



City of Naples

City Council Minutes

Regular Meeting 06/07/89

City Council Chambers
735 Eighth Street South
Naples, Florida 33940

-SUBJECT-	Ord. No.	Res. No.	Page
<u>ANNOUNCEMENTS:</u>			
MAYOR PUTZELL: None.			1
CITY MANAGER JONES: Advised additional chairs and a television set would be set up outside to accommodate the overflow of citizens attending this session of City Council.			1
SWEARING IN CEREMONY FOR NEW POLICE OFFICERS.			1
<u>APPROVAL OF MINUTES:</u> May 10, 1989, Special Meeting May 17, 1989, Regular Meeting			1
<u>PURCHASING:</u>			
-BID AWARD for one storm water pump.		89-5837	2
-BID AWARD for two-year contract for purchase of domestic water meters.		89-5838	2
-APPROVE acceptance of a drainage easement from Minneapolis Gulf Coast Investors for installation of a storm sewer.		89-5839	2
<u>ORDINANCES - First Reading:</u>			
-APPROVE annexation of certain lands in accordance with the terms of a Development Agreement for the Sabal Bay project.	89-		15-
-APPROVE readopting the Coastal Construction Control Line promulgated by the State of Florida Department of Natural Resources.	89-		15
<u>ORDINANCES - Second Reading:</u>			
-ADOPT rezone of Colonial Square Development, 1000 Block of Goodlette-Frank Road.	89-5840		2-
-ADOPT rezone of southern end of Gordon Drive off Bay Road, Keywaydin Club Shore Station.	89-5841		3-
-ADOPT rezone of 460 acres of Key Island to allow 70 single family homesites.	89-5843		6-
-ADOPT ordinance relating to cable television franchises and operations.	89-5844		16-
<u>RESOLUTIONS:</u>			
-APPROVE preliminary subdivision plat for Gordon Drive Shore Station.		89-5842	3-
-DEFERRED variance request to keep a nonconforming roof sign, Naples Armature Works Building.		89-	15
-CONTINUE public hearing to award a franchise for cable television services, Telesat Cablevision, Inc.		89-	18-
-APPROVE Interlocal Agreement for distribution of the six-cent local option gas tax.		89-5845	20
-APPROVE agreement between the City and Windstar for deposition of spoil dredge material from the East Naples Bay Dredging District.		89-5846	20
-APPROVE agreement with Affordable Housing of Southwest Florida, Inc. for administration of a home repair financing program.		89-5847	20
<u>CORRESPONDENCE AND COMMUNICATIONS:</u>			
-Senator Fred R. Dudley gave a brief legislative update and advised that a provision to provide for non-criminal citations issued by Code Enforcement Boards was approved.			20
- Councilman Muenzer then asked staff to check into parking ramifications due to the sale of the United Telephone Service Building on Fifth Avenue South.			20
-Councilman Graver then asked staff to look into the issue of compensation for members of the Advisory Boards who have to cancel vacation or business plans to attend special meetings.			20

CC1176

City Council Chambers
735 Eighth Street South
Naples, Florida 33940



CITY COUNCIL MINUTES
Regular Meeting

Time 9:00 a.m.

Date 06/07/89

Mayor Putzell called the meeting to order and presided as Chairman.

ROLL CALL: Present: Edwin J. Putzell, Jr., ITEM 2
Mayor

Kim Anderson-McDonald
William E. Barnett
Alden R. Crawford, Jr.
John T. Graver
Paul W. Muenzer
Lyle S. Richardson,
Councilmen

Also Present:

Franklin C. Jones,
City Manager

David W. Rynders,
City Attorney

Mark W. Wiltsie,
Assistant City Manager

Gerald L. Gronvold,
City Engineer

Ann "Missy" McKim
Community Dev. Dir.

Norris C. Ijams,
Fire Chief

Jodie M. O'Driscoll,
Deputy Clerk

Paul C. Reble,
Police Chief

Steven R. Ball,
Chief Planner

Stewart K. Unangst,
Purchasing Agent

James L. Chaffee,
Utilities Director

Jon C. Staiger, Ph.D.,
Natural Resources Mgr.

George Henderson,
Sergeant-At-Arms

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

See Supplemental Attendance List - Attachment #1.

INVOCATION: Reverend James K. Kirk ITEM 1
Mooring's Presbyterian Church

ANNOUNCEMENTS:

ITEM 3

MAYOR PUTZELL: None.

CITY MANAGER JONES: Advised that additional chairs and a television camera would be set up outside to accommodate the overflow of citizens attending this session of City Council.

SWEARING-IN-CEREMONY FOR NEW POLICE OFFICERS:
City Manager Jones advised several of these newly hired police officers had recently completed their Academy training, an additional six would begin shortly. These positions have been created as a result of the City's obligation to provide service to the recently annexed areas as well as a few officer retirements.

Mayor Putzell administered the oath to these seventeen men and women, congratulated, and welcomed them to the City of Naples Police Department.

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

APPROVAL OF MINUTES

ITEM 4

May 10, 1989, Special Meeting
May 17, 1989, Regular Meeting

City Council Minutes

Date 06/07/89

COUNCIL
MEMBERS

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PURCHASING

ITEM 5

---RESOLUTION NO. 89-5837

Item 5-a

A RESOLUTION AWARDDING THE BID FOR ONE (1) STORM WATER PUMP; AUTHORIZING THE CITY MANAGER TO ISSUE A PURCHASE ORDER THEREFOR; AND PROVIDING AN EFFECTIVE DATE.

Bob Dean Supply, Inc.
Fort Myers, Florida
\$30,829.59

Title not read.

---RESOLUTION NO. 89-5838

Item 5-b

A RESOLUTION AWARDED THE BID FOR THE ESTABLISHMENT OF A TWO-YEAR CONTRACT FOR THE PURCHASE OF DOMESTIC WATER METERS; AUTHORIZING THE CITY MANAGER TO ISSUE A PURCHASE ORDER THEREFOR; AND PROVIDING AN EFFECTIVE DATE.

Sunstate Meter & Supply, Inc.
Gainesville, Florida
\$55,078.70

Title not read.

---RESOLUTION NO. 89-5839

ITEM 6

A RESOLUTION ACCEPTING A DRAINAGE EASEMENT FROM MINNEAPOLIS GULF COAST INVESTORS TO THE CITY OF NAPLES FOR INSTALLATION OF A STORM SEWER ACROSS LOT 2, SEABOARD UPTOWN SUBDIVISION; AND PROVIDING AN EFFECTIVE DATE.

Title not read.

MOTION: To APPROVE the Consent Agenda as presented.

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

COMMUNITY DEVELOPMENT DEPARTMENT/ NAPLES
PLANNING ADVISORY BOARD

---ORDINANCE NO. 89-5840

ITEM 7

AN ORDINANCE REZONING THE COLONIAL SQUARE
DEVELOPMENT PROPERTY LOCATED AT THE 1000
BLOCK OF GOODLETTE-FRANK ROAD FROM "HC"
HIGHWAY COMMERCIAL TO "PD" PLANNED
DEVELOPMENT WITH A HIGHWAY COMMERCIAL
DESIGNATION, SUBJECT TO THE CONDITIONS SET
FORTH HEREIN; DIRECTING THAT THE ZONING
ATLAS BE REVISED TO REFLECT SAID REZONING;
AND PROVIDING AN EFFECTIVE DATE. PURPOSE:
TO REZONE THE PROPERTY AT THE PROPERTY
OWNER'S REQUEST IN ORDER TO COMPLETE THE
DEVELOPMENT OF A 9.48 ACRE PROFESSIONAL
OFFICE PARK.

Anderson-
McDonald
Barnett
Crawford
Graver
Muenzer
Richardson
Putzell
(7-0)

X	X
X	X
X	X
X	X
X	X
X	X

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Title read by City Attorney Rynders.

PUBLIC HEARING: Opened: 9:12 a.m.
Closed: 9:12 a.m.

No one present to speak for or against.

Community Development Director McKim advised this property had voluntarily annexed into the City. The Development Agreement required submission of an application for rezone from HC (highway commercial to PD (planned development)). Both the staff and the Planning Advisory Board (PAB) have recommended approval subject to fire sprinkler installation in Phase II and III, additional landscaping be provided in Phase I, and that a parking monitoring program be established. The petitioner has provided proposed language to the PD submittal incorporating the above.

City Attorney Rynders concurred with the petitioner's proposed suggestion and further recommended the first paragraph of Section 1 include a reference to the development standards contained in the PD document dated April 13, 1989, prepared by the owner/developer Buccaneer's Roost, Ltd.

In response to Councilman Muenzer, Mrs. McKim confirmed that there would be adequate water lines in Phase II and III to accommodate the fire sprinkler system.

MOTION: To ADOPT the ordinance as presented at second reading.

---ORDINANCE NO. 89-5841

ITEM 8

AN ORDINANCE REZONING A 3.8-ACRE PARCEL LOCATED AT THE SOUTHERN END OF GORDON DRIVE OFF BAY ROAD AND ADJACENT TO GORDON PASS FROM "C-1", LIMITED COMMERCIAL, AND "R1-15", SINGLE-FAMILY RESIDENTIAL, TO "PD", PLANNED DEVELOPMENT, IN CONJUNCTION WITH A SPECIFIC SITE PLAN; DIRECTING THAT THE ZONING ATLAS BE REVISED TO REFLECT SAID REZONING; AND PROVIDING AN EFFECTIVE DATE. PURPOSE: TO REZONE THE PROPERTY AT THE PROPERTY OWNER'S REQUEST IN ORDER TO IDENTIFY THE USES SERVING THE KEEWAYDIN CLUB AND TO PROVIDE FOR LOW-DENSITY RESIDENTIAL USE ON THE BALANCE OF THE EXISTING COMMERCIAL AND RESIDENTIAL ZONED PROPERTY.

Title read by City Attorney Rynders.

---RESOLUTION NO. 89-5842

A RESOLUTION APPROVING THE PRELIMINARY SUBDIVISION PLAT FOR THE GORDON DRIVE SHORE STATION AND RESIDENTIAL PLANNED DEVELOPMENT ON A 3.8-ACRE PARCEL LOCATED AT THE SOUTHERN END OF GORDON DRIVE OFF BAY ROAD AND ADJACENT TO GORDON PASS; AND PROVIDING AN EFFECTIVE DATE.

Title not read.

Anderson-
McDonald
Barnett
Crawford
Graver
Muenzer
Richardson
Putzell
(7-0)

X

X
X
X
X
X
X
X

PUBLIC HEARING: Opened: 9:16 a.m.
 Closed: 9:24 a.m.

Community Development Director McKim noted this was the second reading of an ordinance to rezone the Keewaydin Club shore station property. The petitioner has submitted drafted language for restrictive covenants relative to that property which set forth restrictions regulating use of the same (a copy of which can be reviewed from the meeting packet in the Office of the City Clerk).

Mayor Putzell then opened the public hearing and reiterated Council's procedure for speakers. He asked the citizens not be repetitious in their comments.

Project Planner Alan Reynolds, representing the petitioner, advised that he was available to answer any questions relative to this project.

Mr. Louis S. Erickson of 1077 Fontana Street said he was opposed to the ordinance inasmuch as he believed it to be a major consideration for the entire Key Island project. Mayor Putzell asked Mr. Erickson to address his comments only to the shore station or defer his speaker registration to the next item. Mr. Erickson chose to defer his remarks until that time.

Mr. Thomas A. Bringardner, Jr., of 2220 Imperial Golf Course Boulevard, spoke in favor of the ordinance and complimented the petitioner for his fine development skills and community interest.

Ms. Nancy Stroud of Burke, Bosselman & Weaver, representing Messrs. John Donahue and Harry Sichi, spoke in opposition to the ordinance and said that she believed it would create a nuisance for her clients inasmuch as Keewaydin Club customers would use their driveways to turn around.

Ms. Elizabeth Berg of 13 High Point Circle, North, spoke in opposition to the ordinance and deferred further comment until consideration of the next item.

Referring to the resolution and ordinance presented, Councilman Crawford said he did not believe the documents adequately addressed Council's concerns, such as: definition of marina sales, number of permitted parking spaces, homeowner's association to be responsible for additional dock space, increase in dock space at the facility itself, public use of the shore station, and restrictive covenants for the property. City Attorney Rynders advised the petitioner had addressed some of those concerns in his letter to the City Manager dated June 2, 1989. (a copy of which can be reviewed from the meeting packet in the Office of the City Clerk).

RECESS: 9:32 A.M. UNTIL 9:37 A.M.

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COUNCIL
MEMBERS

M O T I O N	S E C O N D	VOTE		A B S E N T
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When the meeting reconvened, City Attorney Rynders addressed those other concerns of Councilman Crawford. The warranty deed and restrictive covenant prepared by the petitioner and approved by the Cutlass Cove Beach Club, Inc., specifically outlines the number of parking spaces which would be permitted, he said. In addition, a definition of marine sales has been established which would include petroleum products, lubricants, oil and diesel fuel, retail sales of fishing supplies and accessories, bait, fishing tackle, beverages, snacks, and ice.

Referring to the monitoring of this shore station parking facility, Councilman Richardson said he understood the petitioner would install an automatic gate in an effort to help monitor the parking. The petitioner has further agreed to turn down any and all cars wishing to access once all the parking spaces have been filled. Attorney Michael Volpe, representing the petitioner, further advised that the attorney representing Citizens for the Protection of Gordon Drive has also approved this warranty deed and restrictive covenant.

In response to Councilman Crawford, Project Planner Alan Reynolds advised the additional docking facility allocated to the Keewaydin Club would accommodate both police and fire rescue vessels. Mr. Graver asked if the second shore station facility would provide waterfront access; Mr. Reynolds advised that it would be required to in order to accommodate island residents.

Mrs. Anderson-McDonald asked if the restrictive covenant could be enforced by future Councils. City Attorney Rynders pointed out that it was not the City's responsibility to enforce such documents, that was in the hands of the Courts. Councilman Anderson-McDonald further asked if language had been added making the homeowner's association solely responsible for those four residential docking facilities so as they could not be leased out to others. City Attorney Rynders replied negatively.

MOTION: To ADOPT the ordinance with the inclusion that the homeowner's association would be responsible for dock space to be used solely by the residential property owners and not leased to others.

Mrs. Anderson-McDonald noted that since she has obtained sufficient information relative to the restrictive covenant and assurances the homeowner's association would guarantee that those docking facilities would not be leased, she would support the ordinance.

MOTION: To APPROVE the resolution as presented.

---ORDINANCE NO. 89-5843

ITEM 9

AN ORDINANCE REZONING APPROXIMATELY 460 ACRES OF KEY ISLAND LYING WITHIN THE CITY LIMITS FROM "R3T-12". MULTIFAMILY

Anderson-McDonald X
Barnett X
Crawford X
Graver X
Muenzer X
Richardson X
Putzell X
(7-0)

Anderson-McDonald X
Barnett X
Crawford X
Graver X
Muenzer X
Richardson X
Putzell X
(7-0)

CC1176

COUNCIL
MEMBERS

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recommends if an undeveloped coastal barrier island is developed at a rate of one unit per five acres of fast land, there would be minimal damage to the environment, Dr. Staiger noted.

Mayor Putzell opened the public hearing and reiterated the procedures for speakers who wish to address Council. He further noted that the audience should respect each speaker and any heckling of speakers would be cause for ejection from these proceedings.

Project Planner Alan Reynolds spoke at great length regarding hurricane evacuation plan, COBRA, carrying capacity, second shore station, coastal construction control line, fill, stormwater management, access easements, and beach renourishment. Discussion then ensued relative to each item outlined above. Mayor Putzell expressed concern relative to the variables used to determine the hurricane evacuation plan. Mrs. Barbara Henderson Cawley, representing the petitioner, advised that she had used the variable for summer occupancy rates based on condominium residences as she believed these homes would qualify as summer residences. She further explained that each property owner would be required to sign a caveat which would require them to evacuate the premises at a 36-hour hurricane watch.

Mr. Reynolds then discussed the island's carrying capacity and density as his experts believed it to be. Dr. Durbin Tabb, biological expert, then gave his expert testimony in support of this belief and said it was his professional opinion that 70 single family dwelling units could be supported on the island without any adverse environmental impacts. This can only be achieved, he said, if the developer sites residential dwelling units in areas where the least amount of damage would occur. He said he further believed that animals who live on this island could coexist with the human element. Mr. Graver asked if the lower portion of the island could be maintained without constant renourishment of dredged sand from Gordon Pass. Dr. Tabb contended that the island has been in a state of permanency for thousands of years and did not believe this development would adversely affect it.

Referring to the County's Comprehensive Plan, Mr. Reynolds said that approximately 1,400 units could be constructed on the island with current zoning requirements or 454 units calculated at the one unit per five acres criteria; however, he did not believe this to be in the best interest of those involved. If Council approves this request, he said, it would reduce the entire density of the City by 1/2 unit per acre.

In response to Councilman Graver, Mrs. McKim advised she did not believe staff was looking at this development any differently than it had before. The density of one unit per five acres of fast land, which equates to 42 total units, has been a consideration for at least the past 30 days.

Project Planner Reynolds then discussed the issue of beach renourishment and read a brief statement into the record: "The petitioner agrees that no public

subsidy of beach renourishment would be sought so long as Key Island's current legal rights to sand dredged from Gordon Pass are not abdicated." City Attorney Rynders took exception to this statement and asked representatives for the petitioner to explain. Mr. Reynolds noted that residents of Key Island would be solely responsible for any beach renourishment programs so long as Key Island could maintain its rights to dredged sand from Gordon Pass. Mr. Rynders pointed out that currently there is a dispute about rights to that sand, and he also noted that the City has made application for sand from the next dredging of Gordon Pass for placement to the north of Gordon Pass.

Dr. Michael Stephen of Coastal Engineering, clarified the petitioner's position. He said his client does not want to forego his existing rights as outlined in the Florida State Statutes for placement of dredged sand from managed inlets to the south. In response to Mayor Putzell, City Attorney Rynders advised that if the City applied for rights to that dredged sand, the petitioner could contend that this is in violation of State law and contest the application. Dr. Stephen, however, maintained that there would be no obligation on the City whatsoever to provide funds for beach renourishment projects. This statement was made to reassert that the petitioner intends to actively seek application for any dredged sand from Gordon Pass.

Discussion then ensued relative to dredged sand and beach renourishment projects. City Attorney Rynders contended that should the City apply for sand dredged from Gordon Pass, the petitioner would object on the basis of the Florida State Statutes previously referred to herein. In fact, the City has recently applied for sand from the next dredging to be placed to the north of the Pass for renourishment purposes. There is an obligation on the City's part, Mr. Rynders continued, as the petitioner's statement of rights to that sand indicates if the City should obtain rights to the dredged Gordon Pass sand, then the island residents could petition the Federal, State, and local governments for beach renourishment funds. Such action would put Key Island in competition with the City for grant monies. Mayor Putzell, however, did not believe the City would be in any more jeopardy than it is today regarding those dredged sands, as any application to the State for sand from that inlet could result in a lawsuit from property owners to the south. Project Planner Reynolds withdrew his previous statement claiming any rights to the sand dredged from Gordon Pass and advised that residents of Key Island would be responsible for any self-initiated beach renourishment projects for the island.

Referring to staff's recommendation that the second shore station include additional parking for the Keewaydin Club, Mr. Reynolds strongly objected. He said that at previous discussions held on July 20, 1988, it was agreed the second shore station would accommodate residential parking only. The Club facility will not be expanded, therefore, additional parking should not be necessary, Mr. Reynolds explained.

COUNCIL
MEMBERS

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Ms. Elizabeth Berg of 13 High Point Circle, North, spoke in opposition to the ordinance and recommended Council compensate the owner for this property in order to turn it into a bird sanctuary for future generations to enjoy.

Mr. Louis Erickson was not present to speak when his name was called.

Mr. R. W. Wood, P.O. Box 1326, Naples, Florida, a local contractor, spoke in favor of the ordinance and recounted details of destruction by Hurricane Donna. He said the only damage that occurred on Key Island was some tree branches were knocked down and the Club had been slightly moved off its foundation. Mr. Wood said he did believe the island residents would be in any jeopardy should another hurricane like Donna come through the area.

Mr. Carlo Paterno of 1167 Third Street, South, strongly opposed any construction on barrier islands as he believed such activity would adversely affect the entire Bay system.

Mr. Thomas Campbell of 4309 Gordon Drive concurred with Ms. Berg's remarks regarding the environment and added that he also did not support the proposed ordinance. He pointed out that the petitioner has not secured a port from which construction materials could be hauled, and Mr. Campbell disagreed that any property conveyed to the City would be of public benefit inasmuch as Key Island had only private beaches.

In response to assertions made by Mr. Campbell, Councilman Muenzer said that he has never supported Key Island as a public beach facility as it would require great additional cost to the City for maintenance.

Mr. George E. Williams of 4041 Gulf Shore Boulevard, North, spoke in favor of the ordinance and said he did not believe the scientific evidence relating to sea level rise to be accurate. Mr. Williams said he further believed this project would benefit all of Naples and asked Council to consider approval.

Attorney Edward Ryan of Burke, Bosselman and Weaver, representing Messrs. John Donahue and Harry Sichi, spoke in opposition to the ordinance and asked Council to hear expert testimony supporting his clients' position. Mr. Ryan then submitted a letter from Earl J. Baker, Ph.D., of Hazards Management Group, Inc., into the record; however, because of the Council's document submittal procedure, this was not received in time to be included as such (pursuant to Resolution No. 89-5781).

Dr. Samuel Snedaker of Rosensteil School, Miami Florida, also representing Messrs. Donahue and Sichi, said that he did not believe the petitioner's studies regarding carrying capacity to be accurate and asked Council to consider adopting staff's recommendations.

Dr. Harold Wanless of Rosensteil School, Miami, Florida, also representing Messrs. Donahue and

Sichi, spoke in opposition to the ordinance. He said the existing ample shoreline was a direct result of renourishing, and should that effort cease or drop off, the shoreline would erode rapidly. He also addressed hurricane evacuation procedures for the island and said he did not believe 36 hours sufficient time for evacuation as heavy rains and wind are already prevalent at the 36-hour mark. In response to Mayor Putzell, Dr. Wanless advised that it was his professional opinion the island was poorly drained.

Dr. Mark Benedict of 1450 Merrihue Drive, representing the Conservancy, spoke in opposition to the ordinance. However, he supported staff's research and analysis of the island in its recommendations to Council of one unit per five acres of fast land as recommended by COBRA. In response to Mayor Putzell, Dr. Benedict advised that it was the Conservancy's position not to support any development of barrier islands.

LUNCH BREAK: 12:20 P.M. UNTIL 1:32 P.M.

Dr. Fran Stallings, Environmental Protection Specialist for the Conservancy, also spoke in opposition to the ordinance. Dr. Stallings presented a resolution endorsed by the Coast Alliance Board of Directors into the record; however, because of the Council's document submittal procedure, this was not received in time to be included as such (pursuant to Resolution No. 89-5781). The resolution opposes Key Island and includes two letters from the National Wildlife Federation and Center for Marine Conservation supporting that position.

Attorney Joe Fleming of Miami, Florida, representing the Conservancy and the Florida Audubon Society, also spoke in opposition to the ordinance. Mr. Fleming said that the hurricane evacuation plan was unrealistic as deed restrictions requiring property owners to leave the area could not be adequately enforced through the Courts. He said if Council was to allow development at all on the barrier island, he would recommend the staff's position of 42 home sites versus 70.

Dr. William Pace of 2163 21st Court, South, spoke in favor of the ordinance and said that he believed the private property owner's rights should prevail.

Ms. Eileen Arsenault of 1188 Gordon Drive, representing the Florida Audubon Society, spoke in opposition to the ordinance and asked several questions of staff. In response to Ms. Arsenault, Dr. Staiger noted that Key Island was indeed a barrier island.

Referring to an article which appeared in the Naples Daily News, Sunday Edition, Mayor Pitzell clarified his remarks made at the onset of discussions for Key Island. He advised that when the petitioner had first approached him with this proposal, Mayor

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COUNCIL
MEMBERS

M O T I O N	S E C O N D	VOTE		A B S E N T
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Putzell had recommended he bring in a realistic plan and not deliberately enlarge it to see what he could get approved.

Mr. John D. Remington deferred comment at this time.

Mr. Walter Kenyan of 348 Ft. Charles Drive spoke in favor of the Key Island petition for rezone.

Councilman Richardson then made a brief statement regarding the emotionalism surrounding this issue. He said the petitioner has submitted an excellent land use plan for the island with private funds. In addition, the petitioner has indicated he would convey to the City some 2,000 acres for conservation purposes. Mr. Richardson then moved to approve the ordinance as presented at first reading to allow construction of 70 home sites. Mr. Barnett seconded the motion.

Mayor Putzell gave a brief speech regarding his belief that elements of conservation should be adequately considered as well as density issues. He further believed the second shore station site should be identified and asked if there were any legal ramifications if it was not. City Attorney Rynders advised that inasmuch as the ordinance provided that construction could not begin until after a second shore station site has been secured, he did not believe the City would be compromised.

Discussion then ensued relative to Section 1(6) of the ordinance. Councilman Crawford asked if the ordinance should include a provision wherein no building permits would be issued until the second shore station site had been identified. Community Development Director McKim noted that Section 1(6) of the ordinance currently provides that the additional shore station and hurricane evacuation requirements must be in place prior to construction of the infrastructure improvements.

Councilman Muenzer then referred to the recently passed Interlocal Agreement with the County relative to the Halstatt DRI (Development of Regional Impact) and said he thought the City had given that developer credit for land in the County. Community Development Director McKim, however, advised that staff had looked only at the portion of land in the City and would not give credit for County land in order to increase density. Mr. Muenzer further said he did not believe residents on Key Island would be in any jeopardy during a hurricane or major tropical storm inasmuch as that elevation on the island is greater than some areas of the City, such as Aqualane Shores, Port Royal, and Royal Harbor.

Referring to other areas of concern expressed by certain members of Council, Mr. Muenzer said he believed the hurricane evacuation plan to be adequate. It would be a greater problem to evacuate residents from the Park Shore area than Key Island, he said. He also pointed out that the petitioner was donating approximately 2,100 acres to the City for conservation purposes which would aid in the protection of sea turtles, birds, and the like.

COUNCIL
MEMBERS

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T	C	O	N
I	O	N	D
O	N	D	S
N	D	S	O

In response to Councilman Crawford, City Attorney Rynders advised the City would not be obligated for life and property in the event of a hurricane. Mr. Crawford then asked about enforcement of xeriscape on the island. Attorney Rynders pointed out that if that requirement was outlined in the PD document in adequate detail, the City could enforce it as any other development requirement. Referring to mosquito control, Councilman Crawford asked if there was any way to preclude such pesticide use on the island. Natural Resources Manager Staiger advised the island would be virtually uninhabitable if some type of chemical was not used. The most efficient and environmentally benign method, he said, would be a fogging vehicle. This would prevent the chemicals from encroaching upon the estuary, Dr. Staiger concluded.

Referring to the proposed homesites (approximately five) in Parcel A, Mr. Crawford said he believed approval of those homes would cause a precedent for future requests seaward of the Coastal Construction Control Line (CCCL). He then asked if those homes were constructed what liability would the City be responsible for. City Attorney Rynders reiterated his previous comments that the City could not be held responsible for loss of life or property. He supported this statement by indicating that there has been no history in the United States of local municipalities held responsible for reconstruction of individuals' homes.

In response to Councilman Crawford, Mr. John Remington of 2660 Half Moon Walk, the petitioner, advised that he has not revealed the project investors as per their request. There has been much dissension among certain members of the public which has created some problems for those individuals involved, he said.

Councilman Barnett supported the motion as stated and concurred with the PAB's recommendation for approval.

Mrs. Anderson-McDonald expressed concern that the island homes could be leased for convention type uses; however, City Attorney Rynders cited the Code wherein it provides restrictions on rental property that prohibits leases for less than one month. Referring to placement of homesites seaward of the CCCL, she asked if that would indeed set a precedent for future requests. Dr. Staiger said he did not believe so inasmuch as each request must meet certain requirements, both State and local, before obtaining a permit.

Councilman Anderson-McDonald then asked if it was necessary to include a section in the ordinance which would protect the City from any liability for reconstruction of infrastructure. City Attorney Rynders advised that he could insert such a clause, however, it would not change the underlying law which essentially protects the City from such claims.

Discussion then ensued relative to rights of sand dredged from Gordon Pass. Mrs. Anderson-McDonald

Concilman Graver then made a motion to accept staff's recommendation of 42 units. Mrs. Anderson-McDonald seconded the motion. Mr. Crawford then suggested the following amendment: density should be determined by one unit per five net acres of fast land; all units and lots should be located in Parcels A and B, density from Parcel C should be transferred to Parcel B; all units should be sited above four feet in elevation; maximum size of homes should be 5,000 s.f. and a minimum of 2,000 s.f. (air conditioned spaces) located on 15,000 s.f. lots; maximum clearing of lots 75% of native vegetation on first 10,000 s.f. and 50% of the remaining 5,000 s.f.; residential lots lines should not extend into Parcels C or D; no physical structures located in Parcel C; dune construction shall be deferred until justified by the City Natural Resources Office; paths and site fill

Anderson-
McDonald
Barnett
Crawford
Graver
Muenzer
Richardson
Putzell
(3-4)
FAILED

X	X	X
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		X
	X	
	X	
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COUNCIL
MEMBERS

VOTE		A L S E N T
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O	S	

limited to 18" above existing grade; and no beach armoring south of Parcel A will be allowed under any circumstances at any future date (Please see Attachment #2).

Attorney Michael Volpe asked Council to continue this matter until such time as the petitioner could adequately assess Mr. Crawford's amendments to the ordinance. It was the consensus of Council not to continue this matter, but it would recess for approximately ten minutes to give the petitioner an opportunity to meet with his attorney and review the proposal.

RECESS: 3:07 P.M. UNTIL 3:23 P.M.

Mayor Putzell asked the City Attorney for his legal opinion as to what would happen if the petitioner did not accept Council's approval as previously stated. City Attorney Rynders advised the petitioner would have an approved project for 42 homesites, it would be a non-active PD approval. If the property were sold to another developer, he could approach Council with another project, but in accordance with this PD.

Mrs. Anderson-McDonald withdrew her second to the motion as the petitioner advised her that he did not have sufficient time to review the recommendations. Councilman Crawford then seconded the motion.

Councilman Barnett said he believed the Council should go ahead and vote. The first motion failed, he said, and the one currently ready for question was a compromise.

City Attorney Rynders pointed out the Council had amended its first motion by stipulating that the petitioner not file any lawsuits against the City regarding its application for sand from Gordon Pass and that siting of the second shore station would occur prior to issuance of building permits. It was the consensus of Council to include those points in the motion as well.

Project Planner Reynolds asked Council to continue this matter until the petitioner had an opportunity to consider its ramifications. Mayor Putzell pointed out that if this item was continued, the original request for 70 homesites was still denied. City Attorney Rynders further noted that the petitioner was well aware of the proposal for 42 homesites as it was brought up at the first reading of this ordinance.

MOTION: To ADOPT the ordinance as presented at second reading with the aforementioned amendments by Councilman Crawford and to require that siting of the second shore station would occur prior to issuance of building permits and the petitioner would waive filing any lawsuits against the City in its pursuit of sand dredged from Gordon Pass.

Anderson-McDonald					
Barnett					
Crawford					
Graver					
Muenzer					
Richardson					
Putzell					
(6-1)					

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Mrs. Anderson-McDonald said she believed this proposal would result in the lowest impact upon that environmentally sensitive barrier island, and she would, therefore, support it.

Councilman Barnett said he did not believe Council should play a numbers game, and he would not support this motion.

Mr. Muenzer said he believed the proposal to be reasonable, and he would also, therefore, support it.

Mayor Putzell noted he also believed this to be a reasonable position and would support it.

---RESOLUTION NO. 89---

ITEM 10

A RESOLUTION GRANTING A VARIANCE FROM SECTIONS 6.30(J)(8) AND 6.30(L) OF APPENDIX "A" - ZONING OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES IN ORDER TO KEEP A NONCONFORMING ROOF SIGN ON THE NAPLES ARMATURE WORKS BUILDING AT 1101 FIFTH AVENUE SOUTH; AND PROVIDING AN EFFECTIVE DATE.

Title not read.

City Attorney Rynders advised this item was before the Planning Advisory Board (PAB) as an Administrative Appeal on July 14, 1989. Therefore, the petitioner has requested this item be deferred until the August 2, 1989, meeting.

---ORDINANCE NO. 89---

ITEM 11

AN ORDINANCE ANNEXING CERTAIN LANDS IN SECTION 23, TOWNSHIP 50 SOUTH, RANGE 25 EAST, COLLIER COUNTY, FLORIDA, AND PART OF NAPLES GROVES AND TRUCK CO.'S LITTLE FARMS #2, PLAT BOOK 1, PAGE 27, PUBLIC RECORDS OF COLLIER COUNTY, FLORIDA, INTO THE CORPORATE LIMITS OF THE CITY OF NAPLES; AND PROVIDING AN EFFECTIVE DATE. PURPOSE: TO ANNEX LANDS DESCRIBED HEREIN INTO THE CORPORATE LIMITS OF THE CITY OF NAPLES IN ACCORDANCE WITH THE TERMS OF THE DEVELOPMENT AGREEMENT.

Title read by City Attorney Rynders.

City Attorney Rynders advised this was the first reading of an ordinance regarding annexation of a portion of Sabal Bay. The Planning Advisory Board (PAB) has not yet finished its deliberations on the Development Agreement for this project and would meet again on June 15, 1989, to conclude those discussions.

Mayor Putzell noted that an ordinance is required to have two readings, and this request was an offer by the petitioner to voluntarily annex into the City.

Date 06/07/89

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-16-

Anderson-
McDonald
Barnett
Crawford
Graver
Muenzer
Richardson
Putzell
(5-2)

X	X	X
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	X	
	X	

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PUBLIC HEARING: Opened: 3:55 p.m.
Closed: 4:50 p.m.

Mayor Putzell opened the public hearing.

Mr. Victor Valdez, representing the Hispanic Chamber of Commerce of Collier County, spoke in favor of the ordinance and said that Palmer Cablevision has in the past denied cable service to hispanics in the area.

Attorney Bruce Anderson, representing Telesat Cablevision, Inc., noted this was the second draft of the ordinance and said that he believed it to be drastically different from the first. He asked if the incumbent cable company had agreed to comply with this ordinance to which the City Attorney replied that they had and deferred further comment to Palmer Cablevision's representative who was in attendance. Referring to Section 2(c) of the ordinance, Mr. Anderson said he believed the definition relative to cable service to be so broad that it could encompass condominiums which might want to share a satellite dish. They would be required to apply for a franchise agreement according to this definition, he said. On page 5 of the ordinance, he said, the application fee has been raised to \$5,000, five times the amount of the original draft, which he believed to be excessive. It should be based on the number of subscribers. Attorney Anderson concluded.

Referring to Section 10, Franchisee Performance, of the ordinance, Attorney Anderson contended that this section did not encourage competition in response to consumer demand, it forces competition regardless of demand. He also noted that Section 16(c) provides a limitation on the amount of channels to 54. Telesat Cablevision, Inc., is capable of supplying approximately 77 channels, he said. Mr. Anderson then said he believed the ordinance caters to the incumbent franchisee's needs.

Councilman Graver referred to Mr. Anderson's comments pursuant to Section 10 of the ordinance and noted that without this clause, Telesat could come in and "cherry pick" the choice cable customers. He said that he did not believe such action encouraged competition. Attorney Anderson, however, contended that "cherry picking" was permitted under the First Amendment and as such was acceptable. Council, however, reiterated its position that it was responsible for encouraging competition to benefit the community as a whole. City Attorney Rynders pointed out that the City would establish a reasonable service area in view of the applicants needs and those of the citizenry.

Mr. Rich Gunter, Director of Government Relations of Cablevision, 1655 State Road 472, Deland, Florida, spoke in favor of the ordinance and thanked the City for incorporating some of his comments into the proposed ordinance. However, his group still believed it to be deficient in one respect.

Attorney Fred R. Dudley, representing Cablevision Industries, Inc., expressed concern that Section 3

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of the ordinance might need to be amended. He asked Council to consider inserting certain language at the end of the first sentence in that section: "except that any Franchisee of Collier County may install or operate a system in any public easement or right-of-way in the City subsequent to or after the date of that franchise." City Attorney Rynders respectfully disagreed and said this issue was open to a wide variety of dispute. Mr. Rynders said he was quite comfortable with the language in Section 3 as it appeared.

Citizen Dennis Lynch of 3550 Gordon Drive spoke in favor of the ordinance.

Mr. Harry Cushing, President and Chief Executive Officer of Telesat Cablevision, Inc., recounted the many benefits his company has thus far brought to the community. He objected to Section 10 of the ordinance which would require the franchisee to serve the entire service area within a three year period. Mayor Putzell, however, pointed out that it was Council's responsibility to respond to the needs of the entire community, not just a few.

City Attorney Rynders suggested a language change to page 8, Section 10(b), third line, the wording "activate service" should be replaced with "and have service available."

In response to Councilman Graver, City Attorney Rynders advised he had not yet found any documentation to support the requirement for uniform rates; however, should Council desire to amend this ordinance to include such rates, it can do so at a future date with two readings.

MOTION: To ADOPT the ordinance as presented at second reading with the aforementioned language change.

---RESOLUTION NO. 89-

ITEM 13

A RESOLUTION AWARDED A FRANCHISE FOR CABLE TELEVISION SERVICES IN THE CITY OF NAPLES; INCORPORATING AND ADOPTING THE FRANCHISE AGREEMENT WITH TELESAT CABLEVISION, INC., BY REFERENCE; AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE FRANCHISE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Rynders.

PUBLIC HEARING: Opened: 4:55 p.m.
Closed: 5:00 p.m.

City Manager Jones advised the petitioner was informed of certain requirements he would be asked to meet if the previous ordinance was passed. The petitioner has not met those requirements, therefore, the City Manager recommended Council continue this hearing until the application is complete.

Attorney Bruce Anderson, however, strongly objected

Anderson-
McDonald
Barnett
Crawford
Graver
Muenzer
Richardson
Putzell
(7-0)

X
X
X
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X
X

COUNCIL
MEMBERS

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to the continuance of this hearing. Mr. Jones advised Council that until the application fee was received, the application was not complete. After receiving the petitioner's application fee, City Manager Jones then recommended the public hearing proceed as scheduled. Council may at its option extend these proceedings for up to 60 days from the original date of the hearing.

Mr. Rich Gunter, representing Citizen Alan Carey of 4600 Gordon Drive, spoke in opposition to the ordinance inasmuch as Telesat had not filed a complete application. He believed it lacking in the following areas: list of areas to be serviced and status of current service area, including miles built.

Discussion then ensued relative to holding the public hearing at this time. Mayor Putzell said he did not feel comfortable with proceeding today as he believed Council needed to educate themselves on this matter further. City Attorney Rynders reiterated that Council could take as much time as it needed inasmuch as there was a 60-day period wherein it was required to make a decision.

Attorney Anderson asked if his client could serve those customers under contract in the interim should Council continue this matter. City Attorney Rynders, however, pointed out that it has been the City's position Telesat could continue to serve those customers it had prior to application, but could not serve any additional customers until the application and hearing was complete.

MOTION: To CONTINUE this public hearing to a future date which would be adopted by consensus of the Council to be announced.

-----END ADVERTISED PUBLIC HEARINGS-----

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

---ORDINANCE NO. 89---

ITEM 14

AN ORDINANCE READOPTING THE COASTAL CONSTRUCTION CONTROL LINE PROMULGATED BY THE STATE OF FLORIDA DEPARTMENT OF NATURAL RESOURCES, AMENDING SECTION 7-41 OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES, FLORIDA; AND PROVIDING AN EFFECTIVE DATE. PURPOSE: TO ADOPT THE NEWLY RELOCATED COASTAL CONSTRUCTION CONTROL LINE WITHIN THE CITY OF NAPLES, COLLIER COUNTY, FLORIDA.

Title read by City Attorney Rynders.

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

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

Anderson-
McDonald X
Barnett X
Crawford X
Graver X
Muenzer X
Richardson X
Putzell X
(7-0)

Anderson-
McDonald X
Barnett X
Crawford X
Graver X
Muenzer X
Richardson X
Putzell X
(6-0)

X

CITY OF NAPLES, FLORIDA

City Council Minutes

Date 06/07/89

COUNCIL
MEMBERS

MOTION	S E C O N D	VOTE		S E N T
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---RESOLUTION NO. 89-5845

ITEM 15

A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN INTERLOCAL AGREEMENT WITH COLLIER COUNTY, FLORIDA, FOR DISTRIBUTION OF THE SIX-CENT LOCAL OPTION GAS TAX; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Rynders.

MOTION: To APPROVE the resolution as presented.

---RESOLUTION NO. 89-5846

ITEM 16

A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF NAPLES AND WINDSTAR DEVELOPMENT COMPANY FOR DEPOSITION OF SPOIL DREDGE MATERIAL FROM THE EAST NAPLES BAY DREDGING DISTRICT; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Rynders.

MOTION: To APPROVE the resolution as presented.

---RESOLUTION NO. 89-5847

ITEM 17

A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF NAPLES AND AFFORDABLE HOUSING OF SOUTHWEST FLORIDA, INC., FOR THE ADMINISTRATION OF A HOME REPAIR FINANCING PROGRAM UTILIZING UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS AND COORDINATED WITH LOCAL LENDING INSTITUTIONS; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Rynders.

MOTION: To APPROVE the resolution as presented.

CORRESPONDENCE AND COMMUNICATIONS:

Senator Fred R. Dudley gave a brief legislative update and advised that a provision to provide for non-criminal citations issued by Code Enforcement Boards was approved. Also, he noted that the bill regarding group homes had failed.

Councilman Muenzer then asked staff to check into parking ramifications sale of the United Telephone Service building would have on the Fifth Avenue South area.

Councilman Graver also asked staff to look into the issue of compensation for members of the Advisory Boards who have to cancel vacation or business plans to attend special meetings.

Anderson-McDonald
Barnett
Crawford
Graver
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(6-0)

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COUNCIL
MEMBERS

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ADJOURN: 5:16 p.m.

Janet Cason
Erwin J. Putzell, Jr.

JANET CASON
CITY CLERK

Jodie M. O'Driscoll
JODIE M. O'DRISCOLL
DEPUTY CLERK

These minutes of the Naples City Council were
approved on _____.

SUPPLEMENTAL ATTENDANCE LIST

Shirley D. Sills
Sharon Laurie
John Warner
Leslie Kuefner
Tom Chapman
Chris Schumann
Craig Buchanan
Norman Reinertson
Alan Reynolds
Mildred Long
Janet Hall
Kathy Cook
Toivo Tammerk
Dick Lowe
Howard Shanahan
Kim Rodgers
Jeanette Ashley
Ray Miller
Emer Brenan
Dr. Albert Frau
Marie B. Dowgiello
Herb Anderson
Edward Ryan
Elizabeth Berg
Dr. Fran Stallings
Eileen Arsenault
Ed McMahon
George Turner
James Lennane
Rich Gunter
Harry Cushing

Debby McKinnon
Suzette Teetmeyer
Bob Wood
Charles Andrews
Carlo Paterno
Robert Wentz
Debbie Walp
Betty Van Arsdale
Robyn Blandy
Bert Rose
Lori Sellman
Kenneth Long
Jerri Stanley
Zane Johnson
Al Old
Mary Dearholdt
Moira Reynolds
Cliff Schneider
H. Clayton Chandler
Israel Tabor
Alfred Dowgiello
Nancy Stroud
Michael Volpe
Samuel Snedaker
Joseph Flemming
John D. Remington
Aurel F. Sarosdy
Wheeler Conkling
Victor Valdes
Fred R. Dudley, Esq.

Joe Sexton
John Nagel
Mary Jo Volpe
W.W. Haardt
Florence Nippes
Fred Bosselman
Fiona Waberton
Durbin Tapp
Barbara Cawley
Kay DeSmedt
Deanna Adams
Harold Wanless
G.E. Williams
Lewis Erickson
Tom Bringardner
J. Strong
Glenda Roberts
Robert Brenan
Jack Harker
Helen C. Radke
Joe Sineno
Mike Stephens
Joe Spina
Dr. Mark Benedict
Dr. William Pace
J. Richard Young
W.A. Gaillardet
John C. Feirich
Bruce Anderson
Dennis Lynch

Other interested citizens and visitors.

NEWS MEDIA

Jerry Pugh, Palmer TV-10
Shepard Scott, WBBH-TV

Lori Darvas, Naples Daily News

CCI1176

June 6, 1989

I move to approve the ordinance listed as Agenda Item #9 dated 6/07/89 with all references to the number of single family home sites reduced to 42 and with an additional paragraph being inserted under Section One as follows:

"Additional conditions as established by the City Council are as follows:

(A) relative to density and site locations the following parameters will apply:

Density: 1 unit per 5 net acres. The use of fast land is appropriate which results in 42 units (see Table in Staff memo dated May 30, 1989).

Location of units: All units and lots should be located in Parcels A and B. Density obtained from the fast land located in Parcel C should be transferred to Parcel B.

Elevation: All units should be located above four feet.

All lands between three and four feet in parcel B should be in common area.

Size of units and lots: Maximum size of homes to be 5,000 square feet and a minimum of 2,000 square feet (both air conditioned spaces) located on 15,000 square foot lots.

This being the only allowed lot size in order to provide adequate lot area while limiting potential area for disturbance. A maximum of 75% of native vegetation can be cleared

Page Two
June 6, 1989

on the first 10,000 square feet of each lot and 50% of the remaining 5,000 square feet. Residential lot lines shall not extend into Parcels C or D; (B) no physical structures to include tennis court, swimming pools, recreation building, etc. shall be located in parcel C; (C) any dune construction will be deferred until the need is justified to the City Natural Resource officer; (D) paths and site fill be limited to 18" above existing grade; and (E) no beach hardening or armouring south of Parcel A will be allowed under any circumstances at any future date and prospective residents shall be specifically notified of this proscription;

CCI1176