to the Gordon River Bridge reconstruction) be added to the agenda:

MOTION by Sullivan to ***SET AGENDA*** and ***ADD ITEM 32;*** 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)

Later in the meeting ITEM 33 Appointment of a City resident to the Beach Renourishment/Maintenance Committee was also added to the agenda pursuant to the 12/16/96 Workshop Meeting.

CONSENT AGENDA

APPROVAL OF MINUTES.....**ITEM 28**
November 20, 1996 Regular Meeting

.....**ITEM 29**
APPROVAL OF THE FOLLOWING SPECIAL EVENTS:

Naples Progressive Gymnastics/Florida Workout 96 - 12/30/96
Naples Chamber/EDC Coalition Fundraiser 1/10/97
An Evening on Fifth Avenue South - 1/17/97
Naples Daily News 1/2 Marathon - 1/19/97 inter Festival Bonfire - 2/1/97

RESOLUTION 96-7876.....**ITEM 30**
A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXPEND FUNDS FROM THE POLICE CONFISCATION TRUST FUND FOR THE PURCHASE OF AN "ALERT/NON-ALERT NOTIFICATION SYSTEM" FOR THE NAPLES POLICE AND EMERGENCY SERVICES DEPARTMENT; TO ISSUE A PURCHASE ORDER THEREFORE IN THE APPROXIMATE AMOUNT OF \$21,700.00; AND PROVIDING AN EFFECTIVE DATE. Title not read.

RESOLUTION 96-7877.....ITEM 31
A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN
INTERLOCAL AGREEMENT BETWEEN THE CITY AND COLLIER COUNTY FOR
THE PURPOSE OF ESTABLISHING DISPATCH PROTOCOLS, RULES AND
RESPONSIBILITIES OF FIRST RESPONDER PERSONNEL IN AN EMERGENCY
SCENE; AND PROVIDING AN EFFECTIVE DATE. Title not read.
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)

Prior to this motion City Manager Richard Woodruff noted that materials relating to Item 31 had been provided to Council as requested.

Dr. Woodruff also noted a request for continuance of Item 21 by the Buquebus, Inc. attorney and requested City Attorney Chiaro's opinion on whether the motion to continue could be heard at this time. Ms. Chiaro observed that since the scheduled hearing is for a change in zoning, a hearing for the public on continuance of the item should be held at 2:00 p.m. advertised time.

ORDINANCE (Failed).....ITEM 5
AN ORDINANCE AUTHORIZING THE ANNEXATION OF A 3.27 ACRE PARCEL
LOCATED WITHIN THE WILDERNESS PUD, IMMEDIATELY EAST OF THE CITY
LIMITS AND MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING A
SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.
Title read by City Attorney Chiaro. (9:05 a.m.)

A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A
DEVELOPMENT AGREEMENT, A COPY OF WHICH IS ATTACHED HERETO,
WHICH ESTABLISHES THE DEVELOPMENT RIGHTS FOR A 3.27 ACRE PARCEL
LOCATED WITHIN THE WILDERNESS PUD, MORE PARTICULARLY DESCRIBED
HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title not read.

It is noted for the record that the above ordinance and resolution were considered simultaneously.

Attorney Richard Locker made a presentation on behalf of TelTrust Group and referred to their petition for a voluntary annexation and development agreement for a 140-unit Hilton Hotel just south of the Wilderness Country Club entrance. He noted the request for a maximum ceiling height of 37 feet and, in light of opposition to this height, proposed to stipulate to a maximum height of 35

feet and request a re-vote if the first proposal fails. He confirmed that the 35-foot height would be four-story hotel with a measurement to the ceiling of the highest floor of 35 feet.

Vice President and Project Manager Ralph Carter thanked the Planning Department for assistance and suggestions regarding the changes to the project and pointed out what he termed as an outstanding architectural design for the new building, reduced from five to four stories. He referred to a landscaping plan (a copy of this plan can be found in the file for this meeting in the City Clerk's Office) which he said demonstrates consideration of the Wilderness residents by including a divider between the properties. He also noted a traffic pattern and location of the swimming pool and dumpster to avoid disturbing Wilderness residents. He observed that there are other hotels in the City both four and five stories in height and six-story office buildings on Goodlette Road. He also noted an agreement to grant the City a utility easement and emphasized that no variance request is associated with this petition. Mr. Carter further stated his belief that a hotel is the best and highest use for the property.

Architect Tom Hogan referred to the quality of Hilton Hotels, the quality of materials and amenities planned for this particular hotel such as a barrel tile, sloping roof design as opposed to a flat roof. Mr. Hogan addressed the consequences of losing two feet of ceiling height from the lobby which he said would impact design proportions. Further, the height adjustment will change the window size affecting the visual appeal from the outside of the building and will reduce the quality of the building inside and out, he said. In response to questions, Mr. Hogan did confirm, however, that the room size and the quality of materials would not be diminished.

Further adjustments to the building were suggested by Council Members such as a step-down lobby and dropping the floors on the north and south wings to reduce the overall height of the building and the density. Mr. Hogan pointed out, however, that 140 rooms are required in order to make the project economically feasible.

Council Member Nocera questioned if a franchise agreement had been signed with Hilton and observed that another hotel of lesser quality could be constructed at the site, once the petition was approved. The petitioner responded that a formal application had not been submitted because Hilton Hotels will not sign an agreement until the property is rezoned; however, it was indicated that the hotel plan currently before Council would not change.

Attorney Locker then used overheads to raise points in favor of the petition: 1) the architectural quality and knowing what will be placed on the site; 2) compatibility of the residential-type commercial use proposed; 3) highest and best use or ad valorem tax revenue; 4) potential tourist development tax revenue; 5) development according to City standards; 6) additional control of Goodlette Road corridor; 7) less vehicle trips per day than other commercial uses; 8) signage control; and 9) use of a reuse water for irrigation.

Planning Director Missy McKim noted that 247 opposing letters were received and six citizens spoke against the petition at the Planning Advisory Board Meeting, and the PAB had denied the petition due to concerns regarding height.

Ms. McKim used an overhead transparency to outline a study showing exceptions to building heights and density in the City. She noted that the Inn of Naples is 48 feet high and is considered one of the most attractive. She also noted that this petitioner had made design improvements to assure a quality hotel. She referred to a chart showing transient lodging facilities ranging from 21 to 86 units per acre, noting that the proposed hotel is at 43 units per acre. (A copy of this material is contained in the file for this meeting in the City Clerk's Office.)

Vice Mayor Prolman requested that context drawings be provided in the future and it was noted that the code would be amended to require drawings on large projects.

City Manager Richard Woodruff observed that although the County has a density cap, the City does not and suggested that the community adopt City-wide architectural review standards.

Public Input: (9:59 a.m.)

Attorney J. Dudley Goodlette representing the Wilderness Country Club stated that the basis of his client's concern is founded in the Code's three-story maximum of 35 feet. He noted that the petition is for an annexation development agreement for a property currently in the County and further noted that Parcel 9 of the Wilderness PUD is to be utilized for development which will be fully compatible. He read from the Highway Commercial District, Section 102.41: "the maximum height shall be limited and measured as follows: three stories, up to a maximum of 35 feet." He also read into the record a letter from the County Planning Services Director Donald Arnold regarding various County zoning issues. (A copy of this letter is in the file for this meeting in the City Clerk's Office.) Mr. Goodlette then noted that the petition for annexation, if approved, is not limited to a hotel.

Ms. McKim cited the importance of good design noting that a development agreement can control architectural design as opposed to a zoning district and further stated that a strip center at the location would not be compatible.

Don Gemming, 100 Wilderness Way #248, noted a meeting with Donald Arnold, who according to Mr. Gemming, stated that any development should meet the criteria and be fully compatible with the Wilderness as stated in the PUD and conform to the County C1 classification. **Jim Ricca, 104 Wilderness Drive**, stated that the Wilderness Board of Directors unanimously voted to oppose this petition and stated that TelTrust came to the City for approval because they knew they would not be approved by the County. He said, however, that a 3-story, low density hotel would be applauded. **Bill Naughton, 102 Tall Pine Lane #2107**, observed that there are many Wilderness residents who do support a quality Hilton Hotel citing benefits derived from a hotel such as this as a neighbor.

William Leighner, 111 Wilderness Drive #218, spoke in opposition noting that a high-density hotel and transient traffic are not compatible with the Wilderness. **Ralph Manton, 100 Wilderness Way #146,** spoke in opposition stating that the developer should acquire more land thereby satisfying code requirements. **David Fenner, 103 Clubhouse Drive,** observed that any adjacent building should be fully compatible with the Wilderness.

Break: 10:41 - 10:55 a.m. It is noted for the record that the same Council Members were present when the meeting reconvened.

Mr. Locker noted that Mr. Arnold's letter is not binding on City Council and pointed out that height is measured differently for a hotel because it does not use as much space on floors where there are rooms.

City Manager Woodruff pointed out that in a PUD there is no height maximum, no number of floors established, and no density established because the PUD's purpose is to provide flexibility, innovation, and compatibility.

Vice Mayor Prolman asked why more effort had not been made to reduce the size of the hotel, citing Council concerns, and Mr. Carter stated that the hotel size reflects that it will be a full service establishment.

Both Mayor Barnett and Council Member Tarrant expressed concern that annexation of the Wilderness had become so closely associated with action on the hotel. Council Member MacKenzie concurred and noted that it would be difficult to approve a petition which had exceeded guidelines to such a degree. However, Council Member Van Arsdale observed that the PD process provides such flexibility and that he could not support the proposed reduction in height.

MOTION by Van Arsdale to APPROVE this Ordinance on first reading; seconded by Nocera and failed 2-5, all present and voting. (MacKenzie-no, Nocera-yes, Prolman-no, Sullivan-no, Tarrant-no, Van Arsdale-yes, Barnett-no)

Prior to the following motion, Council Member Sullivan observed that the hotel lobby was not as important as the level of service.

MOTION by Sullivan to APPROVE this Ordinance on first reading with a stipulation that the hotel would be limited to 35 feet as proposed in petitioner's Plan B; seconded by Nocera and failed 2-5, all present and voting. (MacKenzie-no, Nocera-yes, Prolman-no, Sullivan-yes, Tarrant-no, Van Arsdale-no, Barnett-no)

After the vote, Mayor Barnett reiterated his hopes for future annexation of the Wilderness Country Club community into the City.

(Deleted from the Agenda)ITEM 6

ORDINANCE 96-7878..... ITEM 7-a
AN ORDINANCE AMENDING SECTION 82-10, DEFINITIONS, OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES TO PROVIDE A DEFINITION OF COCKTAIL LOUNGES FOR CLARIFICATION; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title read by City Attorney Chiaro. (11:21 a.m.)

City Manager Richard Woodruff referred to the staff report and stated that this ordinance had received first reading approval on December 4, 1996.

Public Input: None. (11:21 a.m.)

MOTION by Prolman to ADOPT Ordinance 96-7878 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 96-7879..... ITEM 7-b
AN ORDINANCE AMENDING SECTION 102-532(15), C2-A WATERFRONT COMMERCIAL DISTRICT, USES PERMITTED, OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES FOR CLARIFICATION PURPOSES PURSUANT TO THE RECENTLY ADDED DEFINITION OF COCKTAIL LOUNGES; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title read by City Attorney Chiaro. (11:21 a.m.)

In response to Council Member MacKenzie, Planning Director Missy McKim explained that this amendment would not permit cocktail lounges in the C2-A Waterfront Commercial District as a conditional use. A restaurant, she added, would be permitted to have a bar provided the principal use (51% of the sales) is derived from food.

Public Input: None. (11:22 a.m.)

MOTION by Prolman to ADOPT Ordinance 96-7879 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 96-7880..... ITEM 8
AN ORDINANCE DELETING SECTION 102-412, USES PERMITTED, SUBSECTION (4), COCKTAIL LOUNGES, ADDING SUBSECTION (17), COCKTAIL LOUNGES, TO SECTION 102-413, CONDITIONAL USES; DELETING SECTION 102-442, PERMITTED USES, (4) COCKTAIL LOUNGES, ADDING SUBSECTION (7), COCKTAIL LOUNGES, TO SECTION 102-443, CONDITIONAL USES; DELETING SECTION 102-472, PERMITTED USES, (4) COCKTAIL LOUNGES, ADDING SUBSECTION (8), COCKTAIL LOUNGES, TO SECTION 102-473, CONDITIONAL USES; DELETING SECTION 102-502, PERMITTED USES, (4) COCKTAIL LOUNGES, AND ADDING SUBSECTION (20), COCKTAIL LOUNGES, TO SECTION 102-503, CONDITIONAL USES OF THE CODE

OF ORDINANCES OF THE CITY OF NAPLES TO PROVIDE A DEFINITION OF COCKTAIL LOUNGES; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title read by City Attorney Chiaro. (11:23 a.m.)

This ordinance received first reading approval on December 4, 1996.

Public Input: None. (11:23 a.m.)

MOTION by Sullivan to ***ADOPT*** Ordinance 96-7880 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 96-7881.....ITEM 9
AN ORDINANCE AMENDING CHAPTER 10, ALCOHOLIC BEVERAGES, SECTION 10-1(b) OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES BY ADDING SUBSECTION (4) TO ALLOW BOTTLE CLUBS OR VENDORS TO PERMIT THE CONSUMPTION OF ALCOHOLIC BEVERAGES ON THE PREMISES BETWEEN THE HOURS OF 7:00 A.M. AND 12:00 MIDNIGHT EACH SUNDAY THROUGH CITY COUNCIL APPROVAL OF A CONDITIONAL USE PERMIT; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title read by City Attorney Chiaro. (11:24 a.m.)

This ordinance received first reading approval on December 4, 1996.

Public Input: None. (11:24 a.m.)

MOTION by Van Arsdale to ***ADOPT*** Ordinance 96-7881 as submitted; seconded by Prolman and unanimously carried, all members present and voting. (MacKenzie-yes, Nocera-yes, Prolman-yes, Sullivan-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes)

RESOLUTION 96-7882.....ITEM 10
A RESOLUTION APPROVING CONDITIONAL USE PETITION 96-CU25, IN ORDER TO PERMIT THE SWAMP BUGGY LOUNGE, 428 NINTH STREET SOUTH, TO SERVE ALCOHOLIC BEVERAGES FOR CONSUMPTION ON THE PREMISES BETWEEN THE HOURS OF 8:00 A.M. AND 12:00 MIDNIGHT EACH SUNDAY, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Chiaro. (11:24 a.m.)

Public Input: None. (11:25 a.m.)

MOTION by Sullivan to ***APPROVE*** Resolution 96-7882 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 96-7883.....ITEM 11
AN ORDINANCE GRANTING TEXT AMENDMENT PETITION 96-T13, AMENDING SECTION 86-201.1(d) OF THE CODE OF ORDINANCES IN ORDER TO ELIMINATE

THE STREET FRONTAGE REQUIREMENT FOR PROPERTIES THAT ARE TO BE REZONED TO "C" CONSERVATION DISTRICT; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title read by City Attorney Chiaro. (11:25 a.m.)

This ordinance received first reading approval on December 4, 1996.

Public Input: None. (11:25 a.m.)

MOTION by Prolman to ***ADOPT*** Ordinance 96-7883 as submitted; 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)

ORDINANCE 96-7884.....ITEM 12
AN ORDINANCE GRANTING REZONE PETITION 96-R6, IN ORDER TO REZONE THE UNDEVELOPED PROPERTIES TO THE NORTH AND EAST OF CHAMPNEY BAY FROM "R1-15," RESIDENCE DISTRICT, TO "C," CONSERVATION DISTRICT, SAID PROPERTIES MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Chiaro. (11:26 a.m.)

This ordinance received first reading approval on December 4, 1996.

Public Input: (11:26 a.m.)

J. Dudley Goodlette of the Law Offices of Goodlette, Coleman & Johnson, stated that he represented the Pevely Dairy Company and the Kerckhoff family whose property would be affected by the rezoning. Attorney Goodlette then relayed his clients' request that he interpose the same objections made at first reading.

Public Input Closed: (11:27 a.m.)

MOTION by Van Arsdale to ***ADOPT*** Ordinance 96-7884 as submitted; seconded by Prolman and carried 6-1, all members present and voting. (MacKenzie-no, Nocera-yes, Prolman-yes, Sullivan-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes)

ORDINANCE 96-7885.....ITEM 13
AN ORDINANCE RELATING TO THE CITY'S PURCHASING POLICY; AMENDING SECTIONS 2-354, 2-356 AND 2-357 OF THE CODE OF ORDINANCES, FOR THE PURPOSE OF INCREASING THE AMOUNT FOR WHICH COMPETITIVE BIDS ARE REQUIRED TO \$10,000.00; PROVIDING FOR AN ANNUAL ADJUSTMENT TO THE THRESHOLD AMOUNT BASED ON THE RATE OF CHANGE OF A NATIONALLY RECOGNIZED PRICE INDEX; ELIMINATING THE CURRENT THRESHOLD OF \$15,000.00 FOR EMERGENCY PURCHASES PERMITTED BY THE CITY MANAGER; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE. Title read by City Attorney Chiaro. (11:27 a.m.)

City Manager Richard Woodruff noted that the proposed ordinance reflected the modifications

relating to emergency purchases as requested at the December 4, 1996 first reading.

Public Input: None. (11:28 a.m.)

MOTION by Van Arsdale to ***ADOPT*** Ordinance 96-7885 as submitted; seconded by Sullivan and carried 4-3, all members present and voting. (MacKenzie-yes, Nocera-no, Prolman-no, Sullivan-yes, Tarrant-no, Van Arsdale-yes, Barnett-yes)

Prior to the second and vote, Council Member Nocera reiterated his objection to the proposed ordinance noting that although Collier County's budget far exceeds the City's, the County Manager's threshold for emergency purchases has remained \$15,000.00. He stated that he respected City Manager Richard Woodruff's judgment; however, he could not justify the increased emergency purchase threshold. He also contended that Council should stay informed and involved when spending taxpayers' money. Vice Mayor Prolman concurred stating that this was not a matter of trust; however, the current threshold would provide a better level of assurance. Council Member Tarrant further reasoned that although City Manager Richard Woodruff has Council's trust and confidence, this increased threshold would apply to future City Managers.

Council Member Van Arsdale took the position that the threshold amount was irrelevant and Council should decide whether this purchase threshold policy was in fact necessary.

City Attorney Chiaro then noted that pursuant to the proposed ordinance, the emergency purchase threshold would adjust annually based upon the Consumer Price Index. She suggested that the ordinance specify when this adjustment takes place and cautioned Council that the threshold could constantly increase. Dr. Woodruff then stated that if Council was not comfortable with the emergency purchasing waiver, it could be deleted and stated that the important portion of the ordinance, as it relates to this government's operating efficiency, was the proposed modifications to the competitive bid process. Dr. Woodruff then suggested that Council could continue Item 13 to permit him additional discussion/explanation with individual Council Members.

RESOLUTION 96-7886.....ITEM 14
A RESOLUTION APPROVING DAVID M. GRIFFITH & ASSOCIATES, LTD (DMG) TO PROVIDE CONSULTING SERVICES FOR A CLASSIFICATION AND COMPENSATION STUDY FOR NON-BARGAINING AND AFSCME POSITIONS; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Chiaro. (11:40 a.m.)

City Manager Richard Woodruff noted that representatives from David M. Griffith & Associates Ltd. had made a presentation to Council at the prior Workshop Meeting. (A copy of this material is contained in the file for the December 16, 1996 Workshop Meeting in the City Clerk's office.)

Council Member Van Arsdale then reiterated his concern that this study was unnecessary; however, conceded that government had a higher level of accountability than the private sector. **Public**

Input: None. (11:42 a.m.)

MOTION by Sullivan to ***APPROVE*** Resolution 96-7886 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)

RESOLUTION 96-7887.....ITEM 15
A RESOLUTION AUTHORIZING ALLIED DENTAL TO PROVIDE EMPLOYEE
COVERAGE FOR DENTAL INSURANCE BENEFITS; AND PROVIDING AN
EFFECTIVE DATE. Title read by City Attorney Chiaro. (11:42 a.m.)

Human Resources Director Susan Wiesing responded to prior Council inquiries regarding financial impact to the City. The City currently contributes \$181.41 per employee per month to the City's self-insurance fund from which \$14.00 per employee would be applied to this coverage.

In response to Council, City Attorney Chiaro stated that the application form, as attached to the resolution and along with other supporting documentation, provides for the type of coverage which Council is approving.

Public Input: None. (11:43 a.m.)

MOTION by Sullivan to APPROVE Resolution 96-7887 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)

RESOLUTION 96-7888.....ITEM 16
A RESOLUTION PROVIDING FOR A GENERAL WAGE INCREASE OF 2%, A 2%
INCREASE FOR SATISFACTORY PERFORMANCE, AND A BONUS POOL
REPRESENTING 1% OF PAYROLL FOR NON-BARGAINING EMPLOYEES; AND
PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Chiaro. (11:44 a.m.)

Human Resources Director Susan Weising provided Council with background information regarding the City's annual review of non-bargaining employee compensation which affects approximately 100 City employees. In the past, she added, Council had indicated that the non-bargaining wage package should be comparable to the A.F.S.C.M.E. bargaining unit wage package which currently provides for a 2% general wage adjustment and a 2% performance increase. Mrs. Weising also referred the Local Annual Wage Adjustment Survey which indicates an average increase of 4.89%. (A copy of this material is contained in the file for this meeting in the City Clerk's Office.) She then provided information regarding the percentage of employees eligible for the 2% performance adjustment and stated that the recommendations were consistent with the City's budgeted amount for salary increases.

Council Member Van Arsdale suggested that future wage adjustment surveys also include information from the private sector.

Public Input: None. (11:49 a.m.)

MOTION by Van Arsdale to APPROVE Resolution 96-7888 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)

RESOLUTION 96-7889.....ITEM 17
A RESOLUTION APPROVING A WAIVER FROM SECTION 102-1095(e)(2) OF THE
CODE OF ORDINANCES, IN ORDER TO PERMIT A TRIM COLOR OTHER THAN
WHITE FOR THE FIFTH AT PARK PLAZA BUILDING, 643-659 FIFTH AVENUE
SOUTH, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN
EFFECTIVE DATE. Title read by City Manager Richard Woodruff. (11:49 a.m.)

City Manager Richard Woodruff referred to the staff report and noted that the Staff Action Committee had determined that the definition of "trim" included railings. As such, the Fifth Avenue South Special Overlay District requires railings to be white. Due to the fact that the subject railing was painted a teal color prior to adoption of the Overlay District and the repainting was intended as maintenance, SAC had recommended approval of the waiver request.

Council Member Sullivan took the position that this item was indicative of the intrusion of government into people's lives and Council Member Tarrant concurred. Council Member Van Arsdale conceded that this request may appear insignificant; however, he reminded Council that Fifth Avenue South was successful because of its rigid standards. The people who object to these regulations, he added, are the same ones that benefit from them. Vice Mayor Prolman agreed and added that consistency was essential to Fifth Avenue South rehabilitation. She then noted that the reference to maintenance painting may extend the waiver indefinitely. Planning Director Missy McKim suggested a 3-year time limit on the waiver; however, Mayor Barnett commented that either the property should be allowed a teal colored railing or not. Vice Mayor Prolman then stated that 3 years was too long and suggested 18 months.

Public Input: None. (11:58 a.m.)

MOTION by Van Arsdale to APPROVE Resolution 96-7889 AS AMENDED TO
INCLUDE A 36-MONTH TIME LIMIT; seconded by Sullivan and carried 5-2, all
members present and voting. (MacKenzie-yes, Nocera-yes, Prolman-no, Sullivan-
yes, Tarrant-no, Van Arsdale-yes, Barnett-yes) After the vote, Vice Mayor Prolman
and Council Member Tarrant stated that they opposed the motion due to the 3-year
review.

RESOLUTION 96-7890.....ITEM 18
A RESOLUTION ACCEPTING A DEED FOR THE CONVEYANCE OF
APPROXIMATELY 6.9 ACRES OF LAND LOCATED ALONG THE GORDON RIVER
FROM JOHN PULLING WITH CERTAIN RESTRICTIONS; AND PROVIDING AN
EFFECTIVE DATE. Title read by City Attorney Chiaro. (11:58 a.m.)

City Manager Richard Woodruff provided background information regarding John Pulling's donation of approximately 6.9 acres of land along the Gordon River. Dr. Woodruff also noted that the deed conveying the land would restrict the property's use to marine-related public park activities and would provide for a 100 foot-wide right-of-way (Parcel "G") if and when a bridge is built across

the Gordon River and south of the Airport.

Council Member Tarrant then referred to his prior comments relating to this donation, as reported in the newspaper, and asked for an opportunity to clear the record. He stated that he had always believed that Dr. Woodruff had Council's consent to conduct negotiations in this matter with the input of the City Attorney and staff. Additionally, the concerns he had expressed were related to the project itself and never intended as an attack upon the Pulling family. Council Member Tarrant then responded to a letter written by John Pulling, as published in the Naples Daily News, describing the letter as vitriolic and vicious and called for Mr. Pulling to prove, in writing, where his family's reputation had been attacked.

Mayor Barnett then reiterated that this donation presented a great opportunity for the City and thanked the Pulling family. City Attorney Chiaro noted that the City had not received the deed; however, it was presumed that the two restrictions contained in the proposed resolution were the only restrictions. She also assured Council that she would review the deed and, if additional conditions or restrictions are attached, Council's acceptance would be voidable. In response to Council Member Tarrant, City Attorney Chiaro stated that there were no indications that the deed would be a quit claim deed and Dr. Woodruff noted that Mr. Pulling's attorney, John Passidomo, was in the process of preparing the deed.

Council Member Tarrant then expressed concern that Council was acting without prior review of a deed and questioned whether exclusions regarding the use of boat slips and "other uses" had been addressed. Dr. Woodruff then provided background information regarding an 80-slip permit issued to Mr. Pulling which may or may not apply to the donated land and relayed Mr. Pulling's verbal assurance that if any of the slips are indeed assigned to the donated parcel, they would be deeded to the City. Dr. Woodruff reiterated, for the record, that the City's acceptance of this donation is with the two restrictions outlined in the proposed resolution and that Mr. Pulling had directed his attorney to correct the issue regarding whether or not boat slips would also be deeded to the City.

In response to Council Member Tarrant, City Attorney Chiaro clarified that a 30-day public notice was not required prior to the City's acceptance of a deed. Council Member Tarrant then pointed out that this land would not be used as a general use park and Parcel "G" would be reserved for a right-of-way for a future second Gordon River Bridge. He reiterated his position that this generous gift concealed an opportunity for the second Gordon River Bridge and recommended that acceptance include language prohibiting the use of the land as a bridgehead.

Council Member MacKenzie reasoned that an easement for another Gordon River Bridge would continue to exist no matter what entity holds title to Parcel "G". She relayed her hope that the City's ownership of the easement, which would be surrounded by a beautiful marine-related park, would cause the bridge to be built elsewhere.

Mayor Barnett stated that the second Gordon River Bridge issue should not shadow the Pulling family's gift to the City and Council Member Sullivan observed that the proposed resolution states, "... if and when a bridge is built ...". Council Member Sullivan, however, recommended that since a deed had not yet been provided to the City, the resolution should contain assurances that the deed complies with what the Council is approving.

Public Input: None. (12:13 p.m.)

MOTION by Sullivan to **APPROVE** Resolution 96-7890 **WITH THE QUALIFICATION THAT THE DEED BE REVIEWED BY THE CITY ATTORNEY OF RECORD TO EXAMINE IT FOR CORRECTNESS**; seconded by Nocera and carried 6-1, all members present and voting. (MacKenzie-yes, Nocera-yes, Prolman-yes, Sullivan-yes, Tarrant-no, Van Arsdale-yes, Barnett-yes)

Prior to the vote, Council Member MacKenzie extended the City's appreciation to the Pulling family; however, Council Member Tarrant explained that his negative vote was due to the fact that this gift provides an opportunity for a second Gordon River Bridge.

RESOLUTION 96-7891.....ITEM 19
A RESOLUTION DONATING AN EASEMENT TO COLLIER COUNTY FOR THE PURPOSE OF WIDENING GOLDEN GATE BOULEVARD BETWEEN COUNTY ROAD CR-951 AND SECOND STREET SOUTHEAST/SOUTHWEST; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Chiaro. (12:14 a.m.)

In response to Council Member Nocera, City Manager Richard Woodruff estimated the value of 2-acre tracts in the area at \$22,000.00 based on appraisals of nearby City well-head sites. It was noted, however, that there was no recent appraisal for the subject property. Dr. Woodruff then explained that the County requested this easement to facilitate the widening of Golden Gate Parkway.

Public Input: None. (12:15 p.m.)

MOTION by Sullivan to **APPROVE** Resolution 96-7891 as submitted; seconded by Prolman and unanimously carried, all members present and voting. (MacKenzie-yes, Nocera-yes, Prolman-yes, Sullivan-yes, Tarrant-no, Van Arsdale-yes, Barnett-yes)

ORDINANCE (First Reading).....ITEM 20
AN ORDINANCE OF THE MAYOR AND COUNCIL AUTHORIZING COLLIER COUNTY GOVERNMENT, PURSUANT TO SECTION 197.3632 OF THE FLORIDA STATUTES, TO COLLECT ON A NON-AD VALOREM BASIS ASSESSMENTS WITHIN THE CITY OF NAPLES FOR INTERIM GOVERNMENTAL SERVICE FEES, AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Chiaro. (12:15 p.m.)

City Manager Richard Woodruff informed Council that the County staff and consultant were unable to attend this meeting. He then relayed staff's recommendation to approve this ordinance on first reading with the intent that the issue be discussed during the Joint City Council/Collier County

Commissioners Workshop Meeting scheduled for January 1997. If not satisfied with the information provided at this Workshop Meeting, he explained, Council may delay or deny the ordinance at second reading.

Prior to the vote, City Attorney Chiaro stated her position that it was not within Council's purview to provide this authorization to the County; however, Dr. Woodruff noted that the proposed ordinance was reviewed by the County Attorney for legal sufficiency. Council Member Sullivan then requested that, prior to the Joint Workshop Meeting, City Attorney Chiaro provide Council with rationale supporting her position, which she agreed to do. Council Member Tarrant expressed reservations about moving forward with the ordinance and Vice Mayor Prolman requested that second reading be delayed until February.

Public Input: None. (12:16 p.m.)

MOTION by Sullivan to APPROVE this ordinance on first reading; seconded by Nocera and carried 6-1, all members present and voting. (MacKenzie-yes, Nocera-yes, Prolman-yes, Sullivan-yes, Tarrant-no, Van Arsdale-yes, Barnett-yes)

**RESOLUTION 96-7892..... ITEM 24-a
A RESOLUTION GRANTING VARIANCE PETITION 96-V21, IN ORDER TO PERMIT A
LOT COVERAGE OF 35.4% FOR AN EXPANSION OF THE ROBB & STUCKY STORE,
LOCATED AT 2777 9TH STREET NORTH, MORE PARTICULARLY DESCRIBED
HEREIN; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Chiaro.
(12:19 p.m.)**

Planner Flinn Fagg responded to prior workshop inquiries and confirmed that the trees located along Wedge Drive were Australian Pines which, in accordance with City Code, must be removed during this expansion. Mr. Fagg then relayed staff's proposal for a phasing plan in order that a landscaping buffer be in place prior to removal of the Australian Pines.

Petitioner's agent Bruce Gora, of Gora/McGahey Associates in Architecture, addressed Council and relayed the petitioner's consent to replace the Australian Pines with acceptable trees. Mr. Gora further noted that a 10-foot hedge currently exists adjacent to the tree stand.

In response to Council Member Van Arsdale, Mr. Fagg explained that although much of the Robb & Stucky Store's square footage is utilized for warehousing, the petitioner was not requesting relief from the City's one parking space per 500 square feet requirement. Mr. Gora added that the petitioner would like to eliminate some of the parking or use a more environmentally sensitive parking surface. Council Member Van Arsdale commented that this parking lot covers much of this prominent corner property to which City Manager Richard Woodruff suggested that Council approve Items 24-a and 24-b with the direction that staff work with the petitioner to determine an actual parking needs analysis. From this analysis, a revision can be brought back to Council resulting in more landscaping. Mr. Gora indicated that the petitioner would agree since the intent

was to eliminate pavement.

Public Input: None. (12:26 p.m.)

MOTION by Van Arsdale to **APPROVE** Resolution 96-7892 **WITH THE DIRECTION THAT THE STAFF WORK WITH THE PETITIONER TO DETERMINE AN ACTUAL PARKING NEEDS ANALYSIS. FROM THAT ANALYSIS, A REVISION WILL BE BROUGHT BACK TO COUNCIL THAT WOULD RESULT IN MORE LANDSCAPING;** 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)

RESOLUTION 96-7893..... ITEM 24-b
A RESOLUTION GRANTING VARIANCE PETITION 96-V22, IN ORDER TO PERMIT A VARIANCE FROM THE LIMITATION ON COMPACT CAR SPACES FOR THE ROBB & STUCKY STORE, LOCATED AT 2777 9TH STREET NORTH, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.
Title read by City Attorney Chiaro. (12:26 p.m.)

Public Input: None. (12:26 p.m.)

MOTION by Van Arsdale to **APPROVE** Resolution 96-7893 as submitted; seconded by Prolman and unanimously carried, all members present and voting. (MacKenzie-yes, Nocera-yes, Prolman-yes, Sullivan-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes)

Break 12:26 p.m. to 1:58 p.m. It is noted for the record that Vice Mayor Prolman was absent when the meeting reconvened.

..... **ITEM 25-b**
PRE-QUALIFY THE CONTRACTING FIRMS OF KYLE CONSTRUCTION, INC., MITCHELL & STARK, INC. AND D.N. HIGGINS, INC. AS ANNUAL CONTRACTORS TO PERFORM STORM SEWER EMERGENCY REPAIR WORK FOR THE CITY. (1:59 p.m.) See related Item 25-a below.

City Manager Richard Woodruff provided Council with information regarding the three companies' prior work for the City which he described as very successful. Dr. Woodruff then relayed staff's recommendation for approval.

Public Input: None. (2:00 p.m.)

MOTION by Tarrant to **APPROVE** Item 25-b as submitted; seconded by Sullivan and carried 6-0. (MacKenzie-yes, Nocera-yes, Prolman-absent, Sullivan-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes)

It is noted for the record that Vice Mayor Prolman arrived at the meeting at 2:00 p.m.

..... **ITEM 25-a**

AUTHORIZATION TO ISSUE ANNUAL PURCHASE ORDERS FOR STORM SEWER EMERGENCY REPAIRS / Total: \$150,000.00 / Funding: Available Revenue and Stormwater Utility Professional Services. (2:00 p.m.) See related Item 25-b above.

Public Input: None. (2:01 p.m.)

MOTION by Sullivan to ***APPROVE*** Item 25-a 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 26**
AUTHORIZATION TO ISSUE A PURCHASE ORDER FOR RELINING A PORTION OF THE SEWER PIPES ALONG 18TH AVENUE SOUTH / Contractor: Madsen/Barr Allwaste, Inc. / Amount: \$174,904.00 / Funding: Utilities Capital Contingency Fund and CIP #97N04 Wastewater Collection/Laterals & Mains. (2:01 p.m.)

City Manager Richard Woodruff referred to the staff report and explained that this item was a request for a sole-source purchase order for sanitary sewer relining and rehabilitation not to exceed \$174,904.00. Dr. Woodruff also noted that since this purchase order exceeded the original \$150,000.00 budgeted for the project, a budget amendment request would be submitted at a future date. (A copy of the material referenced by Dr. Woodruff is contained in the file for this meeting in the City Clerk's Office.)

Public Input: None. (2:02 p.m.)

MOTION by Van Arsdale to ***APPROVE*** Item 26 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)

ORDINANCE (Continued).....ITEM 21
AN ORDINANCE GRANTING REZONE PETITION 96-R7, IN ORDER TO AMEND A PREVIOUSLY APPROVED PLANNED DEVELOPMENT AND TO REZONE TWO PARCELS OF LAND FROM "C2-A" TO "PD," IN ORDER TO PERMIT THE DEVELOPMENT OF A FERRY PORT AND TERMINAL AT THE SOUTHWEST CORNER OF U.S. 41 AND RIVER POINT DRIVE; AND PROVIDING AND EFFECTIVE DATE. Title read by City Attorney Chiaro. (2:02 p.m.)

City Manager Richard Woodruff referred to the December 18, 1996 letter from Attorney J. Dudley Goodlette, representing petitioner Buquebus (Florida), Inc., which requested a continuance until the January 15, 1997 Regular Meeting. Attorney Goodlette then addressed Council to explain that the continuance request was based both upon recent discussions with adjacent residents and input from the December 11, 1996 Planning Advisory Board Meeting. The additional time, he added, would facilitate an enhanced project and allow the petitioner to address issues raised by through these discussions. In response to Vice Mayor Prolman, Attorney Goodlette confirmed that the project to

be presented on January 15th would be substantially the same as that presented to the P.A.B.; however, the vessel may be smaller and may or may not ferry automobiles.

Public Input: None. (2:06 p.m.)

City Attorney Chiaro then referred to her December 17, 1996 memorandum (a copy of which is contained in the file for this meeting in the City Clerk's Office) and noted that the pending petition does not comply with the City's Comprehensive Plan. Unless there is change in the use, she explained, both a Comprehensive Plan amendment and rezoning would be required. Attorney Goodlette disagreed, however, and said that the petitioner would not be withdrawing the petition. In response to Vice Mayor Prolman, Attorney Goodlette indicated that the revised proposal would include a no-vehicle option.

MOTION by Van Arsdale to CONTINUE THIS ITEM TO THE JANUARY 15, 1997 REGULAR MEETING; 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)

**ORDINANCE (First Reading).....ITEM 22
AN ORDINANCE GRANTING TEXT AMENDMENT PETITION 96-T14, AMENDING
DIVISION 6, FIFTH AVENUE SOUTH SPECIAL OVERLAY DISTRICT, OF THE CODE
OF ORDINANCES IN ORDER TO UPDATE AND CLARIFY PROCEDURES AND
PROVISIONS FOR DEVELOPMENT ON FIFTH AVENUE SOUTH; PROVIDING A
SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.
Title read by City Attorney Chiaro. (2:09 p.m.)**

Council Member MacKenzie referred to Section 102-1094 (d) and expressed concerns regarding a lack of standards for privately owned parking garages. She also noted other inconsistencies in the proposed ordinance related to the issue; Planning Director Missy McKim therefore recommended that the reference to parking garages be deleted. Referring to Section 102-1095(d)(2) *Building Area*, Council Member MacKenzie suggested that existing parking spaces could be sold to fund more spaces and that privately owned parking spaces be counted prior to the property owner using the reserve parking.

Council Member Van Arsdale commented that because the Staff Action Committee would be analyzing and forming a plan to address the parking issue, it would be premature to radically adjust the program at this time. Council Member MacKenzie then also noted that the proposed ordinance did not define "major renovation" and it was determined that a definition consistent with the Federal Emergency Management Agency (FEMA) guidelines would be added prior to second reading.

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

**MOTION by Van Arsdale to APPROVE this ordinance on first reading AS
AMENDED TO DELETED REFERENCE TO PARKING GARAGES IN**

SECTION 102-1094 (d) AND TO INCLUDE A DEFINITION FOR MAJOR RENOVATION IN SECTION 102-1095 (e) (15); seconded by MacKenzie and unanimously carried, all members present and voting. (MacKenzie-yes, Nocera-yes, Prolman-yes, Sullivan-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes)

RESOLUTION 96-7894.....ITEM 23

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF NAPLES APPOINTING KENNETH B. CUYLER OF THE FIRM OF ROETZEL & ANDRESS P. A., AS THE CITY ATTORNEY FOR A PERIOD NOT TO EXCEED SIX MONTHS AND AUTHORIZING THE MAYOR TO NEGOTIATE A CONTRACT; AND PROVIDING AN EFFECTIVE DATE. Title read by City Attorney Chiaro. (2:23 p.m.)

City Manager Richard Woodruff noted changes to the resolution pursuant to workshop discussions. Vice Mayor Prolman and Council Members MacKenzie and Tarrant questioned why it did not specify a temporary appointment; however, City Manager Woodruff pointed out that the contract would in fact address such specifics. City Attorney Chiaro then noted that the City Charter does not provide for an interim City Attorney and cautioned that since the resolution does not specify limitations, contract negotiations may be subject to the Sunshine Law. Council Member Sullivan, however, reasoned that the proposed resolution merely named the appointee and authorized the Mayor to negotiate a contract subject to Council's approval.

Further Council discussion focused on whether Council should schedule a Special Meeting to conduct contract negotiations with the assistance of the City's labor attorney. Council Member Tarrant urged caution in proceeding with this appointment alluding to concerns he had regarding issues during Mr. Cuyler's tenure as Collier County Attorney.

Vice Mayor Prolman reiterated the interim nature of this appointment and suggested that Council Members submit comments to the Mayor regarding important aspects of this position prior to contract negotiations.

City Attorney Chiaro then responded to Council concerns by clarifying that the proposed resolution, for the purposes of the Florida courts, appoints the City Attorney. She then recommended that the resolution contain the following language:

Appoint Kenneth Cuyler as the City Attorney for a period not to exceed six months under the general terms and conditions as set forth in his letter of December 6, 1996 with specifics, in terms of compensation and hours spent, to be presented to the City Council for approval on the first meeting date in January 1997.

After further discussion it was determined that the resolution would state: "Appoint Kenneth Cuyler, of the firm of Roetzel Andress, P.A. . . ." and specifics of the agreement would be worked out by the City labor attorney with input of the Mayor and Council.

Public Input: None. (2:35 p.m.)

MOTION by Sullivan to APPROVE Resolution 96-7894 TO INCLUDE THE LANGUAGE RECOMMENDED BY THE CITY ATTORNEY (ABOVE); seconded by Van Arsdale and carried 6-1 (MacKenzie-yes, Nocera-yes, Prolman-yes, Sullivan-yes, Tarrant-no, Van Arsdale-yes, Barnett-yes)

**(Withdrawn).....ITEM 27
CONSIDER AWARD OF BID FOR NAPLES LANDING BOAT RAMP
RECONSTRUCTION TO KELLY BROTHERS, INC., FORT MYERS, FLORIDA. (2:38
p.m.)**

City Manager Richard Woodruff provided background information regarding this bid award to reconstruct the Naples Landing Boat Ramp and other facilities including rip-rap on the peninsula, the dredging of fill material between existing boat ramp and the peninsula, and the construction of the commercial loading facility. Dr. Woodruff then distributed copies of the December 17, 1996 letter from Attorney Kim Patrick Kobza, representing the Charter Club of Naples, Inc., which contended that since Naples Landing is zoned PS (Public Service), the City must obtain conditional use approval prior to construction of a commercial dock. (Attachment 2)

City Attorney Chiaro stated that she generally agreed with Mr. Kobza's analysis noting the City's prior conditional use approvals for City property. She conceded, however, that she was unfamiliar with facts regarding the commercial use of Naples Landings and was therefore uncertain as to whether the commercial loading facility could be considered a grandfathered use.

Dr. Woodruff relayed staff's position that a conditional use was not required since this commercial activity had occurred continuously in Naples Landing for 30 years and predated the creation of the Public Service District. He also outlined the reconstruction project noting that the current uses would not change and contended that since there are no permitted uses in the Public Service District, a conditional use would be required for every use at Naples Landing. Council Member Tarrant distinguished Naples Landings from other Public Service Districts due to its use for Key Island development and beach renourishment and questioned whether the commercial loading facility would serve contractors at the expense of adjacent residents. City Attorney then recommended that the Naples Landing uses be granted through the conditional use process in order to eliminate the question relating to a grandfathered use.

At this time, Dr. Woodruff withdrew the item from the agenda and stated that staff would proceed to file a conditional use petition for future Council consideration.

**RESOLUTION 96-7895.....ITEM 32
DISCUSSION RELATING TO CITY MANAGER'S LETTER TO THE FLORIDA
DEPARTMENT OF TRANSPORTATION RELATING TO GORDON RIVER BRIDGE**

RECONSTRUCTION (*Requested by Vice Mayor Prolman*) Title not read. (2:54 p.m.)

Vice Mayor Prolman commented on City Manager Richard Woodruff's prior letter to the Florida Department of Transportation regarding upcoming Gordon River Bridge reconstruction and requested the F.D.O.T.'s written verification that the City would assume responsibility for certain components of the project.

Dr. Woodruff relayed his conversation with F.D.O.T. representatives who, he noted, had indicated approval of the City's requests. He also explained that costs assigned to these components would be removed from the project's contract specifications and placed in a reserve account for use by the City. Enhancement costs in excess of the reserved amount would be funded by the City. Dr. Woodruff further noted that a technical advisory committee, comprised of architects and design experts, would be formed to draft these elements which would then be presented for public input.

Further Council discussion focused on whether a resolution should be drafted to formally request that certain elements be removed from the F.D.O.T.'s bid documents and to confirm Council's willingness to appropriate funds for these elements.

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

MOTION by Tarrant to APPROVE Resolution 96-7895 CONFIRMING THE PREVIOUS POSITION OF THE CITY THAT THE CITY WILL EXPEND ADDITIONAL FUNDS FOR ENHANCEMENTS TO LIGHTING, LANDSCAPING, BRIDGE RAILING, PEDESTRIAN BARRICADES, PIPING, SIGNAGE, MAST-ARMS (ALL COMPONENTS LISTING IN CITY MANAGER'S SECOND LETTER TO F.D.O.T.); seconded by Prolman and unanimously carried, all members present and voting. (MacKenzie-yes, Nocera-yes, Prolman-yes, Sullivan-yes, Tarrant-yes, Van Arsdale-yes, Barnett-yes)

**RESOLUTION 96-7896.....ITEM 33
A RESOLUTION APPOINTING A CITY RESIDENT TO THE BEACH RENOURISHMENT/ MAINTENANCE COMMITTEE; AND PROVIDING AN EFFECTIVE DATE. (*Pursuant to interviews conducted at the December 16, 1996 Workshop Meeting*)** Title not read. (3:05 p.m.)

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

MOTION by MacKenzie to APPROVE Resolution 96-7896 APPOINTING ROBERT SITTA TO THE BEACH RENOURISHMENT/MAINTENANCE COMMITTEE; seconded by Barnett 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

City Council Regular Meeting - December 18, 1996

Council Member MacKenzie suggested, and it was the consensus of Council, that at least one public forum workshop be held to invite the public, including school children, to submit suggestions relating to the property donated to the City by John Pulling.

Council reopened discussion relating to the Naples Landing and the potential need for conditional use approval for other PS (Public Service) Districts. City Manager Richard Woodruff indicated that staff would research the issue and, if necessary, conditional use approval would be sought for every City park. Council Member Van Arsdale, however, cautioned that it may be counter-productive to review every use at every City park.

Pursuant to Council Member Sullivan's memorandum, it was determined that Council would address the issue of a travel expense account for Council Members at the January 15, 1997 Regular Meeting.

Council Member Nocera noted that this was City Attorney Chiaro's final Council Meeting and recognized her service to the City.

OPEN PUBLIC INPUT.....
None. (3:15 p.m.)

ADJOURN.....
3:15 p.m.

Bill Barnett, Mayor

Tara A. Norman
City Clerk

Prepared by:

Shirley Moore
Recording Secretary

Virginia A. Neet
Deputy City Clerk

Minutes approved: 2/5/97

Supplemental Attendance List

Don Gemming
James Ricca
Bill Naughton
William Leighner
Ralph Manton
David Fenner
Toni Tuttle
Patrick Allman
Alan Morgan
Tom Cain
Robert Noble
David Trowbridge
Richard Nesline
Kim Kobza