



City Council Chamber  
735 Eighth Street South  
Naples, Florida 34102

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**City Council Workshop Meeting – December 18, 2000 – 8:30 a.m.**

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Mayor MacKenzie called the meeting to order and presided.

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**ROLL CALL .....ITEM 1**

**Present:** Bonnie R. MacKenzie, Mayor  
Council Members:

Gary Galleberg (arrived 8:34 a.m.)  
William MacIlvaine (arrived 8:33 a.m.)  
Fred Tarrant  
Penny Taylor  
Tamela Wiseman

**Absent:** Joseph Herms, Vice Mayor

**Also Present:**

Kevin Rambosk, City Manager  
Robert Pritt, City Attorney  
Gregory Urbancic, City Attorney  
Ron Lee, Planning Director  
Jon Staiger, Natural Resources Manager  
Virginia Neet, Deputy City Clerk  
Jessica Rosenberg, Recording Specialist  
Kelly Espinoza, Admin. Specialist  
Sunny Fore, Service Worker  
Arlene Guckenberger  
James Dean  
Ted Soliday  
Ron Pennington  
Eric West  
Peter Manion  
Charles Kessler  
Russ Reddick

Other interested citizens and visitors

**Media:**

Denise Zoldan, Naples Daily News

**SET AGENDA (8:32 a.m.).....ITEM 2**  
Mayor MacKenzie stated that Item 3 (Interview with candidate for the City/County Affordable Housing Commission) would be deleted from the agenda as the only candidate had withdrawn from consideration. City Manager Kevin Rambosk noted that his briefing would include an update on the proposed Collier County Coastal Advisory Committee. He also recommended placing this issue on the next Regular Meeting agenda.

.....**ITEM 4**  
**FOURTH QUARTER AIRPORT AUTHORITY UPDATE (8:35 a.m.)** Naples Airport Authority (NAA) Chairman Ron Pennington stated he would address the NAA's hangar construction policy as well as the program's current status and future projection. He noted that pursuant to the airport's overall Utilization Plan, hangar development is in the northeast and south quadrants. He added that a moratorium on such development was in place between 1997 and 1999 as the NAA completed actions required to obtain a new environmental resources permit. In May of 1999, however, the NAA established a policy on future hangar development and secured lease commitments for all but one of the approved hangar sites. These sites, Mr. Pennington explained, were to be utilized for corporate hangars; however, in deference to local aviation needs, the NAA also adopted a policy limiting corporate hangar development to that currently approved in the overall Utilization Plan. The NAA subsequently made plans to build small hangars for local needs, and pledged to further update the Utilization Plan in fiscal year 2002 in order to designate their development area. Noting a waiting list in excess of 130 for small or T-hangars, Mr. Pennington explained that the NAA is adding 40 T-hangars to those existing in the east quadrant, an area which could have been used for corporate hangars. These hangars will be built entirely with NAA funds without any grant assistance. Mr. Pennington further noted approved hangars under development in the north quadrant; the Von Liebig site, which is nearing completion, and the soon to be constructed Collier site. In the south quadrant, he added, two condominium hangars of six units each, and three corporate hangars are currently under construction. Upon completion of approved development, there will be a total of 28 corporate hangars, and 236 small aircraft hangars including shade hangars which are comparable to carports. Mr. Pennington also stressed that this would complete the development of corporate hangars at the airport.

In response to Council, Mr. Pennington distinguished the various types of hangars; however, Council Member Tarrant questioned whether the hangars would attract additional aircraft. Mr. Pennington explained that the last time a significant number of hangars had been built, the number of airport-based aircraft actually decreased; he also pointed out that people, not hangars, bring aircraft to the airport. Council Member Tarrant however commented that a garage or carport is an important consideration when purchasing a condominium, and questioned why this tenet would not apply at the airport to which Mr. Pennington noted that a number of aircraft at the airport are merely tied-down without any shelter. Mr. Pennington then affirmed that the annual revenue derived from all of these hangars is a significant portion of the NAA's total income and explained that the NAA does not lease the hangar space per se, but merely leases the land upon which the hangars are built. The hangars, he added, are built with 20 to 30 year leases, which specify that upon expiration, all improvements on that land revert to the airport. Mr. Pennington further explained that although the hangars are maintained by the owners, the NAA is responsible for the hangars it owns and leases directly. Vice Chairman Eric West then commented that the total number of corporate hangars includes three that are dedicated to public service functions such as mosquito control and emergency management services.

In response to Council Member MacIlvaine, NAA Executive Director Ted Soliday stated that the average waiting time for small hangars is over one year. Mr. Pennington added that this waiting list

is updated frequently, the last time being in November 2000; however, Council Member Taylor questioned whether the NAA would consider sharing this waiting list with other area airports, such as Immokalee and Marco Island. Mr. Pennington stated the NAA has discussed this idea with other airport officials and is certainly willing to relocate aircraft; however, most of those waiting live in or near the City and wish to utilize the Naples Airport. Mayor MacKenzie commented that dedicated airport travel lanes on Immokalee Road could diminish travel time and make the Immokalee Airport a more viable alternative. Vice Chairman West said he believed that aircraft owners are themselves highly motivated to pursue alternatives and added that the NAA would unjustly discriminate if it prohibited aircraft from parking in the open. Mr. West also commented that the NAA operates on a break-even basis, and any allegations that the NAA is driven to provide an increasing number of hangars for financial reasons is patently unfounded.

Mr. Soliday then explained that even small jets must be contained in a condominium or corporate hangar, and that time-sharing of jets is becoming a wide-spread concept. In response to Council Member Galleberg, Mr. West explained that the annual lease rate of 37 cents per square foot at the east quadrant includes the land only. He further explained that tie-down capacity is constrained by runway capacity, which varies seasonally, and that the air traffic control tower can legally eliminate training flights when capacity is reached. Council Member Galleberg observed that in light of this new information and because the runways will not be lengthened, any further appreciable development is unlikely. Council Member MacIvaine questioned whether the airport could provide preferential treatment for City residents attempting to secure a tie-down or a hangar; however, Mr. Soliday explained that this is not legally possible, and noted that other area airports also have waiting lists.

Council Member Tarrant questioned whether there was a direct ratio between the runway area and the maximum number of flights. Mr. West however said that there is no precise mathematical formula as this would depend upon variables such as the incoming aircraft and weather. Mr. Soliday explained that the Federal Aviation Administration (FAA) controls the hours and staffing of the control tower; however, the NAA had in the past year negotiated an additional full-time staff position at the tower. Council Member Tarrant suggested that a representative from the control tower address Council regarding safety issues at a future meeting. Mr. Soliday said he believes the airport actually exceeds capacity at times during peak season; however, Mr. West disagreed on this point. Council Member Galleberg requested statistics on hangared and tied-down aircraft usage to which Mr. Pennington said he could survey aircraft owners. He however predicted that since many of the tied-down jets are training aircraft, they would fly significantly more than individually hangared aircraft.

Inasmuch as Mr. Pennington noted his tenure as NAA Chairman would expire next month, Mayor MacKenzie expressed her appreciation for his contributions to the NAA especially in regards to securing the Stage Two jet ban.

.....**ITEM 5**  
**DISCUSSION OF PROPOSED ARCHITECTURAL STANDARDS COMMITTEE (9:29 a.m.)**

Planning Director Ron Lee explained that this committee would review building permits on a regular basis, research architectural standards throughout the country, and later devise a set of standards that would be codified into the Code of Ordinances and reviewed by staff for compliance. He explained that the committee would review the 38 new commercial building permit applications (of the 241 total) received this year as of December 1st, noting that this review would not produce additional costs. Mr. Lee said that in approximately one month staff would provide a list of potential committee members, and requested authority to move forward in establishing this ad hoc committee

which would sunset in one year. Mr. Lee noted that this committee could ensure that building designs are appropriate and go well with adjacent buildings; he added that the General Development Site Plan (GDSP) process generally allows staff to review for compatibility, but that the committee would address certain aspects of this issue which are silent in the Code.

Council Member Tarrant questioned whether the committee's decisions would be binding and final. Mr. Lee however explained that Council would adopt, through ordinance, the committee's standards before staff would administer them. The committee itself would never approve or deny any project. He also explained that the Planning Advisory Board (PAB) had recommended establishing an actual Architectural Review Board (ARB), as opposed to the committee, which would operate under general guidelines and would evaluate each project on a case-by-case basis. Staff, however, recommends development of more specific, prescriptive design standards. Mayor MacKenzie said she had envisioned that this committee would operate similarly to the Staff Action Committee (SAC), and have an appeal process.

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**It is noted for the record that Council Member Wiseman left the meeting at 9:15 a.m.**

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Mayor MacKenzie added that she believed the majority of Council had actually favored an ARB, but that it had not decided whether this board would review building applications before the standards had actually been enacted. Mr. Lee explained that the PAB had recommended that the ARB develop procedures in a year, and in the meantime, review each project. Compliance, however, would be voluntary.

Council Member Galleberg took the position that this committee, as currently envisioned, would be powerless and essentially unnecessary. City Manager Kevin Rambosk commented that although Council seemed to favor the development of standards, there was no consensus on what entity would actually apply them. Council Member MacIlvaine advocated that Council follow the advice of the PAB and establish an ARB which would develop appropriate standards in the coming year, and review each project. Council Member Tarrant however voiced skepticism in following this approach, and recommended instead receiving suggestions on commercial building architectural issues, including design details, from the Planning and Building and Zoning Departments. He maintained that using an ARB would convey that developers need another group of professionals and another layer of bureaucracy in order to reach favorable results. As such, he would not object to staff's current proposal. Mayor MacKenzie urged that the petitioners not be subject to project review until the committee has researched all the relevant issues, and explored the possibility of coordinating with the County's design standards. Council Member MacIlvaine however reasoned that every architectural nuance could not possibly be incorporated into law, and said that the ARB, in reviewing each individual project, could recommend even minor changes that would significantly enhance a building's appearance. Council Member Galleberg concurred and predicted that the ARB would function cooperatively with developers and architects. He added that although the ARB would work under general parameters, it would not dictate actual building style. Council Member Taylor observed that the ARB would address the appearance of the City as a whole, and could offer appropriate design alternatives when warranted. Council Member Tarrant however voiced caution that the ARB's recommendations may in the future become compulsory. Council Member Galleberg suggested that Council allow this board to review the petitioners' building applications for the next year, with no decision authority as yet, and afterward determine its overall effectiveness.

**Public Input:** (10:11 a.m.) **Charles Kessler, 525 Anchor Rode Drive**, stated that according to the Comprehensive Plan, as of 2001, Council is to develop architectural and review standards for commercial areas, and consider an architectural review process for commercial properties. He urged that Council seriously consider the PAB's recommendations, saying he believed they would provide an appropriate learning process and ultimately prove successful. **Russ Reddick, 4031 Gulf Shore**

**Boulevard North**, said he believed it imperative that the community have a voice in the City's architecture, and urged proceeding with the PAB's recommendations.

Council Member MacIlvaine proffered a motion, seconded by Council Member Galleberg, to direct the staff to develop a proposal for an architectural standards program that would incorporate the PAB's recommendations; however, further discussion ensued. Council Member Galleberg recommended starting with a general proposal, and later adding specifics. Planning Director Lee stated that he would submit to Council various proposals for discussion several days prior to the Council/PAB joint workshop meeting on January 2<sup>nd</sup>. Council Member Tarrant said that although he felt it reasonable to discuss at this meeting those recommendations proffered by the PAB, any alternative proposal should be kept separate and distinct. Mayor MacKenzie said she would favor establishment of the ARB along with the codification of architectural standards. Council Member Taylor however emphasized that compliance for the first year would be entirely voluntary. City Manager Rambosk said that staff would provide some documentation at the upcoming Regular Meeting for Council's perusal, and would be prepared to address any specifics at the upcoming joint workshop.

**MOTION by MacIlvaine to DIRECT STAFF TO PRESENT TO COUNCIL (PRIOR TO THE 1/02/01 JOINT COUNCIL/PAB WORKSHOP) A PROPOSAL FOR AN ARCHITECTURAL STANDARDS PROGRAM BASED UPON THE UNANIMOUS DECISION OF THE PAB; seconded by Galleberg and carried 5-0 (Galleberg-yes, Herms-absent, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-absent, MacKenzie-yes).**

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**Recess 10:39 a.m. to 10:55 a.m. It is noted for the record that the same Council Members were present when the meeting reconvened.**

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.....**ITEM 7**  
**DISCUSSION OF PROGRAMMING ON CHANNEL 76** (10:56 a.m.) Council Member Galleberg commented favorably on the posting of Council meeting and workshop agendas and job openings, and suggested posting Planning Advisory Board (PAB) agendas and a schedule of City events as well. He also recommended producing a show explaining Federal Emergency Management Agency (FEMA) regulations, as well as shows on recyclables and the Naples Airport. Council Member MacIlvaine commented that a series of programs on the airport could actually contain many facets. He also suggested featuring shows on the City's various departments, and enlarging the type size for ease in viewing. Additionally, Mr. MacIlvaine complimented the channel's use of animation and graphics, and City Manager Kevin Rambosk recognized staff members Gina Devlin and Jeff Cochran in this regard. Council Member Tarrant suggested broadcasting a show on the Naples Pier or City Dock and any County Commission meetings or programs that address topics germane to City residents, such as the bus transportation or exploratory aquifer storage and recovery (ASR) well issues. Mayor MacKenzie suggested broadcasting old Naples Report tapes. City Manager Rambosk noted, however, that this may possibly be compromised video quality.

Council Member Taylor noted for the record that the scheduled skatepark competition was not videotaped because it had been postponed until January. Mayor MacKenzie voiced concern regarding videotaping private citizens without their permission, and questioned whether releases are required. Miss Taylor explained that she would obtain a standard release from a videographer which the City's cable franchise counsel, Adrian Herbst, could review. City Manager Rambosk then pointed out the broadcast overview (a copy of which is contained in the file for this meeting in the City Clerk's office) which lists those meetings broadcast live and videotaped for replay, the meetings broadcast live but not currently taped for replay, and other meetings that are currently non-televised.

He then noted that of the three meetings not televised, staff has received requests to televise only the Presidents Council Meetings, one of which recently provided an extensive overview of the proposed bus transportation system. Council Member Galleberg cautioned that this may be in the realm of public access. City Attorney Robert Pritt concurred and said that Attorney Herbst would be present at the upcoming Regular Meeting to discuss these issues. Mayor MacKenzie commented that although the Town Hall meetings are City-sponsored events, the homeowner association meetings clearly are not, and requested legal guidance. Additionally, Mayor MacKenzie suggested posting recreational opportunities, and suggested that the Heart of Naples or the Naples Preserve Committees meet in Council Chambers in order to videotaped. In response to Council, City Manager Rambosk stated that the mural on the wall behind Council dais would be completed in approximately four weeks.

.....**ITEM 8**

**BRIEFING BY CITY MANAGER** (11:24 a.m.) City Manager Rambosk reported that a sewer break had occurred on Gulf Shore Boulevard on December 15th that likely emanated from a line broken by a cable or power installer. This resulted in a collapsed roadway which staff repaired in approximately 2 1/2 hours; however, there was no disruption of service. He then noted that he had requested a quarterly status report from Attorney Nancy Stroud regarding the Hamilton Harbor litigation, which he said he would distribute to Council when received. City Manager Rambosk also said he would distribute recent correspondence regarding the Royal Poinciana Golf Club annexation litigation (a copy of which is contained in the file for this meeting in the City Clerk's office). He then said that the operational aspects of the annual audit have been completed, and that the auditors would furnish a report for review and approval in February or March. In response to Council Member Tarrant, City Manager Rambosk said he would determine when the auditor's contract would expire. He then reported that, as per Council direction at a previous workshop, he had submitted to the Legislative Delegation a request that the City be allowed to install its own speed zones around school crossings; Council briefly discussed attending the Legislative Delegation meeting on January 17th. City Manager Rambosk then noted that staff would send correspondence to homeowners on Chesapeake Avenue addressing right-of-way parking issues.

City Manager Rambosk said that the County staff is proceeding to develop an ordinance relative to the proposed Collier County Coastal Advisory Committee, and suggested that Council determine what, if any, formal action it would take on this issue. In response to Council, he affirmed that staff had ascertained that the County has the authority to take this action. Council Member Galleberg recommended enacting a resolution appointing the number of members to which the City is entitled. City Manager Rambosk agreed, and said that the County does not need to use the Beach Renourishment/Maintenance Committee (BRMC) as its technical advisory group. Council Member Tarrant said that, based upon a County Commission meeting he had reviewed, the County appears to believe that the length of the beach frontage and the collection of tourist tax revenue is fairly similar in the City, County, and Marco Island; therefore, the proposed member representation is appropriate. Natural Resources Manager Jon Staiger however stated that the BRMC had researched alternate ways to apportion the membership. He suggested that the City stress to the County that because of the length of the beach in the City subjected to the restoration project, and because of the parking and beach access points the City provides, the City should have a greater number of representatives than either the County or Marco Island. City Manager Rambosk said that he would determine the status of the County's proposed ordinance, and would recommend either adding this to the upcoming Regular Meeting agenda or to a future workshop.

City Manager Rambosk then stated that he would instruct Public Works Director Dan Mercer and Dr. Staiger to attend a special meeting of the County Commission to be held at the landfill on

December 20<sup>th</sup> and provide an update to Council. He added that the County has provided a memorandum on this (a copy of which is contained in the file for this meeting in the City Clerk's office) and commented that the County is interested in receiving the City's input. Dr. Staiger explained that action is needed because the landfill is approaching capacity. Although there is land on site which could be used for landfill expansion, the County has not yet received permitting.

.....ITEM 9  
**REVIEW OF ITEMS ON THE 12/20/00 REGULAR MEETING AGENDA (11:55 a.m.)** Item 9 (settlement agreement proposed by South Florida Water Management District (SFWMD) relative to the Calusa Bay wells) – City Manager Rambosk said that staff would meet with SFWMD representatives on December 19<sup>th</sup> and that Chip Merriam would be present at the Regular Meeting. Item 7 (approval of Channel 76 programming) – City Manager Rambosk affirmed this is to approve action discussed at the present meeting regarding the specific schedule (See Page 5) and that Attorney Herbst would be present to resolve legal questions. Item 8 (issuance of promissory notes as it relates to various Naples Airport projects) – City Manager Rambosk confirmed staff would provide information on the number of times the NAA had approached Council on this specific request. He said he would also ascertain whether approval on this would require a resolution. Later in the discussion, City Attorney Robert Pritt stated that he had requested that the NAA change the resolution slightly to specify that Council is relying upon the NAA's due diligence, and that it should be ready for the meeting. Item 15 (request for reimbursement to the Old Naples Self-Storage for roadway turn lane improvements) – City Manager Rambosk noted this would be withdrawn. Item 16 (agreements with Collier County relative to Tourist Development Tax funding of various beach-related projects) – Council Member Galleberg requested further information on the proposed renovation and upgrade of four beach access areas. Dr. Staiger stated that the correct cost estimate for work at Lowdermilk Park is \$216,425. Council Member Taylor requested that Dr. Staiger provide the number of beach access points in the City and County at the upcoming BRMC meeting. Item 20 (various Wilkinson House issues) – Council Member Taylor requested clarification on the wall repair price. Item 24 (three-year contract for mail preparation and presorting services) – Mayor MacKenzie requested that a current customer be present for discussion. Item 26 (after-the-fact purchase order for an automated fueling and point-of-sale system for the City Dock) – City Manager Rambosk affirmed the purchase had not yet been made, and that staff would provide information at the meeting. Item 27 (appointment of one member to the City/County Affordable Housing Commission) – Mayor MacKenzie noted this had been withdrawn. Item 28 (request that the County Commission reenact the unincorporated MSTU to partially fund the Sheriff's budget) – City Manager Rambosk said he would provide information on the jail tax.

**Recess 12:10 p.m. to 1:38 p.m. It is noted for the record that Council Member Wiseman re-entered the meeting after the recess. Council Member Taylor reentered the meeting at 1:45 p.m.**

.....ITEM 6  
**DISCUSSION REGARDING WILKINSON HOUSE SALES CONTRACT/DEED RESTRICTIONS (1:38 p.m.)** City Attorney Robert Pritt noted that City Attorney Greg Urbancic had prepared this draft, and would present the changes he had made in response to previous Council direction. Council Member Wiseman recommended that Council examine each section of the contract. Mayor MacKenzie pointed out that Council needs to determine the actual bidding process; City Manager Kevin Rambosk noted that staff would present several options.

City Attorney Urbancic explained that he had used a standard sales contract for residential properties, but could use a different form per Council direction. He stated that he had left open many of the terms on Page 1, such as the purchase price and deposit information, as they would be determined at a later date. He added that he had set the closing date 90 days after the effective date

of the contract, but that this could be amended also. City Attorney Urbancic said he selected cash as the method of payment, noting this would generally take the form of a cashier's check or a wire transfer, while recommending that the City not deal with any mortgage commitment contingency. He added that he had amended the title commitment section in Paragraph 5 from the standard form by adding clarifying language relative to title search costs and the owner's title insurance policy. He added that Paragraph 6 (Other terms and conditions) allows for the inclusion of additional terms, and that he had attached an addendum. Additionally, there are real estate transaction standards included which are compiled by several organizations such as the real estate section of the Collier County Bar Association.

Council Member Wiseman said she felt that this is not the proper contract form, explaining that the specific and complex issues concerning the Wilkinson House bring this transaction to the level of a commercial transaction. She added that she found the strikethroughs and addendums confusing. City Attorney Urbancic offered to prepare another contract similar to those the firm uses for its commercial transactions. Council Member Galleberg however proposed reworking the current draft to have essentially a residential contract with riders. Council Member Wiseman again voiced concern regarding making modifications to a copywrited form. City Attorney Pritt confirmed that the intent is to rework the language into a new contract without the strikethroughs and addenda. Council Member MacIlvaine commented that using a standard residential sales contract with any changes specified directly beneath each applicable item would however be constructive for the buyer. Council Member Taylor said that the buyer would likely have an attorney and broker, and said her only concern is whether the contract is legally sufficient.

Council Member Wiseman also noted that the contract indicates that the City would not institute any rezone petitions; however, Council does intend to rezone to Single-Family. City Attorney Pritt said this would be amended. Mayor MacKenzie pointed out that the property is actually an assemblage of several lots, and said that the contract does not prohibit subdividing. Council Member Galleberg however said there is insufficient lot width to build a second dwelling. City Attorney Urbancic nevertheless said he would include such a prohibition in the special warranty deed. Council Member Taylor suggested having broker Scott Cameron review the documents when completed; however, Council Member Galleberg pointed out that Mr. Cameron deals primarily with commercial properties. Council Member Tarrant recommended not using any real estate personnel in this capacity, as both legal counsel and Council Member Wiseman are very proficient in this regard; the majority of Council concurred.

In response to Council, City Attorney Urbancic stated that he had incorporated many of Council Member Wiseman's previous suggestions. He then explained that the rule against perpetuities is not applicable to these types of use restrictions, but confirmed that he would explore placement of restrictive covenants in a plat, which would enable them to remain indefinitely. Council Member Wiseman suggested that the buyer execute the plat with the City, and requested that Mr. Urbancic draft a proposal of this nature with Planning Director Ron Lee. In response to City Attorney Pritt Council Member Wiseman affirmed it was possible to have a plat without a subdivision. It was the consensus of Council to ask that Roetzel & Andress senior partner Steven Thompson be present for the discussion at the Regular Meeting. Council Member Wiseman then clarified that she recommended a clause specifying an obligation to maintain, repair, and replace, in order to preserve the house.

Mayor MacKenzie noted that the seller has the right to cancel the contract until the buyer receives a mortgage commitment, and suggested that the City afford itself more flexibility. She said she



wanted to be able to review the purchaser's plans for the property, and withdraw if necessary. City Attorney Urbancic said however that the buyer would be bound by the special warranty deed. Council Member Galleberg spoke against allowing the City to withdraw after the buyer has committed a significant amount of money. He then said he disagreed with clauses in the present contract draft which serve to eliminate the buyer's right to a pre-closing walk-through, and thereby shift the risk of loss onto the buyer. Council Member Wiseman concurred, and advocated using the original form of the contract. Council Member Galleberg however said that the contract should make clear that the City is not obligated for any repairs, other than to maintain the property until closing.

Council discussed whether to rewrite the entire document. City Attorney Pritt said that the firm could incorporate the recommended changes, but could not change the entire format in time for the Regular Meeting. Council Member Wiseman recommended that Council address the bid process before it finalizes the sales contract due to the provisions relating to offers. She also suggested modifying the deed to specify that the buyer expressly accepts and agrees to be bound by the restrictions. Council Member Galleberg then commented that he did not believe it reasonable to mandate exterior colors or exterior color changes; Council Members Tarrant and Wiseman concurred. He also said there should be a clause allowing for the building of at least a three-car garage, details of which to be approved by the City. In response to Council Member Galleberg, City Attorney Pritt stated that the concept of a certificate of appropriateness emanated from an model ordinance done as part of a State-wide project to assist governmental entities in complying with the historic preservation requirements in their comprehensive plans. Mr. Pritt added that the City would issue this document based on whether the proposed alteration is appropriate and consistent with the goals of historic preservation. Council Member MacIlvaine concurred that this certification may be appropriate for approving a garage. Mr. Galleberg then said that the buyer should be able to rebuild the house within current Code if it is destroyed. City Attorney Pritt explained that, in that case, it may be wise to allow the owner to deviate from the original footprint in order to move the house farther away from the beach. He therefore recommended including a provision addressing fire and the 50% destruction rule. Council Member Wiseman recommended investigating other historical structures with deed restrictions dealing with destruction. Mayor MacKenzie recommended gearing the standard of destruction to the preservation of the exterior of the house, and prohibiting the sale of individual parcels. Council Member Taylor suggested that should the house be destroyed, the land could still be designated historic although Council Members MacIlvaine and Tarrant disagreed.

City Manager Rambosk stated there are several ways to proceed with the advertisement and sale. He explained that the Council could implement a sealed bid process, to be conducted within a specified period of time, and then review the bids received. City Manager Rambosk said that, conversely, Council could also set an asking price and entertain offers within a relatively short period of time. He however said that in this case, the offers would become public record; therefore, any deviation from the specified review period may be seen as unfair; either scenario, nonetheless, could include negotiation. There is also the possibility of listing the property through a real estate professional who would be paid through either a commission or a finder's fee, he said. Council Member Galleberg said he did not support using a listing agent. He then questioned whether there were rules that would govern this transaction. City Manager Rambosk stated that the processes he described are the same as those used previously for other property sales, and are within appropriate guidelines. Mr. Galleberg also questioned whether Council could take into account other considerations aside from price. City Attorney Pritt confirmed that this is permissible, and said that Council could structure the proposal to indicate that the City reserves the right to negotiate with any or all parties and to reject proposals in the best interest of the City.

Council Member Wiseman suggested establishing a minimum acceptable bid and selling the house by auction. City Attorney Pritt said this is a recognized method; however, he recommended retaining a professional in the real estate auction business to handle it. Council Member MacIlvaine pointed out that in that scenario, however, Council would be unable to negotiate terms. He instead expressed support for instituting a 30 day period in which to submit sealed bids, after which time Council could begin to negotiate the best bids. Additionally, Mr. MacIlvaine noted that the appraisals received show a variation in lot widths and urged that Council obtain clarification. He added that he believed the asking price should be \$7.25 million. Council Member Wiseman however voiced concern that the negotiation process could become arbitrary and thus discourage potential purchasers. Council Member Tarrant observed that major companies sell valuable assets through auctions, but Council Member MacIlvaine maintained that negotiation is a key method for properties. City Manager Rambosk said he could investigate additional information on auctions, and suggested obtaining a minimum price from the appraisers. Council Member Galleberg however said that he believed that the bidders themselves would determine this minimum. Council Member Tarrant reiterated that although the house is to be sold with restrictions, Council has the right to reject the bids if not satisfied with the offers.

Mayor MacKenzie said that the buyer may question whether there are any outstanding lawsuits, nothing that the Sibcy interests may pursue a view easement and a beach access. She questioned the length of time it would take for any such lawsuit to proceed. City Attorney Pritt stated that this would in fact depend on whether a lien is successfully imposed on the property and offered to add a clause to the contract should the City be unable to convey marketable title. In response to Council, he added that a declaratory judgment would take at least six months. Council Member Wiseman said that the City could file a petition to dissolve the lis pendens, which she said she believed would be heard on an expedited basis. The City would then have a cause of action against the opposing interests for slander of title. Council Member Galleberg suggested that the threatening party may come to agree that the contract as constructed would actually serve its interests. If not, he recommended constructing an indemnity provision. Council Member MacIlvaine said he believed the lawsuit to be frivolous and without grounds, and agreed with indemnifying the buyer against any action by a third party. In addition, City Attorney Pritt confirmed that a lis pendens filed against the property could be bonded off.

**CORRESPONDENCE & COMMUNICATIONS (3:19 p.m.) .....**

Council Member MacIlvaine noted correspondence from a citizen who reported that The Galley restaurant was offering live entertainment without a conditional use permit. City Manager Rambosk stated that staff had cited the restaurant for violation of State Statutes in regard to its operation. He however added that although the owner had not subsequently filed for a permit, he had been unaware that the entertainment had continued; Code Enforcement will investigate and issue a citation if warranted, he said. Council Member Wiseman noted she would be absent for the January 2<sup>nd</sup> Workshop Meeting and part of the January 3<sup>rd</sup> Regular Meeting and Council Member MacIlvaine said he would absent for the February 7<sup>th</sup> Regular Meeting. Council Member Taylor noted that an iron fishing pole holder was installed in the sand at the end of the pilings on 33<sup>rd</sup> Avenue South. City Manager Rambosk said a structure such as this should have appropriate permitting, and that he would investigate. Council Member Wiseman said she received a copy of correspondence from Attorney Nancy Stroud regarding rezoning conservation district lands to transitional conservation district, and said she did not recall Council asking for this opinion. City Manager Rambosk said this item came from a questioned posed by the Citizens to Preserve Naples Bay during a Council Meeting. Council Member Tarrant then voiced concern regarding the proposed Collier County exploratory aquifer storage and recovery (ASR) well project, and suggested sending correspondence to water customers in order to receive support for the City's position. Council Member MacIlvaine

said he did not believe the water users understand the issue well enough at this point, and suggested that they first receive information. Mayor MacKenzie noted that the state of Georgia had enacted a five-year moratorium on ASR wells, and suggested obtaining more information on this decision. City Manager Rambosk affirmed that he and the City Attorney would determine further options on this issue. Mayor MacKenzie then said that she wanted to clarify a request made of the County Commission at its last meeting by Herb Luntz ostensibly on behalf of the City. She said there may have been a perception that the City is unable to fund its Fourth of July festivities; however, there is actually \$50,000 reserved for the City's fireworks and parade. She added that Mr. Luntz is requesting \$25,000 in Tourist Development Council (TDC) funding in order to meet his expenses in bringing additional military units to the festivities. City Manager Rambosk said he received a copy of the proposed ordinance for the Collier County Coastal Advisory Committee. He reported that through the cooperative work of several investigators, police recently arrested a subject who had been breaking into parking meters, and that staff had placed on him a \$475,000 bond.

**ADJOURN** .....  
3:42 p.m.

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Bonnie R. MacKenzie, Mayor

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Tara A. Norman, City Clerk

Prepared by:

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Jessica R. Rosenberg, Recording Specialist

Minutes approved: 1/17/01