



City of Naples

Index

City Council Regular Meeting

October 7, 1992

Convened 9:00 am / Adjourned 5:45 pm

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City of Naples

City Council Chamber
735 Eighth Street South
Naples, Florida 33940

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Mayor Muenzer called the meeting to order and presided

ROLL CALL

ITEM 2

Present: Paul W. Muenzer, Mayor
Fred L. Sullivan, Vice Mayor

Council Members:
Kim Anderson (arrived 9:10 a.m.)
R. Joseph Herms
Alan R. Korest
Ronald M. Pennington
Peter H. Van Arsdale

Also Present:

Dr. Richard L. Woodruff,
City Manager
Maria J. Chiaro, City Attorney
Dan Mercer, Interim Public
Works Director
Missy McKim, Community
Development Director
John A. Cole, Chief Planner
Ann N. Walker, Planner II
Susan M. Golden, Planner I
Dr. Jon C. Staiger, Natural
Resources Manager
David A. Graff, Utility Maint.
Superintendent

Gary Dowd, Plant
Maint. Mechanic
Steve Dancsec, Maint.
Foreman
Laurence Lebuff, Plant
Maint. Mechanic
George Henderson
Sergeant At Arms
Tara A. Norman,
Deputy City Clerk
Marilyn McCord,
Deputy City Clerk

See supplemental attendance list
(Attachment #1)

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INVOCATION AND PLEDGE OF ALLEGIANCE

ITEM 1

The Reverend Susan Diamond, First Christian Church

ITEMS TO BE ADDED

ITEM 3

Item 25 Resolution of support for two-cent tourist development tax. (See Page 36)

MOTION: To **ADD** this item to the agenda.

Anderson			A
Hermes	S	Y	
Korest		Y	
Pennington		Y	
Sullivan	M	Y	
VanArsdale		Y	
Muenzer		Y	
(6-0)			
M=Motion S=Second			
Y=Yes N=No A=Absent			

Item 26 Resolution authorizing retention of cable television consultant services regarding pending transfer of franchise from Palmer Cablevision to Colony Communications. (See Page 33)

MOTION: To **ADD** this item to the agenda.

Anderson			A
Hermes		Y	
Korest	S	Y	
Pennington		Y	
Sullivan	M	Y	
VanArsdale		Y	
Muenzer		Y	
(6-0)			
M=Motion S=Second			
Y=Yes N=No A=Absent			

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Item 27 Authorization to close Fifth Avenue South
for annual Oktoberfest. (See Page 33)

MOTION: To ADD this item to the agenda.

Anderson		Y
Hermes	S	Y
Korest		Y
Pennington		Y
Sullivan	M	Y
VanArsdale		Y
Muenzer		Y
(7-0)		
M=Motion S=Second		
Y=Yes N=No A=Absent		

Items 11 and 14 were then continued:

RESOLUTION NO. 92-

ITEM 11

A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A DEVELOPMENT AGREEMENT WHICH WOULD ALLOW THE DEMOLITION OF THE MAIN HOME AND GUEST HOUSE AT 111 12TH AVENUE, SOUTH AND THE SUBSEQUENT CONSTRUCTION OF TWO DWELLING UNITS ON THIS PROPERTY OTHERWISE IN CONFORMANCE WITH THE "R1-10" SINGLE FAMILY RESIDENCE DISTRICT STANDARDS; AND PROVIDING AN EFFECTIVE DATE.

Attorney William P. Harris, Jr., appeared on behalf of the petitioner, Marilyn Andrews, and requested that this item be continued until October 21st. Mrs. Andrews, he said, was currently hospitalized in Indianapolis. Mr. Harris also indicated that he had previously received the concurrence of both the Community Development Director and City Attorney. City Manager Woodruff indicated that while a two-week continuance was not an unreasonable request, he recommended that since this issue had been pending since February, action be taken on the 21st.

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MOTION: To CONTINUE Item 11 until the October 21, 1992, regular City Council meeting.

Anderson		Y
Herms	M	Y
Korest		Y
Pennington		Y
Sullivan	S	Y
VanArsdale		Y
Muenzer		Y
(7-0)		
M=Motion S=Second		
Y=Yes N=No A=Absent		

ITEM 14

**FIRST READING OF AN ORDINANCE--PLANNED DEVELOPMENT
REZONE PETITION 92-R10 AND 92-DRI1--APPLICATION FOR
EXPANSION OF COASTLAND CENTER MALL**

MOTION: To CONTINUE Item 14, at the request of staff, until a future meeting.

Anderson	S	Y
Herms	M	Y
Korest		Y
Pennington		Y
Sullivan		Y
VanArsdale		Y
Muenzer		Y
(7-0)		
M=Motion S=Second		
Y=Yes N=No A=Absent		

ANNOUNCEMENTS

ITEM 4

Item 4-a Mayor Muenzer - None
Item 4-b City Manager Woodruff

Dr. Woodruff and Interim Public Works Director Dan Mercer recognized the following individuals from the Utilities Division for receiving their Class C certification after successfully

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passing State of Florida licensing examinations: Gary Dowd, Plant Maintenance Mechanic; Steve Dancsec, Maintenance Foreman; and Laurence LeBuff, Plant Maintenance Mechanic. Mr. Mercer also thanked Council Members for their support, through the budgeting process, for training programs such as this which not only improve job skills but also improve morale and productivity.

****** CONSENT AGENDA ******

At this time Mayor Muenzer polled the Council for requests to remove items from the consent agenda.

MOTION: To **REMOVE** Items 20 and 21 from the consent agenda and to **APPROVE** the remainder; namely, Items 17, 18, 19, 22, 23, 24-a, 24-b, and 24-c.

Anderson		Y
Harms	S	Y
Korest	M	Y
Pennington		Y
Sullivan		Y
VanArsdale		Y
Muenzer		Y
(7-0)		
M=Motion S=Second		
Y=Yes N=No A=Absent		

APPROVAL OF MINUTES

ITEM 17

City Council Workshop Meeting	September 14, 1992
City Council Regular Meeting	September 16, 1992
City Council Special Meeting (2:30 p.m.)	September 16, 1992
City Council Special Meeting (5:05 p.m.)	September 16, 1992

RESOLUTION NO. 92-6752

ITEM 18

A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN AGREEMENT BETWEEN THE SCHOOL BOARD OF COLLIER COUNTY AND THE CITY OF NAPLES FOR THE USE OF COUNTY SCHOOL BUSES TO TRANSPORT SCHOOL-AGED CHILDREN ON FIELD TRIPS; AND PROVIDING AN EFFECTIVE DATE.

RESOLUTION NO. 92-6753

ITEM 19

A RESOLUTION AWARDING CITY BID #93-17 OR THE ESTABLISHMENT OF AN ANNUAL CONTRACT FOR THE FURNISHING OF MAILING SERVICES; AUTHORIZING THE CITY MANAGER TO ISSUE A PURCHASE ORDER THEREFOR; AND PROVIDING AN EFFECTIVE DATE.

RESOLUTION NO. 92-6754

ITEM 22

A RESOLUTION AWARDING CITY BID #93-10 FOR THE ESTABLISHMENT OF AN ANNUAL CONTRACT TO PURCHASE LIQUID POLYMER; AUTHORIZING THE CITY MANAGER TO ISSUE A PURCHASE ORDER THEREFOR; AND PROVIDING AN EFFECTIVE DATE.

RESOLUTION NO. 92-6755

ITEM 23

A RESOLUTION AWARDING CITY BID #93-18 FOR THE PURCHASE OF FOUR SUBMERSIBLE SEWAGE PUMPS; AUTHORIZING THE CITY MANAGER TO ISSUE A PURCHASE ORDER THEREFOR; AND PROVIDING AN EFFECTIVE DATE.

RESOLUTION NO. 92-6756

ITEM 24a

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ISSUE A PURCHASE ORDER FOR ANNUAL MAINTENANCE ON THE FINANCE DEPARTMENT MCDONNELL DOUGLAS MINICOMPUTER AND RELATED SOFTWARE; WAIVING THE REQUIREMENT FOR COMPETITIVE BIDDING THEREON; AND PROVIDING AN EFFECTIVE DATE.

RESOLUTION NO. 92-6757

ITEM 24b

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ISSUE A PURCHASE ORDER FOR ANNUAL MAINTENANCE ON THE POLICE DEPARTMENT MCDONNELL DOUGLAS MINICOMPUTER; WAIVING THE REQUIREMENT FOR COMPETITIVE BIDDING THEREON; AND PROVIDING AN EFFECTIVE DATE.

RESOLUTION NO. 92-6758

ITEM 24c

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ISSUE A PURCHASE ORDER FOR ANNUAL MAINTENANCE ON SOFTWARE IN THE MCDONNELL DOUGLAS MINICOMPUTER AT THE POLICE DEPARTMENT; WAIVING THE REQUIREMENT FOR COMPETITIVE BIDDING THEREON; AND PROVIDING AN EFFECTIVE DATE.

It is noted for the record that the following item (second reading of ordinances with reference to the Keewaydin Dock) and Announcements (above) were both listed as Item 4 on the agenda.

ITEM 4

PUBLIC HEARING AND SECOND READINGS OF TWO ORDINANCES; VARIANCE REQUEST - SOUTHERNMOST TERMINUS OF BAY ROAD AND GORDON DRIVE, ADJACENT TO KEEWAYDIN DOCK (GORDON POINTE PD AND KEEWAYDIN DOCK PD); AND APPROVAL OF FINAL PLATS FOR PROPOSED SUBDIVISIONS - KEEWAYDIN DOCK AND GORDON POINTE.

City Attorney Chiaro indicated that each ordinance and resolution under this item should be considered separately. It was also noted by Planner Ann Walker that the amended Gordon Point PD (Planned Development) document and language amendment for the Keewaydin Dock PD had been provided to the Council at its workshop meeting the previous Monday (October 5th workshop).

Public Input: Two individuals registered to speak (in addition to attorney for petitioner).

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Kenneth A. Main, 300 Cove Lane (also representing Port Royal Property Owners Association and Cutlass Cove Beach Association)

Mr. Main complimented the petitioners on changes made to their PD but asked that the proposed perimeter landscaping, which shields adjoining property owners, be installed by a date certain. He also sought assurance that the legal standing given the Cutlass Cove Beach Association on a small portion of the shore station property would not be affected by the division of the shore station and residential PD's as proposed in this action, which, he said, the groups he represents in no way oppose.

George Vega, Jr., Vega Brown Stanley Martin & Zelman (representing petitioner)

Mr. Vega indicated that he had made contact with Attorney Howard Crown, who represents Mr. Main's associations, and it had been determined that this action would not affect their position.

Council Member Pennington suggested that the aforementioned legal standing therefore be noted on the PD diagram for sign-off by the Cutlass Cove Beach Association.

Nancy E. Stroud, Burke, Bosselman & Weaver (representing Thomas J. Hickey, Trustee, and Florida Audubon Society)

(Ms. Stroud's position is also outlined in her letter to Mayor Muenzer of October 6, 1991, a copy of which is filed with the packet of this meeting in the City Clerk's Office.) Ms. Stroud noted that the revised PD's appeared to result in a reduction of open space buffer area and an increase in impervious surface. She said that her clients were also concerned that stormwater drainage was now being routed toward the Gulf of Mexico rather than the originally planned routing to the Gordon River. This, she said, would exacerbate already inadequate drainage on Bay Road and Gordon Drive. Another objection raised by Ms. Stroud involved the driveway shown on the revised shore station PD which now would extend beyond the commercial development and intrude into the residential area. This is not only contrary to the City Comprehensive Plan, she said, but would result in an S-turn which could not be negotiated by fuel trucks and the tour buses which frequent the area. By not negotiating this turn properly these large vehicles would cause damage to both the drainage system and landscaped buffer areas. In conclusion, Ms. Stroud also requested that a provision be inserted showing the date by which landscaping would be installed.

Attorney Vega, responding on behalf of the petitioner, explained that the S-turn had been incorporated in the plans in accordance with City requirements and that no attempt had been made to cut the landscaped buffer area or green space in the development. He said that he would be glad to abide by the City's wishes and that a reasonable deadline for installation of landscaping, such as six months, would also be gladly complied with.

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It was determined in further discussion, that the petitioner would be required to install landscaping by a date certain, although City Attorney Chiaro explained that this condition could not be made a part of the rezone ordinances currently being considered. This action was therefore incorporated by separate motion at the end of the discussion of Agenda Item 4.

ORDINANCE NO. 92-6759

ITEM 4a

AN ORDINANCE APPROVING REZONE PETITION 92-R6, REZONING THE PROPERTY DESCRIBED HEREIN, WHICH IS A PORTION OF THE APPROVED "GORDON DRIVE SHORE STATION AND RESIDENTIAL PLANNED DEVELOPMENT", TO ALLOW THE DEVELOPMENT THE "GORDON POINTE RESIDENTIAL PLANNED DEVELOPMENT", A FOUR LOT SINGLE FAMILY RESIDENTIAL DEVELOPMENT CONFORMING TO THE R1-15 ZONING STANDARDS; PROVIDING A SEVERABILITY CLAUSE AND AN EFFECTIVE DATE.

Title read by City Attorney.

MOTION: To APPROVE this ordinance on Second Reading.

Anderson	S	Y
Herns	M	Y
Korest		Y
Pennington		Y
Sullivan		Y
VanArsdale		Y
Muenzer		Y

(7-0)
M=Motion S=Second
Y=Yes N=No A=Absent

ORDINANCE NO. 92-6760

ITEM 4b

AN ORDINANCE APPROVING REZONE PETITION 92-R7, REZONING THE PROPERTY DESCRIBED HEREIN, WHICH IS A PORTION OF THE APPROVED "GORDON DRIVE SHORE STATION AND RESIDENTIAL PLANNED DEVELOPMENT", TO ALL THE DEVELOPMENT OF THE "KEEWAYDIN DOCK PLANNED DEVELOPMENT", THE MAINLAND SHORE STATION FACILITY FOR THE KEEWAYDIN CLUB, IN CONFORMANCE WITH THE STANDARDS THEREIN; PROVIDING A SEVERABILITY CLAUSE AND AN EFFECTIVE DATE.

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MOTION: To **APPROVE** this ordinance on
Second Reading.

Anderson		Y
Herms	M	Y
Korest		Y
Pennington		Y
Sullivan	S	Y
VanArsdale		Y
Muenzer		Y
(7-0)		
M=Motion S=Second		
Y=Yes N=No A=Absent		

RESOLUTION NO. 92-6761

ITEM 4c

A RESOLUTION GRANTING VARIANCE PETITION 92-V15 FROM SUBSECTION 3-81-4(D) OF THE COMPREHENSIVE DEVELOPMENT CODE WHICH REQUIRES A MINIMUM STREET FRONTAGE OF 200 FEET TO BE CONSIDERED FOR REZONING TO THE PLANNED DEVELOPMENT DISTRICT, IN ORDER TO REZONE THE PROPERTY LEGALLY DESCRIBED HEREIN FROM PD, PLANNED DEVELOPMENT AS A PORTION OF THE "GORDON DRIVE SHORE STATION AND RESIDENTIAL PLANNED DEVELOPMENT", TO PD, PLANNED DEVELOPMENT AS "THE KEEWAYDIN DOCK"; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney.

MOTION: To **APPROVE** this resolution as
presented.

Anderson		Y
Herms		Y
Korest	M	Y
Pennington	S	Y
Sullivan		Y
VanArsdale		Y
Muenzer		Y
(7-0)		
M=Motion S=Second		
Y=Yes N=No A=Absent		

RESOLUTION NO. 92-6762

ITEM 4d

A RESOLUTION APPROVING THE FINAL PLAT FOR A PROPOSED SUBDIVISION OF APPROXIMATELY 0.9 ACRES, TO BE KNOWN AS KEEWAYDIN DOCK, FORMERLY DESCRIBED AS PARCEL A OF THE GORDON POINTE SUBDIVISION, LOCATED AT THE SOUTHERN END OF GORDON DRIVE OFF BAY ROAD; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney.

MOTION: To APPROVE this resolution as presented.

Anderson		Y
Herms	S	Y
Korest		Y
Pennington		Y
Sullivan	M	Y
VanArsdale		Y
Muenzer		Y
(7-0)		
M=Motion S=Second		
Y=Yes N=No A=Absent		

RESOLUTION 92-6763

ITEM 4e

A RESOLUTION APPROVING THE FINAL PLAT FOR A PROPOSED SUBDIVISION OF APPROXIMATELY 2.7 ACRES, TO BE KNOWN AS GORDON POINTE, FORMERLY DESCRIBED AS TRACTS B AND C OF THE GORDON POINTE SUBDIVISION, LOCATED AT THE SOUTHERN END OF GORDON DRIVE OFF BAY ROAD; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney.

MOTION: To APPROVE this resolution as presented.

Anderson	S	Y
Herms		Y
Korest		Y
Pennington	M	Y
Sullivan		Y
VanArsdale		Y
Muenzer		Y
(7-0)		
M=Motion S=Second		
Y=Yes N=No A=Absent		

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MOTION: That the landscaping and hedges on the north, east and west side of the shore station be in place by April 15, 1993 and that the landscaping on the west side of the Gordon Pointe subdivision be installed within six months after approval by the court.

Anderson		Y
Herms		Y
Korest		Y
Pennington	M	Y
Sullivan	S	Y
VanArsdale		Y
Muenzer		Y
(7-0)		
M=Motion S=Second		
Y=Yes N=No A=Absent		

RESOLUTION NO. 92-6764

ITEM 5

A RESOLUTION GRANTING VARIANCE PETITION 92-V17 FROM SUBSECTION 7-4-4(F) OF THE COMPREHENSIVE DEVELOPMENT CODE, WHICH REQUIRES A SIDE YARD SETBACK OF 7.5 FEET AND REQUIRES THAT NO POOL OR SCREENED ENCLOSURE BE PLACED WITHIN A DRAINAGE OR UTILITY EASEMENT, IN ORDER TO ALLOW THE REPLACEMENT OF AN EXISTING SCREEN ENCLOSURE WHICH ENCROACHES TO WITHIN APPROXIMATELY FOUR FEET OF THE SIDE PROPERTY LINE AT 4611 CRAYTON ROAD; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney

Planner Ann Walker explained that in the 1970's, when this Park Shore home was constructed, no as-built survey was required; therefore, it was not revealed that the pool and enclosure encroached into the required setback and drainage easement. The staff had recommended approval of this variance, she said, as well as the Planning Advisory Board (PAB); although three letters were received, the only one relevant to the issues involved in this petition had recommended approval.

Public Comment: Petitioner only.

David Coolidge, 4611 Crayton Road

Mr. Coolidge noted that this variance was in conjunction with making repairs and bringing the pool and screened enclosure up to date.

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It was noted in discussion with the staff that an indemnification agreement would protect the City should construction in the easement result in damage to utilities there.

MOTION: To **APPROVE** this resolution as presented with the requirement for an indemnification agreement.

Anderson	S	Y
Harms	M	Y
Korest		Y
Pennington		Y
Sullivan		Y
VanArsdale		Y
Muenzer		Y
(7-0)		
M=Motion S=Second		
Y=Yes N=No A=Absent		

RESOLUTION NO. 92-6765

ITEM 6

A RESOLUTION WAIVING THE DISTANCE REQUIREMENTS BETWEEN LIQUOR LICENSEES IN ORDER TO PERMIT THE SALE OF ALCOHOLIC BEVERAGES ON THE ROSIE PADDLEBOAT, WITHIN 500 FEET OF AN EXISTING LICENSEE, THE ROSIE O'SHEA RESTAURANT, BOTH OPERATING FROM BOAT HAVEN; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney.

Planner Ann Walker explained that this petition was the first to be processed under the new procedure to waive the 500 foot distance between liquor licensees, provided that such waiver does not adversely affect the health, safety and welfare of the citizens of the public. According to the staff review, this restaurant and boat dock are part of the Boat Haven property and although the dock and restaurant share a common seawall, it is necessary for the boat to be issued a separate liquor license. Prior to acquisition by the new owner, the boat had been operated under the liquor license of O'Shea's Restaurant on Marco Island. The staff recommended approval, she added.

Public Comment: Petitioner only.

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Anthony Phelan, 823 102nd Avenue North (general manager of the restaurant and paddleboat in question)

Mr. Phelan indicated that this petition will facilitate a boarding of passengers onto the boat as they arrive rather en masse as had previously been the case. This type of gradual boarding then requires the boat to accommodate all restaurant needs until actual time of departure, including serving alcoholic beverages.

MOTION: To **APPROVE** this resolution as presented.

Anderson		Y
Hermes		Y
Korest	M	Y
Pennington		Y
Sullivan	S	Y
VanArsdale		Y
Muenzer		Y
(7-0)		
M=Motion S=Second		
Y=Yes N=No A=Absent		

RESOLUTION NO. 92-6766

ITEM 7a

A RESOLUTION GRANTING CONDITIONAL USE PETITION 92-CU8 FOR COMPUTER OPERATED GOLF SIMULATORS, DANCING AND STAGED ENTERTAINMENT, AND HEALTH AND FITNESS FACILITIES IN CONJUNCTION WITH THE SALE OF ALCOHOLIC BEVERAGES AND LIMITED FOOD SERVICE FOR D.W. MERCER, INC., D/B/A/ GRAND BAY COUNTRY CLUB, IN GRAND CENTRAL STATION; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney.

Planner Ann Walker explained that the site of the Grand Bay County Club was the former Page One Restaurant in the Grand Central Station Shopping Center. In addition to the golf simulators, the petitioner had requested permission for dancing and staged entertainment, depending upon demand. The waiver of distance requirement noted under Agenda Item 7-b was necessary due to the proximity of the oriental restaurant, which also possesses a liquor license, not because of proximity to an Italian restaurant which has just a beer and wine license, Ms. Walker explained. She also noted that the only parking issue she was aware of which had been raised at that location was one that was within the jurisdiction of the lessor; namely, the necessity of

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designating special customer parking for a nearby bank whose Friday evening hours coincided with increased patronage at the previous Page One Restaurant. In addition, City Attorney Chiaro clarified that a liquor license does not remain with the establishment but is granted in the name of the licensee.

Public Input: Petitioner's representative only.

Richard J. Aaron, 720 Goodlette Road

Mr. Aaron indicated that the facility's opening was anticipated for mid-November and that some interior improvements would be accomplished.

MOTION: To **APPROVE** the resolution as presented.

Anderson	S	Y
Hermes		Y
Korest		Y
Pennington		Y
Sullivan	M	Y
VanArsdale		Y
Muenzer		Y
(7-0)		
M=Motion S=Second		
Y=Yes N=No A=Absent		

RESOLUTION NO. 92-6767

ITEM 7b

A RESOLUTION WAIVING THE DISTANCE REQUIREMENTS BETWEEN LIQUOR LICENSEES IN ORDER TO PERMIT THE SALE OF ALCOHOLIC BEVERAGES AT GRAND BAY COUNTRY CLUB IN GRAND CENTRAL STATION SHOPPING CENTER, WITHIN 500 FEET OF AN EXISTING LICENSEE; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney.

Public Input: None.

MOTION: To **APPROVE** the resolution as presented.

Anderson		Y
Hermes		Y
Korest	M	Y
Pennington	S	Y
Sullivan		Y
VanArsdale		Y
Muenzer		Y
(7-0)		
M=Motion S=Second		
Y=Yes N=No A=Absent		

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As it was prior to the advertised time for consideration of Item 8 (First Presbyterian Church petitions), the Council considered Item 20 which had previously been removed from the Consent Agenda to be considered separately.

RESOLUTION NO. 92-6768

ITEM 20

A RESOLUTION AWARDDING CITY BID #93-06 FOR THE ESTABLISHMENT OF A TWO-YEAR MAINTENANCE CONTRACT FOR POLICE AND FIRE COMMUNICATIONS EQUIPMENT; AUTHORIZING THE CITY MANAGER TO ISSUE A PURCHASE ORDER THEREFOR; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney.

Dr. Woodruff noted that Mr. Herms had been provided with the information he had requested with reference to billing under this contract. He also pointed out that of the 11 companies who had received information on this bid, three had made proposals. The staff was recommending award to Motorola, Inc., however, based on the considerations listed in the staff summary (a copy of which is contained in the file of this meeting in the City Clerk's Office). It was also clarified that this contract could be discontinued upon 30 days notice, and Dr. Woodruff indicated that once complete service records are available on the City's various pieces of communications equipment, information on maintenance would be provided to the Council in a future workshop.

Public Input: None.

MOTION: To **APPROVE** the resolution as presented.

Anderson		Y
Herms		Y
Korest		Y
Pennington	M	Y
Sullivan	S	Y
VanArsdale		Y
Muenzer		Y

(7-0)

M=Motion S=Second

Y=Yes N=No A=Absent

RECESS: 10:28 a.m. to 10:35 a.m.

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It is noted for the record that the resolutions labelled as Item 8-a and 8-b were in reverse order in the packet from their listing on the agenda. The resolutions appear in the order considered at the meeting but show the agenda numbering.

RESOLUTION NO. 92-

ITEM 8b

A RESOLUTION GRANTING CONDITIONAL USE PETITION 92-CU7 FOR AN 838 SQUARE FOOT ADDITION TO THE SANCTUARY AT THE FIRST PRESBYTERIAN CHURCH, 250 6TH STREET SOUTH, DESIGNED TO ACCOMMODATE 115 SEATS; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney.

Planner Ann Walker explained that the First Presbyterian Church was requesting two additions to its facilities: a 115 seat addition to the sanctuary and a 530 square foot addition of office area. Because the church on its present contiguous site is over the lot coverage limit in the Public Service zoning district, a variance is also required in conjunction with these petitions. In the past, the church had acquired two additional off-site parking lots to help correct past deficiencies, but since the 115 seat addition (1 space per four seats) would require additional parking spaces, the Planning Advisory Board (PAB) and staff had recommended denial, she added. The office space addition would not require additional parking and would have no impact on the surrounding neighborhood, however, and the PAB had recommended approval of this as well as the variance with reference to lot coverage.

Ms. Walker also pointed out that the City code requires that each type of use provide its own parking and does not take into consideration hours of operation. Although formalized agreements to provide off-site parking may be taken into account in these situations, such agreements are rare because they encumber property in perpetuity. The School Board, for example, is willing for the church to utilize its parking facilities at Gulf View Middle School, but is unwilling to enter into a formal agreement of this type, she added. Mayor Muenzer also noted that due to a large-scale renovation program, Gulf View Middle School has not yet determined the footprint of its new facilities, making it more difficult to enter into even an informal agreement with the church on parking.

Dr. Woodruff further explained that with reference to granting requests of this type, the staff and PAB are compelled to address specific criteria while the City Council has the flexibility to determine that additional parking through informal agreement or on-street spaces could be considered.

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Public Input: Petitioner's representative only.

Rusty Batcher, Church Elder, First Presbyterian Church of Naples, 250 Sixth Street South
Mr. Batcher explained that the petition to expand the sanctuary is not due to growth but, instead, to improve seating and eliminate the need for folding chairs. This proposal would also provide another needed exit on the south side of the sanctuary.

Further discussion revealed that 198 parking spaces would be needed to accommodate the current 672 permanent seats plus the 115 proposed additional seats, (a total of 787). Although the specific fire rating was not available at that time, Dr. Woodruff indicated that he would ask that the building capacity be checked by the Fire Marshal. However, Dr. Woodruff pointed out that parking requirements are based only on permanent seating and that the church currently has 130 spaces on its property, leaving a 68 space deficit if the sanctuary addition were approved.

Vice Mayor Sullivan proposed that the office conditional use petition and the lot coverage variance be approved at that time and that the conditional use for expansion of the sanctuary be deferred until the church could provide agreements for use of such off-site lots as C&S Bank, the Piccadilly Pub and Gulf View Middle School. Council Member Anderson, however, pointed out that if the 48 nearby on-street parking spaces were added to 35 spaces in the C & S Bank lot, the 68-space deficiency would be addressed. Council Member Pennington suggested that the Council ask the church to return with an acceptable parking plan showing that their needs have been met, regardless of where the parking is located.

MOTION: To **CONTINUE** consideration of the portion of Conditional Use Petition 92-CU7 which applies to a 838 square foot addition to the sanctuary of First Presbyterian Church until the church provides documentation that acceptable parking has been provided to meet the needs of the expansion.

Anderson	S	Y
Herns		Y
Korest		Y
Pennington		Y
Sullivan	M	Y
VanArsdale		Y
Muenzer		Y

(7-0)

M=Motion S=Second

Y=Yes N=No A=Absent

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RESOLUTION NO. 92-6769

ITEM 8a

A RESOLUTION GRANTING CONDITIONAL USE PETITION 92-CU7 FOR A 530 SQUARE FOOT ADDITION TO THE OFFICE AREA AT THE FIRST PRESBYTERIAN CHURCH, 250 6TH STREET SOUTH; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney.

MOTION: To **GRANT** the portion of Conditional Use Petition 92-CU7 which applies to a 530 square foot addition to the office area at First Presbyterian Church.

Anderson	S	Y
Harms		Y
Korest		Y
Pennington		Y
Sullivan	M	Y
VanArsdale		Y
Muenzer		Y
(7-0)		
M=Motion S=Second		
Y=Yes N=No A=Absent		

RESOLUTION NO. 92-6770

ITEM 8c

A RESOLUTION GRANTING VARIANCE PETITION 92-V20 TO PERMIT AN ADDITION TO THE FIRST PRESBYTERIAN CHURCH, 250 6TH STREET SOUTH, WHICH WILL EXCEED THE LOT COVERAGE PERMITTED IN THE "PS", PUBLIC SERVICE, ZONING DISTRICT; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney.

It was clarified by City Attorney Chiaro that the Council could approve the variance petition, regardless of whether the conditional use for expansion of the sanctuary were eventually granted.

MOTION: To **GRANT** Variance Petition 92-V20 to permit the First Presbyterian Church to exceed the lot coverage in the Public Service zoning district.

Anderson	S	Y
Harms	M	Y
Korest		Y
Pennington		Y
Sullivan		Y
VanArsdale		Y
Muenzer		Y
(7-0)		
M=Motion S=Second		
Y=Yes N=No A=Absent		

ORDINANCE NO. 92-

ITEM 9

AN ORDINANCE APPROVING REZONE PETITION 91-R8, REZONING THE PATIO AREA TO THE WEST OF THE CHEF'S GARDEN RESTAURANT, MORE PARTICULARLY DESCRIBED HEREIN FROM "R1-10", SINGLE FAMILY RESIDENTIAL, TO "C1" RETAIL SHOPPING, IN ORDER TO COMPLY WITH THE FUTURE LAND USE ELEMENT OF THE COMPREHENSIVE PLAN; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Chiaro.

Planner Ann Walker indicated that the staff has met with the petitioners and was recommending that the Council approve this rezone based on the covenants offered by the petitioners; namely, that any intensification or change in the use of the building outside its existing footprint would require submittal of a General Development Site Plan (GDSP) review and public hearing before City Council, and that there be a buffer along the west and south property line.

Public Input: Two individuals registered to speak (in addition to attorney for petitioner).

Richard C. Grant, 5551 Ridgewood Drive (attorney for petitioner)

Mr. Grant indicated that his clients had tried to be responsive to the concerns of the neighboring property owners and the Council through the revised voluntary covenants.

Jim Shumake (attorney for Bruce A. MacDonald)

He said that the MacDonalds continue to object to the proposed rezoning of this property because the activities associated with commercial uses there negatively affect their residential parcel. He cited noise, traffic, hours of activity and exhaust emissions as well as a complicated access to the petitioners' property which runs adjacent to the MacDonald site. In light of these and other issues, Mr. Shumake said that he had been authorized to offer a counter proposal that the MacDonald property be rezoned to commercial along with the one now under consideration. Because the MacDonald property would be bounded on three sides by commercial uses, a designation of that property as commercial would result in their withdrawing opposition.

Dr. Woodruff pointed out, however, that to rezone the MacDonald residential property to commercial would be contrary to the City's Comprehensive Plan which had drawn the boundary between commercial and residential lots in that block so as to exclude this property from commercial rather than either of the alternatives of splitting it or including it entirely in the commercial zone. He said he hoped the Council would instruct the staff to review the entire land

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use of that particular block. A rezone of the MacDonald property could, nevertheless, be considered during the next Comprehensive Plan review which, according to Community Development Director McKim, could begin at the end of 1992 for adoption in 1993.

Mr. Herms pointed out that if the residential buffer represented by the MacDonald property were removed, then the need for such a buffer would merely be moved to the next adjacent residential property. Mr. Sullivan also noted that squaring off boundaries in this manner would fly in the face of the Comprehensive Plan statement that residential areas should be protected from commercial. Although Ms. Walker confirmed for Mr. VanArsdale that no additions to the exterior of the commercial building could be made without approval of a specific site plan, Mr. Herms pointed out that the rezoning being considered is the first step, without which, no application for expansion under a GDSP would be possible. However, Dr. Woodruff expressed the view that because the City had allowed the commercial use in question, it would be difficult to deny expansion even with a voluntary covenant. "This covenant gets very close to contract zoning," he added. City Attorney Chiaro indicated that the Council could consider the rezone with or without the voluntary covenant, although she said she had no problem with appending the voluntary covenant.

Bruce A. MacDonald, 241 14th Avenue South

Mr. MacDonald stated that his mother, the owner of the residential property, felt that its value was being degraded because to the proximity of the alley and that the propane gas tank which serves the restaurant is only ten feet from her swimming pool area. "We are throwing money down the drain to fix up the house," he said. "It is difficult to make a decision on this property."

Mr. Korest said that with the City Attorney's assurance that the recorded voluntary covenant would protect the City's discretion by requiring specific approval of any future petitions, the rezone would correct a situation which had been in need of addressing. Mayor Muenzer, however, said that the City would face these issues on other blocks in the Third Street area which are similarly split, but City Attorney Chiaro recommended that the Council's decision be made upon the evidence before it as well as the Comprehensive Plan designation currently in place. Nevertheless, Mr. Herms pointed out that because a mistake occurred and no survey was required which would have shown a four-foot over-lap when the restaurant patio was built, approval of this rezone would not only allow additional commercial development within that over-lap, but within an additional 19 feet as well.

MOTION: To **APPROVE** this ordinance on First Reading.

Anderson		Y
Herms		N
Korest	M	Y
Pennington		Y
Sullivan		Y
VanArsdale	S	Y
Muenzer		N
(5-2)		
M=Motion S=Second		
Y=Yes N=No A=Absent		

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It was also the consensus of Council that the staff review overall land uses in this block.

ORDINANCE NO. 92-

ITEM 10

AN ORDINANCE APPROVING REZONE PETITION 92-R3, AMENDING THE EXISTING GOODLETTE OFFICE PARK PLANNED DEVELOPMENT APPROVED BY CITY COUNCIL ON SEPTEMBER 8, 1988, TO ALLOW A CHANGE IN THE INGRESS/EGRESS OF THE SITE PLAN TO ALLOW A "RIGHT-IN, RIGHT-OUT" ONLY ACCESSWAY AT 681 GOODLETTE-FRANK ROAD; PROVIDING A SEVERABILITY CLAUSE AND AN EFFECTIVE DATE.

Title read by City Attorney.

Chief Planner John Cole reviewed this request indicating that the proposed amendment would allow for a right-in, right-out entrance to the Goodlette Office Park Planned Development from Goodlette-Frank Road which would serve this complex and the adjacent French Quarter complex. In recommending approval of this request, the Planning Advisory Board had requested that the City Engineering Manager review the traffic circulation in the area in order to protect residential neighborhoods. This review had been accomplished, Mr. Cole said, who called the Council's attention to the September 25th memorandum from Engineering Manager Leighton Westlake which indicated that revision of striping on Seventh Avenue North had been done to accommodate the concerns of the Intown Club. (A copy of this memo appears in the file of this meeting in the City Clerk's Office.) He also cited the recommended conditions for approval enumerated by the staff: that cross easements be granted to allow for use of the entrance by both the French Quarter and Goodlette Office Park; that when parking lot improvements are made at the southeast corner of the project, accommodations be made to physically connect the two parking drives; and that identification signage and landscape improvements be approved by the staff as being consistent with the code and PD documentation.

Public Input: Petitioner's representative only.

Richard J. Aaron, 720 Goodlette Road (attorney for petitioner)

Mr. Aarons indicated that the documentation memorializing the cross connection between the two property owners was now being reviewed to assure that it was sufficiently comprehensive due to the fact that it would bind future property owners.

Mr. Herms asked that prior to Second Reading of this ordinance, it be ascertained whether this PD overlay was put in place over C1 or C2 zoning.

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MOTION: To **APPROVE** this ordinance on First Reading, including the cross-connection of this property with the French Quarter, as written.

Anderson	S	Y
Herns	H	Y
Korest		Y
Pennington		Y
Sullivan		Y
VanArsdale		Y
Muenzer		Y
(7-0)		
M=Motion S=Second		
Y=Yes N=No A=Absent		

It was announced that following a recess, the Council would resume with consideration of Item 12. Deputy City Clerk Tara Norman acted as recording secretary for the morning session while Deputy City Clerk Marilyn McCord acted as recording secretary during the afternoon and until adjournment.

RECESS: 12:40 p.m. to 1:40 p.m.

NOTE: Roll call was taken again after the lunch recess; all Members of Council present.

RESOLUTION NO. 92-

ITEM 12

A RESOLUTION APPROVING A COASTAL CONSTRUCTION SETBACK LINE VARIANCE TO CONSTRUCT A NON-HABITABLE GARAGE AND AN ELEVATED WOODEN DECK ADJACENT TO AN EXISTING TWO-STORY FRAME RESIDENCE AT 1150 GULF SHORE BOULEVARD SOUTH; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Chiaro.

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Natural Resources Manager Jon Staiger reviewed the variance request, the purpose of which is to construct a non-habitable garage and an elevated wooden deck adjacent to an existing two-story frame residence gulfward of the Coastal Construction Setback Line. Dr. Staiger told Council that the petitioner's major goal was to provide some facilities for a handicapped family member who must presently access the house by means of a wheelchair lift.

Dr. Staiger continued his review by outlining staff's recommendation for approval, with the following conditions:

1. The continuous concrete footing for the wooden deck must be eliminated and the deck supported only on driven or jetted posts.
2. The variance is granted for the construction shown on the drawings prepared by Mario LaMendola, dated July 1, 1992; except for the deletion noted in Condition 1.
3. Should the DNR CCSL (Department of Natural Resources Coastal Construction Setback Line) permit result in changes to the above-referenced drawing, the Natural Resources Manager will prepare an analysis of their effect on the petition and submit a variance amendment for City Council consideration on the next regularly scheduled consent agenda.

Public Input: One individual registered to speak.

Martha Kinkaid, 38 Broad Avenue South

Mrs. Kinkaid, the petitioner's neighbor to the north, informed Council that she had been informed of today's meeting by other neighbors. She noted that the petition was surprising to many in the neighborhood. Mrs. Kinkaid gave a brief history of her tenure at the home at 38 Broad Avenue South, which is a historical dwelling. She described the situation which exists, with reference to the petitioner's home, including use of a very large stereo.

Mrs. Kinkaid told Council that since the petitioners had installed a portable spa on their property, her peace and tranquility have been destroyed. The occupants have refused to reduce the noise when asked, she said, and placing a spa in the proposed location would make it closer to her home and the noise worse. In addition, Mrs. Kinkaid said, she has threatening messages on her telephone answering machine.

Mrs. Kinkaid also expressed concern that fire apparatus might not be able to get to either house, and stormwater runoff would be properly handled. In closing, Mrs. Kinkaid thanked Members of Council and staff for their concern.

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Council Member Pennington also expressed concern that fire equipment would have difficulty in the alley between the two properties. Fire Department staff will inspect the alley and report on its ingress and egress.

With respect to stormwater runoff, Dr. Staiger reminded Council that the City has no requirements for stormwater management on single family properties. He suggested the installation of gutters on the roof, rather than to allowing rainwater to flow off on the driveway.

Architect for the project, Mario LaMendola, pointed out that the garage would not be designed for living area, but for storage only, and that he had certified that fact with the DNR.

Council Member Pennington said, that although he sympathized with for Mrs. Kinkaid, he did not believe that the garage would further that nuisance.

MOTION: To APPROVE the resolution, with the added stipulation that gutters be installed.

AMENDED MOTION: To APPROVE the resolution with the added stipulations that gutters and drainage be incorporated on the west side of the building, and buffering from the sound of the spa be provided.

The motion for approval failed by a vote of 2-5.

Vice Mayor Sullivan commented on the repugnancy of some of the maximizing of use on some City lots.

According to the variance criteria, said Mr. Sullivan, he would be obligated to vote in the affirmative, but added, "Fortunately I don't feel compelled to utilize only the criteria."

Anderson	S	Y
Herns		N
Korest		N
Pennington	M	Y
Sullivan		N
VanArsdale		N
Muenzer		N

(2-5)

M=Motion S=Second

Y=Yes N=No A=Absent

RESOLUTION NO. 92-

ITEM 13

A RESOLUTION AUTHORIZING NEGOTIATIONS WITH CONTEMPORARY HOUSING ALTERNATIVES OF FLORIDA, INC. FOR THE DEVELOPMENT OF AFFORDABLE HOUSING ON A 4.5 ACRE CITY-OWNED SITE IN AN EFFORT TO SUBMIT FOR THE NOVEMBER 1992 STATE OF FLORIDA SAIL FUNDING CYCLE; AND PROVIDING AN EFFECTIVE DATE.

City Manager Woodruff requested a two-week postponement of Item 13.

MOTION: To CONTINUE Item 13 until October 21, 1992.

Anderson		Y	
Herms	M	Y	
Korest		Y	
Pennington		Y	
Sullivan	S	Y	
VanArsdale			A
Muenzer		Y	
(6-0)			
M=Motion S=Second			
Y=Yes N=No A=Absent			

ORDINANCE NO. 92-

ITEM 15

AN ORDINANCE APPROVING REZONE PETITION 92-R8, REZONING THE NAPLES MOBILE HOME PARK, MORE PARTICULARLY DESCRIBED HEREIN, FROM "R1-7.5" SINGLE FAMILY RESIDENCE TO "PD" PLANNED DEVELOPMENT TO ALLOW FOR THE CONTINUATION OF THE EXISTING NOBILE HOME PARK AS A CONFORMING LAND USE AND TO ESTABLISH A SET OF DEVELOPMENT STANDARDS APPLICABLE TO THE MOBILE HOME PARK; PROVIDING A SEVERABILITY CLAUSE AND AN EFFECTIVE DATE.

Title read by City Attorney Chiaro.

The rezoning petition was review by Chief Planner John Cole. Staff would recommend approval of the petition, he said with certain conditions:

1. Utilization of the eastern lake for stormwater drainage shall be reviewed and approved by the Natural Resources Manager and the Engineering Division.
2. Dumpster locations shall be adjusted as requested by the Solid Waste Division.

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3. An as-built utility plan shall be submitted to the Utility Department. Back flow devices and pre-treatment facilities shall be installed as required by the Utilities Division.
4. All existing mobile homes' tie-down facilities shall be inspected within one year of the approval of this rezoning. Improvements shall be made in those instances where existing tie-down facilities represent an unsafe condition as determined by the Building Official.
5. The applicants shall coordinate with the Planning Staff regarding the affordable housing survey. Prior to City Council approval the specific survey form and methodology shall be agreed to. The applicant shall conduct such an affordable housing documentation survey by January 15, 1993 and update such a survey on an annual basis.
6. The landscape screening proposed for this project's south side shall include a 5' tall wooden screening fence or decorative wall in addition to vegetative screening.

The PAB had also unanimously recommended approval of this petition, subject to staff conditions 1 through 5 as listed above. Condition 6 was modified to request the applicant meet with park neighbors to the south to determine what their preference was for screening (fence versus landscaping). Additionally, the PAB recommended that the following two changes be made to the PD document prior to its approval:

1. Page 7 section (E): Amend language so that exemptions for antennas are deleted.
2. Page 8 section (VI): Amend language so that the specific reference to 32 units was deleted.

These changes should be made by the applicant and incorporated into the final PD document prior to second reading.

Mr. Cole noted that PAB Member Jack Hustler stated that he did not believe that this mobile home park should be permitted to rebuild if it was damaged during a hurricane, due to safety concerns.

Public Input: Three individuals registered to speak.

Attorney Dwight McAnley

Attorney McAnley, representing the property owner, Mrs. Darlene Stoneburner-Lofgren. He said that the rezoning would allow residents of the Park to improve their homes in conformance of the PD document. All PAB conditions had been complied with, he noted, and the PD document had been modified in accordance with PAB's direction.

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For the record, Randy Clark, 2630 North Ninth Street, registered but did not speak.

Sue B. Smith, 15 11th Avenue South

Mrs. Smith commented that she found it very repugnant and an infringement of personal rights that residents of the mobile home park would have to give certain personal information in order to comply with the City's needs for its affordable housing qualification. She went on to say that in her opinion the City, in order to answer its needs for affordable housing, had no right to impose on any resident such a requirement.

Mayor Muenzer, however, stated that because of the affordable housing regulations, further surveys, would be necessary in the future, a requirement imposed by Federal government. The City had to document certain information in order to receive credit. Chief Planner Cole explained that staff still had to meet with the park owners and finalize the details of the personal information survey form. Mr. Cole said further that this particular park exceeded the permitted density of even a high density residential neighborhood. Therefore, to justify that increase, the City sought to know whether or not it could take credit for affordable housing units in the park.

MOTION: To **APPROVE** the ordinance at first reading, subject to the provisions of the Planning Advisory Board, as recommended by staff.

Anderson	S	Y
Herms		Y
Korest	M	Y
Pennington		Y
Sullivan		Y
VanArsdale		Y
Muenzer		Y
(7-0)		
M=Motion S=Second		
Y=Yes N=No A=Absent		

ITEM 16

MOTION: To **DELAY** Item 16 until later in the meeting.

Anderson		Y
Herms		Y
Korest		Y
Pennington	M	Y
Sullivan	S	Y
VanArsdale		Y
Muenzer		Y
(7-0)		
M=Motion S=Second		
Y=Yes N=No A=Absent		

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RESOLUTION NO. 92-6771

ITEM 21

A RESOLUTION AWARDDING CITY BID #93-15 FOR THE ESTABLISHMENT OF AN ANNUAL CONTRACT FOR THE PURCHASE OF LIQUID FERROUS SULFATE; AUTHORIZING THE CITY MANAGER TO ISSUE A PURCHASE ORDER THEREFOR; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Chiaro.

City Manager Woodruff announced that Davis Water & Waste Industries was the original bidder and the only bidder meeting the City's specifications. The second lowest bidder, Leahchem Industries, Inc., was represented at the meeting by Mr. Jerry J. Matteo and Mr. Ken De Garmo. Mr. Matteo told Council that his firm's product was well documented in the trade's literature, which he said is more concentrated and therefore actually cost less. Mr. Matteo suggested that Council postpone the bid award and allow his firm to deliver one truckload for testing. He pointed out that the product was completely compatible with the City's existing equipment and that Leahchem Industries would provide the manpower necessary to coordinate its use. Mr. Matteo conceded that while his product was not presently used in Florida wastewater plants, it was used in many water plants. He said he would supply Council with relevant data.

City Manager Woodruff indicated that staff would work well and would have no problem with testing the product.

MOTION: To **APPROVE** the award of bid to Davis Water & Waste Ind. and direct staff to work with representatives of Leahchem Industries, Inc. throughout the coming year and to write different specifications for next year. Representatives of Leahchem Industries, Inc. will stay in contact with the City staff and provide updated information about its product and use in other municipalities.

Anderson		Y
Herns	S	Y
Korest	M	Y
Pennington		Y
Sullivan		Y
VanArsdale		Y
Muenzer		Y
(7-0)		
M=Motion S=Second		
Y=Yes N=No A=Absent		

Dr. Woodruff told Council that staff would proceed immediately to begin testing the Leahchem product.

RESOLUTION NO. 92-6772

ITEM 16

A RESOLUTION GRANTING VARIANCE PETITION 92-V19 FROM SUBSECTION 7-4-18(H) OF THE COMPREHENSIVE DEVELOPMENT CODE WHICH ESTABLISHES A MAXIMUM BUILDING HEIGHT OF 35 FEET IN THE "C-4" AIRPORT COMMERCIAL ZONING DISTRICT, IN ORDER TO ALLOW THE CONSTRUCTION OF AN AIR TRAFFIC CONTROL TOWER WHICH IS 82 FEET IN HEIGHT; AND PROVIDING AN EFFECTIVE DATE.

Representing the Airport were William E. Payne, Project Engineer, (also representing James E. Hirst & Associates, Inc.) and Chief Controller Wayne Dennis. Mr. Payne reviewed the Airport's request for a variance petition, which would allow a new 82 foot control tower. He said that a new tower was necessary in order to improve safety at the airport. The present tower was meant to be temporary, said Mr. Payne. Due to the surrounding vegetation and structures in the area, visibility is restricted. In addition, the tower itself is in very poor condition. Mr. Payne stated, "It is imperative that we consider the safety of the Airport. That's the reason for the increased height, which will have an adverse effect for anyone in the vicinity. I can't emphasize that enough."

Chief Planner Cole told Council that staff recommended approval of the variance with the condition that the applicants provide the FAA (Federal Aviation Authority) recommended methodology for control tower siting. This document has been provided. Staff believes that the applicant has following the FAA procedures and the requested tower is not significantly higher than is required to meet modern aviation standards.

Vice Mayor Sullivan informed Council that he had visited the Airport tower and the operators in that tower. He said that very real problems existed there with respect to visibility. In talking with the tower operators, said Mr. Sullivan, they expressed their concern about dispatching medical helicopters; presently it is necessary to contact Fort Myers and obtain clearance to land at Naples Community Hospital. The present Naples Airport tower does not have visual sighting of the Hospital's landing area, which causes delays at times. Mr. Sullivan further described the present tower, noting that its design also constrains its visual ability. He said, "It's time we caught up with the times and experience what would be a real benefit, not only to pilots but a significant benefit to the City and to the Airport. My point is, it's time we got a new control tower."

Mr. Payne reported that interference problems also exist at the Airport. It is necessary to have the antennas installed higher in order to obtain proper reception. Mr. Payne clarified that the airfield lighting controls are not in the control tower, but in an Airport office. He told Council that funding for the tower was through the FDOT (Florida Department of Transportation), however, the Airport would contract with the FAA to operate the tower. Mr. Payne noted that

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in 1990 the FAA wrote a letter stating the Airport met all requirements with the exception of a suitable working tower. Chief Controller Wayne Dennis reiterated Mr. Payne's description of the airfield lighting situation.

In response to Council Member Herms' question, Mr. Payne said that the old emergency generator would be decommissioned. A larger standby generator will be provided which will service the runway lights and the tower as well as provide emergency lighting for the entire terminal area.

Council Member Van Arsdale stated that a newer tower would be appropriate, however, he said that he did not agree that the present tower presented a serious safety problem. "We have good people in it, but it is not unsafe," he assured Council. Mr. Van Arsdale said that he was happy to hear that Federal funding was available for the new tower.

Public Input: One individual registered to speak.

Sue B. Smith, 15 11th Avenue South

Noting that her husband frequently travelled through Naples Airport, Mrs. Smith stated, for the record, she was definitely in favor of providing for public safety, but asked for further information on the cost of the proposed tower and its height in comparison to towers at other cities. Mr. Payne indicated that the tower was projected to cost between \$600,000 and \$700,000. The tower at Southwest Regional Airport (Fort Myers), he said, was approximately 160 feet high measured to the top of its antennas.

Mrs. Smith also indicated her concern with the changes which had occurred in the Airport area under its 16-year-old master plan, noting that on other occasions the City had been much more stringent with petitioners for development, requiring updating and revision in their plans. She also addressed economic issues, disputing the necessity to expend over \$600,000 to provide safety, paraphrasing a comment by Council Member Van Arsdale stating, "we are going from a Volkswagen to perhaps a Cadillac style." Mrs. Smith also reminded the Council that regardless of whether funding comes from the state or federal government, it was nevertheless taxpayer dollars, of particular concern during a time of economic downturn. Another issue raised by Mrs. Smith concerned the very small amount of revenue derived by the City from the Airport, while the Airport Authority had the right to set fees and charges as it saw fit. "They use our land that we gave them in a rental ... they in turn have leased it to make it quite a money making property," she added. It was also Mrs. Smith's position that despite the fact that taxpayers are contributing to expenditures like the tower, the Airport Authority is not only making significant profits, but has established restrictive policies for its facilities which bar some individuals from using them.

Mrs. Smith's also reminded the Council that during the time former Fire Chief Rand-Scott Coggan was serving as Acting City Manager, a contract between the City and the Airport

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Authority, which had traditionally been for one year, had been extended to a three period accruing to the advantage of the Airport Authority, not the City. In addition, she noted that the City Attorney during that period was also serving as the attorney for the Airport Authority. "... it was very disturbing to me. How can you serve two masters?" she asked.

A major complaint, however, she said, involved the Airport Authority refusing to pay an outstanding bill due Florida Power & Light Company for electricity provided to the Airport. She said she had researched the matter and had found the charge to be "a very nominal amount" and noted that other electric customers would not be able to choose not to pay. "It is a matter of principle, and the principle is large," Mrs. Smith noted, and urged the City Council to require payment of the FPL charges and to require the Airport to revise its fees and charges before granting the tower variance currently being proposed. "If they cannot do that, then I would suggest to them at the Airport that they can know there are some of us who've gone as far as we're going. We consider the Naples Airport Authority to (be) behaving as a child who is spoiled, irresponsible, and is not trying to be a friendly participant to the ... community. A lot of us will be flying out of Fort Myers or, if necessary, we ... shall fly from Tampa or Miami until you get your act together and become a member of the community, not a bulldog," Mrs. Smith continued.

MOTION: To **APPROVE** the resolution as presented.

Council Member Van Arsdale said that it was significant to note that since 1972, when the Airport Authority took over the Airport, the City has not funded any of its operations through ad valorem taxes.

Anderson		Y
Herms		Y
Korest		Y
Pennington		Y
Sullivan	M	Y
VanArsdale	S	Y
Muenzer		Y

(7-0)

M=Motion S=Second

Y=Yes N=No A=Absent

Council Member Herms stated that he would vote in favor of the variance for the sake of improved operations and safety. He requested that the Airport Authority and Airport staff consider building more hangar space. Mr. Herms noted that he had received a tremendous number of complaints from citizens with respect to the very limited hangar space. Referring to the Airport's electric bill, Mr. Herms agreed with Mrs. Smith. According to the Airport's audit, he pointed out, the Airport has \$1.6 million in the bank, said Mr. Herms, yet had the audacity to not pay the outstanding FP&L bill. Mr. Herms commented that the community's respect for the Airport Authority was "rapidly going downhill." He wanted to support the Airport, he noted, but wanted to see improvements in some areas.

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Vice Mayor Sullivan also referred to the limited hangar space, saying that he had been told by the Airport Authority that the problem would be attended to. With respect to the electric bill, Mr. Sullivan stated that in his personal opinion, if FP&L had a problem with that bill, that was a matter of dispute between the two parties and that it was not within Council's realm to be involved.

BREAK: 4:20 p.m. - 4:25 p.m.

ITEM 27

AUTHORIZATION TO CLOSE FIFTH AVENUE SOUTH FOR ANNUAL OKTOBERFEST ON SATURDAY, OCTOBER 17, 1992.

City Manager Woodruff assured Council that all criteria had been met for the annual Oktoberfest on Fifth Avenue South.

MOTION: To **APPROVE** the closure of Fifth Avenue South for the annual Oktoberfest on October 17, 1992.

Anderson		Y
Hermes	M	Y
Korest		Y
Pennington		Y
Sullivan	S	Y
VanArsdale		Y
Muenzer		Y
(7-0)		
M=Motion S=Second		
Y=Yes N=No A=Absent		

RESOLUTION NO. 92-6773

ITEM 26

A RESOLUTION AUTHORIZING RETENTION OF TELECOMMUNICATIONS MANAGEMENT CORP. TO PROVIDE CABLE TELEVISION CONSULTANT SERVICES TO THE CITY OF NAPLES REGARDING THE PENDING REQUEST TO TRANSFER THE CITY'S CABLE TELEVISION FRANCHISE FROM PALMER COMMUNICATIONS TO COLONY COMMUNICATIONS; AND PROVIDING AN EFFECTIVE DATE.

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Title read by City Attorney Chiaro.

The City Attorney explained that the consultants would inform Council what must be considered in the transfer of the franchise and determine what elements need to be considered.

Public Input: Werner W. Haardt was registered, however, he did not speak before Council.

Attorney Dudley J. Goodlette, representing Palmer Communications, said that while he had no objection to the City spending \$4,500 to retain a consultant. He would attempt to bring into perspective whether there was a need for this expenditure. He stated, for the record, that it was important to point out that a public hearing is scheduled for the Council Meeting in two weeks to consider the transfer. All of the information which had been submitted to staff by Palmer is in accordance to staff's requests and in compliance with Code. Attorney Goodlette emphasized the importance of understanding that the purpose for the application is merely a transference of franchise. He reminded Council that at the request of the Naples Civic Association, every provision of the Palmer contract and franchise agreement was reviewed in detail and a very detailed analysis of each section was provided. The results showed that Palmer was in compliance with the 1979 agreement and could substantially comply with every provision of the 1989 ordinance as well.

Attorney Goodlette pointed out that the questions before Council were: 1) Whether Palmer's in compliance, and 2) whether the other company has the necessary financial ability and qualifications to purchase this franchise. He asked if Council was looking for a way to deny Palmer, stating that there was no reason to expend \$4,500 for a consultant unless Council was in fact looking for a way to deny Palmer's request. Although Palmer had paid the City \$5,000 to help defray staff expenses in the franchise process, Attorney Goodlette asked, "Why would you spend \$4,500 of that for something that doesn't have to be done?" He suggested that the Naples Civic Association should hire a consultant at its own expense.

In closing, Attorney Goodlette noted that Palmer had attempted in every way to cooperate with the City but had been met with confrontation rather than cooperation. He said that he was sure the consultant would recommend the transfer. Since there is new Federal legislation which gives the City regulatory authority, Attorney Goodlette noted, "I think it's a foolish expenditure of \$4,500.. We've passed your staff's test and passed your Attorney's test."

City Manager Woodruff said that the request for renewal had been rejected because the Federal government had at the time been in the process of considering new legislation. Until that was settled, he said, it would be premature for the City to view the renewal.

Council the further discussed whether or not a consultant should be hired. Council Member Korest commented that perhaps a consultant should be hired after the new regulations have been established and it is determined what impact those changes have on a renewal. Noting that

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neither he nor the City Attorney were expert in the cable TV field, City Manager Woodruff reminded Council that the time of transfer was not the time for renegotiation, as long as the parties involved are financially strong. The question Council should ask, at this point, he said, is whether there interest in renegotiating? If so, expert advice is needed. If Council is not concerned when the renegotiating takes place but its interest is that renegotiating does in fact take place, the transfer can be approved and Colony put on notice that Council does plan on a stringent and vigorous renegotiation of the contract. City Attorney Chiaro agreed. She also pointed out that Telecommunications Management Corp. appears to be the firm which could provide the City with a broader range of consultant services on its cable franchise.

Council Member Pennington said that because there would be some legislation changes coming in the near future, it appears that Council would also wish to look closely at the most recent cable ordinance and determine what changes might be needed. He said that it was appropriate at this time for Council's only interest to be a transfer of franchise and therefore could see no need to expend the funds, adding, "All of us in government are always being criticized about the use of consultants. I would rather avoid doing that."

Addressing Attorney Goodlette's concern, Vice Mayor Sullivan stated that denial had never been a consideration, but said that his concern had been the need for expert assistance during the transfer process. Had that step been taken when the original franchise was processed, he noted, perhaps the agreement would have been much more effective. Also, it is necessary to determine to what degree the 1989 ordinance comes into play with respect to the transfer. "There was never a desire to undercut or do any with the transfer in any way," the Vice Mayor reiterated.,

Attorney Goodlette apologized if he had drawn the wrong conclusion, but went on to say that he was simply suggesting that the scope of services far exceed anything needed.

The City Attorney reminded Council that the services would not be rendered by an attorney, but by a consultant who has dealt with both Palmer and Colony. The recommendation for Telecommunications Management Corp. came from various sources, including attorneys, although the kind of services needed did not necessarily require an attorney.

MOTION: To **APPROVE** the resolution as presented.

Council Member Korest commented, for the record, that he had the utmost confidence in Attorney Goodlette and no problems at all with Palmer. Hiring the consultant, he

Anderson		Y
Hermes		Y
Korest	S	Y
Pennington		N
Sullivan	M	Y
VanArsdale		N
Muenzer		Y

(5-2)

M=Motion S=Second

Y=Yes N=No A=Absent

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explained, would simply allow for the exploration of all areas which Council is not in a position to explore itself. "If we can achieve a degree of comfort by spending \$4,500...we should do all we can to protect the community," Mr. Korest concluded.

RESOLUTION NO. 92-6774

ITEM 25

A RESOLUTION ENDORSING THE TWO-CENT TOURIST DEVELOPMENT TAX; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Chiaro.

City Manager Woodruff distributed copies of the above resolution and two versions of a draft letter. Dr. Woodruff informed Council that draft letter #1 specifically states that Council endorses the tax and encourages everyone to vote. Draft letter #2 contains the identical wording except for Council's endorsement. Dr. Woodruff read the letters (Attachment #2 and #3).

MOTION: To **APPROVE** the resolution as presented.

It was the consensus of Council to utilize draft letter #2, encouraging citizens to vote on this issue. At Council Member Pennington's suggestion, paragraph 7 of the letter will be amended to read...we may still need revenue from other sources.

Anderson	M	Y
Herms	S	Y
Korest		Y
Pennington		Y
Sullivan		Y
VanArsdale		Y
Muenzer		Y
(7-0)		
M=Motion S=Second		
Y=Yes N=No A=Absent		

OPEN PUBLIC INPUT

Sue B. Smith, 15 11th Avenue South

Mrs. Smith expressed her concern about the fact that there had been twenty-eight applications for the position of Dockmaster last year, and only four contenders. One of the contenders, Mr. Doyle, was a Veteran whose Veteran's preference had been questioned, and referred to the current conflict between the present Dockmaster and Captain Luciano, who had been denied lease renewal at the City Dock. Mrs. Smith expressed sympathy for Captain Luciano and commented

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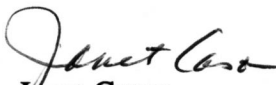
that she could not conceive of having to worry every month whether she might be evicted. "We've had so many problems at the Dock," said Mrs. Smith. She said further that to hire a Council Member's son-in-law was "not a good way to run a business. Mrs. Smith requested a list of the top four contenders for the Dockmaster's position, which was filled last year.

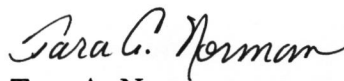
Vice Mayor Sullivan responded to Mrs. Smith's remarks. He said that the Dockmaster was not his son-in-law at the time he was hired by the City and at the time had insisted that the most qualified candidate be selected. "That was the only intrusion by me in the process," he said. Vice Mayor Sullivan added, however, that he was very satisfied with the present Dockmaster and believed he had been an excellent choice.

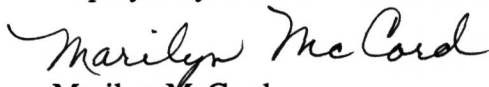
City Manager Woodruff also responded to Mrs. Smith, noting that the Vice Mayor had insisted that if at any time it was determined that the Dockmaster was not an acceptable employee, it was the City Manager's job to deal with it and that Mr. Sullivan would stand behind him.

ADJOURN: 5:45 p.m.


PAUL W. MUENZER, MAYOR


Janet Cason
City Clerk


Tara A. Norman
Deputy City Clerk


Marilyn McCord
Deputy City Clerk

These minutes of the Naples City Council were approved on 10/21/92.

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Supplemental Attendance List

Werner Haardt
J. Dudley Goodlette
George Vega
Roger Barry
William Harris
Nancy E. Stroud
Sue B. Smith

Richard J. Aaron
Bruce A. MacDonald
Jim Shumake
Richard C. Grant
A. L. Phelan
K. A. Main
Mario Lamandola
Tom O'Riley

Ken DeGarma
Jerry L. Matteo
Randy Clark
Mrs. Wells Kinkaid
Dave Woods
Molly Root
William Payne
Wayne Dennis

News Media

Eric Staats, Naples Daily News

Jerry Pugh, Palmer Cablevision

Other interested citizens and visitors.

10/7/92

1 of 2

DRAFT (1)

October , 1992

Dear Neapolitan:

On November 3, 1992 the voters of our community will be asked to cast their ballot to establish a two-cent tourist development tax within Collier County. As your elected municipal officials, we would like to provide you with the following facts regarding this proposal.

1. On November 3, 1992, the ballot will contain two questions regarding Tourist Development Taxes. One question calls for a two-cent tax for beaches and tourism. The other question would add one-cent for baseball. You may vote for the two-cent tax without being obligated to vote for the one-cent baseball tax.
2. The two-cent Tourist Development Tax will be levied against motel, hotel, seasonal rental, and other transient lodging facilities. This is not a part of ad valorem property tax nor can it ever be.
3. The projected annual revenue from the two-cent Tourist Development Tax is \$3.5 million. Sixty percent of this revenue (\$2.1 million) must be spent for beach maintenance, beach renourishment, and pass maintenance. It cannot be used for the general operation of government.
4. The County Commission must annually approve the expenditure of these funds based upon recommendations from a citizen's advisory committee.

5. Beach renourishment, beach maintenance, and pass maintenance are major programs that are vital to the general economic well being of our entire community.
6. Because it is a tax on transient units, it is, in fact, a user fee that allows visitors and tourists to contribute to the cost of building and maintaining our beach systems.
7. Because the cost of beach renourishment may exceed \$15 million, we ~~will~~ ^{MAY} still need revenue from other sources. The Tourist Development Tax will help reduce our dependence on property tax for this important beach renourishment program.

Because of these and many other important reasons, we, the Mayor and Council of the City of Naples, endorse the two-cent Tourist Development Tax and encourage you to vote in favor of the two-cent Tourist Development Tax on Tuesday, November 3, 1992.

Paul W. Muenzer, Mayor

Fred L. Sullivan, Vice Mayor

Kim Anderson, Council Member

R. Joseph Herms, Council Member

Alan R. Korest, Council Member

Ronald M. Pennington, Council Member

Peter H. VanArsdale, Council Member

DRAFT (2)

October , 1992

Dear Neapolitan:

On November 3, 1992 the voters of our community will be asked to cast their ballot to establish a two-cent tourist development tax within Collier County. As your elected municipal officials, we would like to provide you with the following facts regarding this proposal.

1. On November 3, 1992, the ballot will contain two questions regarding Tourist Development Taxes. One question calls for a two-cent tax for beaches and tourism. The other question would add one-cent for baseball. You may vote for the two-cent tax without being obligated to vote for the one-cent baseball tax.
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6. Because it is a tax on transient units, it is, in fact, a user fee that allows visitors and tourists to contribute to the cost of building and maintaining our beach systems.
7. Because the cost of beach renourishment may exceed \$15 million, we ~~will~~ *may* still need revenue from other sources. The Tourist Development Tax will help reduce our dependence on property tax for this important beach renourishment program.

Because of these and many other important reasons, we, the Mayor and Council of the City of Naples, encourage you to vote on this issue on Tuesday, November 3, 1992.

Paul W. Muenzer, Mayor

Fred L. Sullivan, Vice Mayor

Kim Anderson, Council Member

R. Joseph Herms, Council Member

Alan R. Korest, Council Member

Ronald M. Pennington, Council Member

Peter H. VanArsdale, Council Member