



City Council Chamber  
735 Eighth Street South  
Naples, Florida 33940

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**City Council Regular Meeting - August 19, 1992 - 9:00 a.m.**

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Mayor Muenzer called the meeting to order and presided

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**ROLL CALL**

**ITEM 2**

**Present:** Paul W. Muenzer, Mayor

Fred L. Sullivan, Vice Mayor

Kim Anderson

Alan R. Korest

Ronald M. Pennington

Peter H. Van Arsdale

Council Members

**Absent:** R. Joseph Herms  
Council Member

**Also Present:**

Dr. Richard L. Woodruff, City Manager

Maira J. Chiaro, City Attorney

Norris Ijams, Assistant City Manager

Mary Kay McShane, Human Resources Director

Stewart K. Unangst, Purchasing Agent

Paul C. Reble, Police Chief

Missy McKim, Community Development Director

Jon Staiger, Ph.D., Natural Resources Manager

Jeff Whittaker, Police Lieutenant

George Henderson, Sergeant-At-Arms

Marilyn McCord, Deputy City Clerk

Tara Norman, Deputy City Clerk

See Supplemental Attendance List - Attachment #1

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MINUTE PREPARATION PAGE 1 THROUGH 15 - MARILYN McCORD.

**ITEM 1**

**INVOCATION AND PLEDGE OF ALLEGIANCE**

Kim Anderson  
Council Member

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**ITEM 3**

**ANNOUNCEMENTS**

Mayor Muenzer reviewed speaker registration procedures and announced that a City Council Special Meeting had been scheduled for 2:00 p.m.

City Manager Woodruff recognized the following City employees with from ten to thirty years of service and presented each with a certificate of appreciation:

**Ten Years**

Stanley L. Dyson  
Todd M. Jacobson  
Donald E. Alderman  
David W. Parr  
William H. Wilcox  
Daniel R. Massey  
David P. Gretten  
Stewart Unangst  
Harold Green  
Sean McPartlin  
Susan Little  
Daniel Malinowski

**Fifteen Years**

Bruce Browlby  
Kay Granger  
Wayne Exum  
Sheldon Reed  
Orsie Anthony  
Eddie Walker  
Victor M. Vargas  
Terrill Morgan  
James J. Byrne  
Joseph Walker

**Twenty Years**

Odell Smith  
Willie A. Hollis  
Alton Scrivens  
Glen Chesebrough

**Thirty Years**

Richard Deleford

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Paul L. Harris

Dr. Woodruff commended the employees for their dedication, noting that it was only through their efforts that service is provided by the City.

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**ORDINANCE NO. 92-6705**

**ITEM 4**

**AN ORDINANCE CREATING SECTION 9-1-23, COMPREHENSIVE DEVELOPMENT CODE, TO BE ENTITLED "BOATS STORED ON THE BEACH"; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.**

Title read by City Attorney Chiaro.

City Manager Woodruff reviewed the proposed ordinance and reminded the public that many of the approximately eighty boats presently parked on the beach do encroach upon private property. The ordinance will permit boat storage on certain public beach ends. Approved beach access points for storage of boats include Via Miramar, Central Avenue, First Avenue South, 17th Avenue South, and 18th Avenue South.

Dr. Woodruff explained that spaces would be made available to City residents from September 1, 1992 until September 30, 1992, after which any spaces available would be allotted to those who can prove that they can be contacted locally. He noted that the County specifically prohibits boats on the beaches overnight.

Community Development Director Missy McKim distributed an implementation strategy for boat registration. (Contained in the file of this meeting in the City Clerk's Office.) A picture of the boat, to be retained by the City, will be required at the time of registration.

Mayor Muenzer announced that 120 form letters had been received asking that County residents be afforded the opportunity to continue parking their boats on the beach. The Mayor read one of the letters, a sample of which is made a part of these minutes as Attachment #2; all 120 letters are in the file of this meeting in the City Clerk's Office.

**Public Input:** Four individuals registered to speak.

**Marc Womeldorff, 2665 Aft Avenue**

Mr. Womeldorff commended Council for the proposed ordinance. He said that he realized the necessity of registering boats, but expressed concern that there would not be enough spaces available. Mr. Womeldorff asked if the number of spaces allotted might be changed, and City Manager Woodruff replied that this issue would come up for periodic review. Dr. Woodruff asked

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that any suggestions or comments pertaining to this matter be directed to his office or to Community Development Director McKim. Mr. Womeldorff assured Council that he would also ask the County Commissioners to reconsider their position with respect to boats parked on the beach.

**Jennifer Boreham, 3006 Round Table Court**

Ms. Boreham told Council that she appreciated the flexibility allowed by the ordinance. She pledged to continue requesting the County to allow boat parking on the beaches. Ms. Boreham expressed her appreciation for the local beach and said she hoped that sailboat owners do not change to motor boats should adequate beach parking not be available. She referred to plans for expanded boat slips which will accomodate motor boats, stating, "It concerns me that all of these boat slips are being considered when Naples Bay is one of the most polluted estuaries in Florida. Sailboats are pollution free."

Ms. Boreham asked if she would be able to park her Sunfish craft under a Hobie Cat. Community Development Director McKim said that staff would need to know which larger boat Ms. Boreham's Sunfish would be under, however it would be allowed. Ms. McKim said that staff would be monitoring the new plan daily during the registration period.

City Manager Woodruff noted that the primary pollutant of Naples Bay was water coming from the Golden Gate canal system. He stated, "There has to be reciprocity between the City and the County to help the City and County residents."

**Morris Greeley, 67 Eighth Avenue South**

Mr. Greeley inquired about the registration process as it will apply to renters. City Manager Woodruff explained that if a person rents property on the water and owns a boat, that boat must be registered and proof offered to the City that he is renting the property. If a person plans to store a boat on property owned by a friend, a letter must be provided stating that the friend has given permission. In the case of a person who owns property on the beach and has a boat, that boat must be registered.

**Oliver Durfey, Naples**

Mr. Durfey told Council, "I think the City is opening a tremendous can of worms here. These boats have been used on the beach for years without problems." He asked if there would be an accomodation for rank and privilege, for instance, if a Council Member wanted to store his boat on the beach. City Manager Woodruff assured everyone that registrations would be handled on a first come-first serve basis. Some additional boats will be allowed if one boat can slide under another boat.

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

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

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**ORDINANCE NO. 92-6706**

**ITEM 5**

**AN ORDINANCE APPROVING REZONE PETITION 92-R5, AND DEVELOPMENT OF SIGNIFICANT ENVIRONMENTAL IMPACT PETITION 92-DSE11, REZONING PROPERTY LOCATED EAST OF NAPLES BAY, SOUTH OF HALDEMAN CREEK, NORTH OF THE SOUTHPOINTE YACHT CLUB AND WEST OF CITY OF NAPLES JURISDICTIONAL LINE, MORE PARTICULARLY DESCRIBED HEREIN, FROM "R1-15A", SINGLE FAMILY RESIDENTIAL, TO "PD", PLANNED DEVELOPMENT, SUBJECT TO THE CONDITIONS SET FORTH HEREIN; AND PROVIDING AN EFFECTIVE DATE.**

Title read by City Attorney Chiaro.

Community Development Director Missy McKim told Council that, although it was not required, staff had notified the Aqualane Shores, Port Royal and Royal Harbor homeowners associations of this meeting.

Attorney John Passidomo, representing the petitioner, expressed appreciation for staff's diligent help with this matter. He also thanked Council for its consideration and respectfully requested a vote of approval.

**Public Input:** Three individuals registered to speak.

**Richard J. Baker, 2330 Kingfish Road**

Mr. Richard Baker, representing the Royal Harbor Property Owners Association, addressed Council. He read a letter from the Association, which is a part of this record and identified as Attachment #3. Speaking for the Association, Mr. Baker asked Council to consider delaying this issue for sixty days in order for the petitioner to provide more detailed information. Mr. Baker said that the group was mainly concerned about the visual effect of the dock and its effect on navigation. No concern had been expressed about the appearance of the buildings, however, he said. Mr. Baker also indicated that the Association had been contacted about this issue only the previous day.

**W. Harmon Nickless, 2565 Tarpon Road**

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Mr. Nickless' home is directly across from the proposed docks. He voiced concern about the appearance of the docks. Mr. Nickless said that he was present in order to support the request of the Royal Harbor Association for a sixty day delay.

### **Bill Branan, 2395 Harbor Road**

Mr. Branan, representing the Conservancy, said that no additional docks should be built on the Windstar property because they would be a hazard not only to navigation but to manatees and to dolphins in the area. Mr. Branan also requested a delay of the item.

Natural Resources Manager Jon Staiger informed Council that the petitioner could, if he so desired, file a plat for the property in question showing a maximum allowed density which could actually result in the construction of many more docks than presently planned. Dr. Staiger also noted that the area was not classified as a marine sanctuary situation.

Attorney Passidomo stated that the petitioner had attempted to adhere strictly to the City's Comprehensive Plan and to the Comprehensive Development Code and had also complied to all environmental concerns. He reminded Council that the necessary notices had been made, public hearings held, and responses made to every stipulation. "I believe it is unreasonable to delay," he said and reminded Council that this was simply a zoning hearing and that the petitioner still must undergo the permitting process with the Army Corps of Engineers and various other State agencies.

Mr. Baker reiterated that the Royal Harbor Association had only been contacted the previous day; consequently, many residents and tenants had not been consulted. Community Development Director McKim replied the notice had in fact been sent to the Association on June 23rd, prior to the PAB (Planning Advisory Board) meeting. She noted that none of the Royal Harbor properties were on the list of those which the City was required to notify.

Council Member Korest said that he was sympathetic to those requesting a delay. However, he pointed out that all notice requirements had been adhered to and that this matter had received a great deal of publicity. Mr. Korest said, "I have a real question as to how far you can make a petitioner try to satisfy a requirement that's not a legal requirement."

Dr. Michael Stephen, Executive Vice-President of Coastal Engineering and representing the petitioner, addressed Council. He assured Council that the proposed docks would be operated as any other residential dock with respect to lighting, etc. With respect to navigation, Mr. Stephen used aerial photographs to describe a large shoal system off the point of the southern part of Windstar which actually directs boaters up the channel. Any activity in the area of the mangroves therefore would be avoided, and the channel width extended only to 100 feet. Dr. Stephen also emphasized that there would be no environmental impact of any kind.

Copies of the dock site plan were distributed and described by Dr. Stephen (Attachment #4). He said that the dock had been planned to accommodate and not disturb the natural vegetation. Dr. Stephen also stated that it was the petitioner's intent for the dock to be totally visually compatible

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with its surroundings. With respect to the requested delay, Dr. Stephen pointed out that every effort had been made to satisfy the City's requests as well as requests from the public for information.

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Vice Mayor Sullivan said that although he had expressed various concerns at the first reading of the ordinance, those concerns had been allayed by a visit to the site. He reminded the other Council Members that ultimately this development would return to Council as a GDSP (General Development Site Plan) and details can also be reviewed at that time.

**MOTION:** To **ADOPT** the ordinance at second reading.

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

Council Members Anderson and Korest said that they could find no reason to delay discussion of this item. Council Member Pennington agreed, noting that he was very appreciative of the fact that the petitioner had gone to extremes to avoid environmental impacts. Vice Mayor Sullivan said that he also could find no reason to delay the zoning request.

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**RESOLUTION NO. 92-6707**

**ITEM 6**

**A RESOLUTION GRANTING VARIANCE PETITION 92-V13 FROM SUBSECTION 7-4-10(F) OF THE COMPREHENSIVE DEVELOPMENT CODE WHICH REQUIRES A MINIMUM FRONT YARD SETBACK OF 30 FEET FOR BUILDINGS IN THE R3T-18, MULTIFAMILY, ZONING DISTRICT, IN ORDER TO ALLOW THE CONSTRUCTION OF A MASONRY PORTE COCHERE WHICH WILL ENCROACH TO WITHIN FIVE FEET OF THE FRONT PROPERTY LINE AT THE EDGEWATER BEACH HOTEL, SUBJECT TO THE CONDITIONS SET FORTH HEREIN; AND PROVIDING AN EFFECTIVE DATE.**

Title read by City Attorney Chiaro.

City Manager Woodruff briefly reviewed the background of this item. Mr. John Ayres, managing partner of the Edgewater Beach Hotel, told Council that the intent of the porte cochere was to improve the aesthetics of the property and to provide shelter for guests and staff during inclement weather.

When asked by Vice Mayor Sullivan whether the porte cochere would be fully equipped with fire sprinklers, Mr. Ayres said that he would be prepared to install such a system should that be necessary.



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**MOTION:** To **APPROVE** the resolution, subject to withholding final sprinkler system requirements until after September 4, 1992, in the event of any policy changes.

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

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**ORDINANCE NO. 92-**

**ITEM 7-a**

**AN ORDINANCE AMENDING SUBSECTION 3-2(b) OF CHAPTER 3, ALCOHOLIC BEVERAGES OF THE CODE OF ORDINANCES TO PERMIT ALL HOTELS AND MOTELS TO SELL ALCOHOLIC BEVERAGES FOR CONSUMPTION ON PREMISES BETWEEN THE HOURS OF 7 AM AND 12 MIDNIGHT ON SUNDAYS; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.**

Title read by City Attorney Chiaro.

Mayor Muenzer noted, for the record, that the Collier County Economic Development Council had sent a letter in support of the proposed ordinance. That letter is included in the file of this meeting in the City Clerk's Office.

**MOTION:** To **APPROVE** the ordinance at first reading.

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

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ORDINANCE NO. 92-6708

ITEM 7-b

AN ORDINANCE ADDING A NEW SUBSECTION 3-2(e) TO SUBSECTION 3-2, CHAPTER 3, ARTICLE I, OF THE CODE OF ORDINANCES TO ESTABLISH A PROCEDURE FOR CITY COUNCIL APPROVAL FOR THE SALE OF LIQUOR, WINES OR BEER FOR CONSUMPTION ON OR OFF THE PREMISES FOR SPECIAL USES; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.

Title read by City Attorney Chiaro.

**MOTION:** To ADOPT the ordinance at second reading.

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

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ORDINANCE NO. 92-6709

ITEM 7-c

AN ORDINANCE AMENDING SUBSECTIONS (A), (B), AND (E) OF SUBSECTION 9-3-1 OF THE COMPREHENSIVE DEVELOPMENT CODE OF THE CITY OF NAPLES; ADDING A NEW SUBSECTION 9-3-1(F) TO THE COMPREHENSIVE DEVELOPMENT CODE, WAIVER OF DISTANCE REQUIREMENT, TO ALLOW CITY COUNCIL, BY RESOLUTION, TO REDUCE THE DISTANCE REQUIREMENTS OF 9-3-1 FOR AN ESTABLISHMENT WHICH SELLS ALCOHOLIC BEVERAGES; ADDING A NEW SUBSECTION 9-3-1(G), TO THE COMPREHENSIVE DEVELOPMENT CODE, CITY COUNCIL APPROVAL FOR SPECIAL USES, TO ALLOW CITY COUNCIL TO WAIVE BY RESOLUTION THE LOCAL CRITERIA IN SUBSECTION 9-3-1 FOR SPECIAL USES; ADDING NEW SUBSECTION 9-3-1(H) TO THE COMPREHENSIVE

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**DEVELOPMENT CODE, REFERENCING THE REQUIREMENTS OF CHAPTER 3, ALCOHOLIC BEVERAGES, OF THE CODE OF ORDINANCES FOR THE CITY OF NAPLES; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.**

Title read by City Attorney Chiaro.

**MOTION:** To **ADOPT** the ordinance at second reading.

Anderson	S	Y	
Herns			A
Korest	M	Y	
Pennington		Y	
Sullivan		Y	
Van Arsdale		Y	
Muenzer		Y	
(6-0)			
<b>M=Motion S=Second</b>			
<b>Y=Yes N=No A=Absent</b>			

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**ORDINANCE NO 92-6710**

**ITEM 13**

**AN ORDINANCE REZONING PROPERTY AT THE SOUTHWEST CORNER OF FOURTH AVENUE, AND EIGHTH STREET, SOUTH FROM "C1-A" COMMERCIAL CORE DISTRICT TO PLANNED DEVELOPMENT IN ORDER TO FACILITATE THE CONSTRUCTION OF A TWO LEVEL PARKING GARAGE, EXPANDABLE AFTER FURTHER CITY REVIEW AND APPROVAL, TO A TOTAL OF THREE LEVELS ABOVE GRADE; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.**

Title read by City Attorney Chiaro.

**NOTE:** Council Member Anderson filed a Conflict of Interest form, included in this record as Attachment #5.

City Manager Woodruff announced that all documents pertinent to this matter had not been finalized. He said that the City and the developer agreed that it was important to include actual dollar figures for repayment within the document. "Soft costs," those costs incurred for architectural and engineering fees, amounted to approximately \$35,000.00. "Hard costs" for the parking structure

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will be approximately \$100,000.00. Should Council determine it was appropriate to set up a schedule to repay the developer for costs incurred to allow the City to build additional levels, Dr. Woodruff said, that repayment amount would be approximately \$135,000.00. The City Manager also noted that at that point the City had not committed to build additional levels, so one option could be that the City would only repay those costs only if that commitment were exercised. Dr. Woodruff emphasized that the issue of fairness must be considered.

Dr. Woodruff also told Council that in the first three years the City could generate enough parking revenue to repay the \$35,000.00 "soft costs," and therefore was prepared to recommend a City commitment to repay \$35,000.00 in three years. The \$100,000.00 amount represented an entirely different situation, noted Dr. Woodruff, and could be funded only by a revenue source greater than parking fees. Council discussed the possibility of issuing a revenue bond for the purpose of repayment of "hard costs" and the repayment time frame.

It was the consensus of Council that the City reimburse Mr. Stuart Kaye (Community Development Corporation of Southwest Florida) for the "soft costs" (approximately \$35,000.00) and the "hard costs" (approximately \$100,000.00 incurred during the first phases of the parking structure design and construction. It is Council's intention to investigate the possibility of using proceeds from a bond issue for funding those costs. The City Attorney will give an opinion as to whether utility tax money can be used until such time as it can be paid back with a revenue bond.

Council Member Korest said that he was very encouraged by the fact that perhaps this issue could be brought to a substantive conclusion that day. He also noted that, in his opinion, the petitioner had "gone a long way" to meet the requirements of Council. "How we approach this sends a big signal to everyone as to how we approach redevelopment," Mr. Korest said, and expressed his desire to move ahead, keeping the needs of the welfare of the community in mind.

Council Member Pennington said that his continuing concern was the method by which maintenance costs would be paid. He predicted that the City would incur additional costs once the parking structure was built, such as utilities, security, etc. Mr. Pennington also stressed the importance of identifying the funding source for maintenance, adding that those costs should not be imposed upon the City's taxpayers. He suggested the institution of an impact fee of some type.

City Manager Woodruff said that he believed the only source of funding that should be considered, other than parking fees, was a utility tax, which would be loaned to this endeavor and payable only if and when a bond issue were sold.

**Public Input:** Three individuals registered to speak.

### **Jim Smith, 458 Eighth Street South**

Mr. Smith asked Council to consider the fact that throughout the Development Agreement discussions, the developer had been willing to simply have maintenance costs repaid.

**Ed Verdesca, 250 Springline Drive**

Mr. Verdesca commented that at the time the building under discussion was used by United Telephone Company, 190 people worked there and parking was never a problem. He stated, "The dollars you are talking about are miniscule compared to the damage that's been done to Fifth Avenue." Mr. Verdesca pointed out that people do not want to open businesses on Fifth Avenue because there is no parking available. He asked that Council now solve the problem, noting that the details had already been discussed for too long.

City Attorney Chiaro pointed out that if the City intends to use bond proceeds for the reimbursement of soft or hard costs for the design/construction of the parking garage, that inventory must be clearly stated at that time.

**City Manager Woodruff proposed that the City agree to repay \$35,000.00 for "soft costs" over a three-year period beginning with the approval of the Development Agreement. That amount would be repaid in three equal amounts due in September 1993, 1994, and 1995. The revenue would be derived from the sale or lease of the bank drive-through facility or from a utility tax. Reimbursement of \$100,000.00 for "hard costs" would be repaid over a three-year period from the date of the CO (Certificate of Occupancy) of the structure. Repayment would be in equal annual installments to coincide with the date of the CO. The funding source would be any monies derived from the lease or sale of the bank drive-through facility, with the subsequent balance to be paid from the Utility Tax Fund, with the clear statement that it is the City's intent to apply for reimbursement for the construction from any bond that is issued.**

<b>Anderson - CONFLICT/INT</b>		
<b>Hermes</b>		<b>A</b>
<b>Korest</b>		<b>Y</b>
<b>Pennington</b>	<b>M</b>	<b>Y</b>
<b>Sullivan</b>	<b>S</b>	<b>Y</b>
<b>Van Arsdale</b>		<b>Y</b>
<b>Muenzer</b>		<b>Y</b>
<b>(5-0)</b>		
<b>M=Motion S=Second</b>		
<b>Y=Yes N=No A=Absent</b>		

**MOTION:** To adopt the above proposal as stated by City Manager Woodruff.

Next to be discussed was the developer's request that the original base price for lease of the drive-through facility be established by an MBIA appraiser.

It was suggested that a twelve-month vacancy clause be put in the deed. Community Development Director McKim reminded Council that any time a building is vacant for twelve months, the conditional use approval is lost. Petitioner Stewart Kaye told Council that he was offering to lease the building, however he hoped to have the option to purchase. Referring to possible loss of the conditional use permit, Mr. Kaye said, "I'd have some bank in there at zero rent rather than lose that conditional use."

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**MOTION:** To offer the developer a lease, and not an offer of sale, for the bank drive-through property.

The next item of discussion was maintenance of the parking spaces, with City Manager Woodruff noting that 55 spaces would be reserved in the name of Fifth Avenue Place. Mr. Jim Smith noted that this was simply another issue of fairness in that when the agreement was reached with Mr. Kaye, the theory had been that the City would have a garage that would have to be maintained. One hundred two spaces were required, Mr. Smith pointed out, therefore that number should be used to determine the maintenance to be paid.

Mr. Kaye told Council that in his opinion a number of concessions had already been made by the petitioners, including being left with 55 parking spaces. "I feel it's very important that we move forward with the 55 spaces," he said. City Manager Woodruff explained that he had in fact responded to the proposal made by the petitioner's own attorney that 55 spaces be reserved, so if the Development Agreement states that 55 spaces will be reserved for the developer, then the developer should be responsible for 55. Dr. Woodruff also stated, for the record, that Section 6.0, page 27, of the Development Agreement states surplus 14 spaces, he will be responsible for that should the developer retain any portion of the maintenance of those spaces.

Anderson - CONFLICT/INT		
Hermes		A
Korest		Y
Pennington	S	Y
Sullivan	M	Y
Van Arsdale		Y
Muenzer		Y
(5-0)		
M=Motion S=Second		
Y=Yes N=No A=Absent		

**MOTION:** Pro-rata maintenance costs will be based on 55 parking spaces.

Mr. Jim Smith asked for Council's "absolute directive" that the developer, the Smiths and Wynns, and the staff conduct a meeting to ensure that the Development Agreement conforms with everything the three parties agreed upon today.

City Attorney Chiaro reminded everyone that the rezoning petition was approved, only to be effective upon execution of the Development Agreement. She explained that execution of the Development Agreement could be approved, subject to the City Manager and City Attorney reviewing the elements to be in conformity. Attorney Chiaro, however assured Council that she would not permit execution of the document by the Mayor and City Clerk unless it was in conformity with what was

Anderson - CONFLICT/INT		
Hermes		A
Korest	S	Y
Pennington	M	Y
Sullivan		Y
Van Arsdale		Y
Muenzer		Y
(5-0)		
M=Motion S=Second		
Y=Yes N=No A=Absent		

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discussed at that meeting.

Attorney Susan Delegal, representing the Smith and Wynn interests, requested that final approval of the Development Agreement be delayed to September 2nd, to allow time for preparation of all exhibits and finalization of all language.

City Manager Woodruff said that staff would prefer that all documents be clarified and exhibits provided before second reading. He agreed that the substantive issues should not be reopened but expressed concern about Council taking a final vote at that time.

Council Member Korest noted that, should any inconsistencies surface, they would only be a clerical and not substantive.

Anderson - CONFLICT/INT		
Hermes		A
Korest	M	Y
Pennington		Y
Sullivan	S	Y
Van Arsdale		Y
Muenzer		Y
(5-0)		
M=Motion S=Second		
Y=Yes N=No A=Absent		

**John Anson Smith, 15 11th Avenue South**

Mr. John Smith commented that he did not want Council to give up its legislative authority and

agreed with Dr. Woodruff that second reading should be delayed until "every piece of paper" had been assembled.

Attorney Kim Kobza, representing petitioner Stuart Kaye, pointed out that all the parties had then received clear directions and had agreed on all the issues, although several exhibits still needed to be completed and the lease agreement drafted. He said he nevertheless believed that the Attorney Chiaro was very capable of reviewing and signing off on behalf of the City.

Council further discussed whether or not to finalize the vote, Attorney Kobza urging closure in the interest of the community.

**MOTION:** To **ADOPT** Ordinance 92-6710 at second reading.

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**RESOLUTION NO. 92-6711**

**ITEM 14**

**DEVELOPMENT AGREEMENT PETITION 92-D1 DEVELOPMENT PLAN**

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**FOR PARKING GARAGE, DRIVE-  
THROUGH BANK FACILITY AND  
PARKING MANAGEMENT.**

Title read by City Attorney Chiaro.

City Manager Woodruff requested that Council not act on this item until all documents were completed. Vice Mayor Sullivan said that closure had been reached and he was ready to vote on this matter.

Anderson - CONFLICT/INT		
Herns		A
Korest	S	Y
Pennington		Y
Sullivan	M	Y
Van Arsdale		Y
Muenzer		Y
(5-0)		
<b>M=Motion S=Second</b>		
<b>Y=Yes N=No A=Absent</b>		

City Attorney Chiaro pointed out that the resolution would be subject to the City Manager and City Attorney determining that the substantive issues discussed were in fact contained within the Development Agreement. Those documents which will be attachments, said Attorney Chiaro, were not substantive modifications to the Agreement and would therefore not change the substance of the Agreement. She assured Council that should those documents change the substance of the Agreement, the issue would come back to Council. Council directed that all documents must be presented to them no later than 12:00 Noon on August 28, 1992.

**MOTION:** To **APPROVE** the Development Agreement as it has been agreed upon this date, subject to the review and approval of the City Attorney and the City Manager.

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**RESOLUTION NO. 92-6712**

**ITEM 8**

**A RESOLUTION AUTHORIZING A COASTAL CONSTRUCTION SETBACK LINE VARIANCE TO REMODEL AN EXISTING ONE-STORY RESIDENCE, AT 4444 GORDON DRIVE, BY ADDITION OF NON-HABITABLE, ROOFED PORCHES AND ONE- AND TWO-STORY HABITABLE AREAS; TO DEMOLISH A NON-CONFORMING TWO-STORY GARAGE/GUEST HOUSE AND CONSTRUCT A CONFORMING REPLACEMENT; TO CONSTRUCT A SWIMMING POOL AND POOL PATIO; AND PROVIDING AN EFFECTIVE DATE.**

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

Title read by City Attorney Chiaro.

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

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**NOTE:** Lunch recess began at 2:00 p.m. A Special Meeting was held and the Regular Meeting reconvened at 2:40 p.m.

MINUTE PREPARATION PAGES 16 THROUGH 26 - TARA NORMAN.

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ORDINANCE NO. 92-

ITEM 9

**AN ORDINANCE AMENDING THE CODE OF THE CITY OF NAPLES, FLORIDA, PROVIDING FOR A STORMWATER MANAGEMENT UTILITY SYSTEM AND SPECIFYING TERMS AND PROCEDURES FOR SAID SYSTEM TO PROVIDE A STORMWATER MANAGEMENT UTILITY TO MEET FEDERAL REQUIREMENTS FOR CLEANER WATER IN BAYS, CANALS AND LAKES, TO PROVIDE FOR IMPROVED STREET DRAINAGE, BETTER MAINTENANCE OF STORMWATER FACILITIES AND ENHANCED QUALITY OF LIFE; PROVIDING A REPEALER PROVISION, A SEVERABILITY CLAUSE, AND AN EFFECTIVE DATE.**

Title read by City Manager Woodruff

In Council's discussion of this item with the staff, it was noted that the first year's fees will cover water quality monitoring and five experimental design projects which had been discussed in detail at a previous meeting. A master plan would then be drafted from the data collected during the first year with no consultants utilized except for laboratory testing services. It was also clarified that at this stage no additional personnel would be hired, instead, five current employees will be utilized in the stormwater utility program, although only one employee will actually be paid totally from the stormwater utility fund, that person being the operator of the City's street sweeper. Natural Resources Manager Staiger, who will be spending approximately one-third to one-half of his time on this project, as well as Engineering Manager Leighton Westlake and others likewise involved, will bill the time spent on the stormwater project to that fund.

The basic rate to be charged will be \$1.43 per Equivalent Residential Unit (ERU). Although the program will eventually contain a procedure for property owners to seek adjustments to charges, Dr. Woodruff indicated that the first phase should be funded by all property owners because it included preparation of a master plan rather than actual construction of capital facilities.

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

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

ORDINANCE NO. 92-

ITEM 10

AN ORDINANCE AMENDING SUBSECTION 11-1-4 (B) (1), (E) (2), (E) (4), (F) (1) AND (F) (2) OF THE COMPREHENSIVE DEVELOPMENT CODE, ENTITLED "WATER SERVICE" TO INCREASE MISCELLANEOUS FEES FOR WATER SERVICE AND INCREASING FEES TO RESTORE SERVICE AT TIMES OTHER THAN NORMAL WORKING HOURS; ADDING SUBSECTIONS 11-1-4 (E) (6) AND (E) (7) TO THE COMPREHENSIVE DEVELOPMENT CODE, TO ADD FEES FOR DISHONORED CHECKS AND TO ADD FEES FOR TESTING METERS; AMENDING SUBSECTIONS 11-1-5 (F) (1), (H) (1) AND (H) (2) OF THE COMPREHENSIVE DEVELOPMENT CODE, ENTITLED "WATER SERVICE CONNECTIONS AND MAIN EXTENSIONS INSIDE AND OUTSIDE THE CITY LIMITS" TO INCREASE THE METER TAPPING CHARGES AND TO INCREASE THE SYSTEM FEES FOR FIRE HYDRANT SERVICE; AMENDING SUBSECTION 11-1-6 OF THE COMPREHENSIVE DEVELOPMENT CODE, ENTITLED "WATER REUSE SYSTEM" TO INCREASE RATES FOR USE OF THE CITY'S WATER REUSE SYSTEM; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.

Title read by City Attorney Chiaro

Dr. Woodruff explained that this amendment would effect no change in existing water and sewer rates but would adjust various miscellaneous fees such as delinquent charges and fees for reinstatement of service and for dishonored checks. The section dealing with charges for reuse water will be removed prior to Second Reading, however, unless the staff is able to collect additional data to quantify expenses. However, Dr. Woodruff noted, the City's permit to discharge wastewater into the Gordon River requires that a reuse system be in place and that most likely when the permit is renewed, discharge will no longer be allowed requiring full disposal through the reuse system.

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

Anderson	Y	
Herns		A
Korest	Y	
Pennington	Y	
Sullivan	M	Y
Van Arsdale	S	Y
Muenzer	Y	

(6-0)

M=Motion S=Second  
Y=Yes N=No A=Absent

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**ORDINANCE NO. 92-6714**

**ITEM 11**

**AN ORDINANCE AMENDING SUBSECTION 9-1-5, FENCES, OF THE COMPREHENSIVE DEVELOPMENT CODE TO CLARIFY THE LANGUAGE REGULATING THE MAXIMUM PERMITTED HEIGHT OF FENCES WHICH MAY BE ALLOWED FOR THOSE PROPERTIES WEST OF GULF SHORE BOULEVARD AND GORDON DRIVE WHICH ABUT A PLATTED PUBLIC BEACH ACCESS; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.**

Title read by City Attorney Chiaro.

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

It is noted for the record that no member of the public was registered to speak on this item.

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

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**ORDINANCE NO. 92-**

**ITEM 12**

**AN ORDINANCE AMENDING SECTION 21A-11 OF ARTICLE II OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES, FLORIDA, ENTITLED "UTILITIES SERVICES TAX", TO INCREASE THE TAX ON EACH AND EVERY PURCHASE OF ELECTRICITY, METERED OR BOTTLED GAS (NATURAL, LIQUIFIED PETROLEUM OR MANUFACTURED, WHETHER BOTTLED OR OTHERWISE), TELEPHONE AND TELEGRAPH SERVICE IN THE CITY OF NAPLES, TO EIGHT (8%) PERCENT OF THE PAYMENTS RECEIVED BY THE SELLER THEREOF; PROVIDING SAID INCREASE TO BE DEPOSITED DIRECTLY TO THE CITY'S STREETS FUND; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.**

Title read by City Attorney Chiaro.

Through the use of various transparencies, Engineering Manager Leighton Westlake explained to the Council the depreciation cycle of roadways. He stressed the need to continue a sound program of roadway maintenance in order to avoid massive capital improvement expenditures to reconstruct roadways. In comparison, Mr. Westlake noted, reconstruction of a roadway costs approximately \$500,000 per mile where overlays cost \$120,000 per mile. Dr. Woodruff pointed out, however, that an overlay program does not negate the need for some reconstructive work for those roadways which were not properly designed. Although there is currently no available funding to begin a road overlay program, Dr. Woodruff continued, the increase in utility tax would generate \$335,000 for this purpose; the other option for funding, which had been ruled out, would be through ad valorem taxes. He then reiterated a previous commitment which he had made that this increase in utility tax would go exclusively for road resurfacing based on projects which would be reviewed and approved by the Council.

Dr. Woodruff then addressed the issue of whether road impact fees could be employed for this program. Although the City of Naples is permitted to retain \$200,000 each year from road impact fees, he said, this funding may only be used where it can be documented that improvements are intended to expand the carrying capacity of the system or otherwise improve it. He indicated that he would favor requesting Collier County to amend the road impact ordinance to allow the City to use its share of impact fees for maintenance and overlays, which is its principal need, rather than the expansion or construction of highways which is frequently the primary need in the unincorporated area. Another funding source, gasoline taxes, is consumed by street lights and signal maintenance costs, he added.

Council Member Korest said that he had more difficulty in linking utility tax to road expenditures than he did linking gasoline tax. He asked whether the funding source could be changed from utility taxes should another cent of local option gas tax be made available. Dr. Woodruff indicated that this

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could be done and added that should a proposed state constitutional amendment

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pass, local governments would then have a great deal more autonomy to determine how their activities would be funded. Utility taxes in Naples had once been 10% but had been reduced to 7%.

Dr. Woodruff also pointed out that although the City's privatization of the Street Division had "gotten off to somewhat of a rocky start," improvements had been made in contractor response and in the quality of patching work. Through elimination of this division the \$145,000 property tax subsidy to those activities could be freed so that a total overlay program of \$445,000 to \$450,000 could be undertaken.

**Public Input:** One individual registered to speak.

**Dick Siegel, President, Greater Naples Civic Association**

Mr. Siegel called Council's attention to his August 18th letter to Mayor Muenzer and members of Council. Mayor Muenzer noted that the letter had been distributed prior to the meeting (Attachment #6). Mr. Siegel stated that while the Civic Association recognized the need for the program being proposed and supported it, the group requested a delay sufficient for them to explore certain points with the City staff and to receive certain professional advice being sought.

The discussion then returned to the subject of impact fee revenue and the restrictions placed thereon by the provisions of the County ordinance. Dr. Woodruff explained that if these revenues are not spent, the balance may be carried over. He also pointed out the applicability of the tax equity issue in that a request had been made to the County to consider increasing the amount of road impact fees the City is permitted to retain should the County proceed with a proposed doubling of those charges. To date, no response to this request had been received, however.

Because of Council Members' desire to receive further input from the Civic Association, it was determined that Second Reading of this ordinance would be deferred until an August 31st special called meeting. This would allow the ordinance to be enacted by September 1st, which would meet the one-month notification deadline for utility companies to implement the new utility tax rate by October 1st. The City could then receive the additional revenue from that date forward.

Anderson	S	Y	
Hermes			A
Korest			A
Pennington		Y	
Sullivan	M	Y	
Van Arsdale		Y	
Muenzer		Y	
(5-0)			
<b>M=Motion S=Second</b>			
<b>Y=Yes N=No A=Absent</b>			

**MOTION:** To **CONTINUE** Second Reading of this ordinance until a special called meeting on Monday, August 31, 1992.

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**RESOLUTION NO. 92-**

**ITEM 15**

**A RESOLUTION ADOPTING THE UTILITIES DIVISION POLICY UT-GP-005 B, WHICH SETS GUIDELINES RESTRICTING THE USE OF WATER AND SEWER TOOLS IN ORDER TO PRESERVE AND MAINTAIN A SAFE AND HIGH QUALITY POTABLE WATER SYSTEM; AND PROVIDING AN EFFECTIVE DATE.**

Title read by City Attorney Chiaro.

Dr. Woodruff noted that an administrative policy was currently in effect which addresses this issue.

Anderson  
Herms  
Korest  
Pennington  
Sullivan M  
Van Arsdale  
Muenzer  
**MOTION FAILS FOR LACK  
OF SECOND**  
M=Motion S=Second  
Y=Yes N=No A=Absent

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

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**RESOLUTION NO. 92-**

**ITEM 16-a**

**A RESOLUTION APPOINTING ONE MEMBER TO THE BOARD OF APPEALS TO FILL THE VACANCY CREATED BY THE EXPIRATION OF THE TERM OF SERGIO E. G. MONTES; AND PROVIDING AN EFFECTIVE DATE.**

Title not read.

The City Manager requested that the City Council table this item until a proposed merger was finalized to incorporate the Board of Appeals into the function of another board.

**MOTION:** To **TABLE** these resolutions until the staff reports back on merger of the Board of Appeals with another advisory board.

Anderson	S	Y	
Herns			A
Korest		Y	
Pennington		Y	
Sullivan		Y	
Van Arsdale	M	Y	
Muenzer		Y	
(6-0)			
<b>M=Motion S=Second</b>			
<b>Y=Yes N=No A=Absent</b>			

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**RESOLUTION NO. 92-6715**

**ITEM 16-b**

**A RESOLUTION APPOINTING ONE CITY RESIDENT OF THE CARVER FINANCE, INC. BOARD TO FILL THE EXPIRED TERM OF GEORGE C. MOHLKE, JR.; AND PROVIDING AN EFFECTIVE DATE.**

**MOTION:** To **APPOINT** Paul C. Nick to fill the  
vacancy on the Carver Finance  
Board.

Anderson	M	Y	
Herns			A
Korest			
Pennington	S	Y	
Sullivan		Y	
Van Arsdale		Y	
Muenzer		Y	
(6-0)			
<b>M=Motion S=Second</b>			
<b>Y=Yes N=No A=Absent</b>			

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ITEM16-c

**APPOINTMENT OF MEMBERS TO CODE  
ENFORCEMENT BOARD**

(No appointees available at this time)

**MOTION:** To **TABLE** this issue until candidates are  
available to fill these  
vacancies.

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

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**RESOLUTION NO. 92-6716**

**ITEM 16-d**

**A RESOLUTION APPOINTING ONE  
MEMBER OF THE COMMUNITY SERVICES  
BOARD TO FILL THE UNEXPIRED TERM  
OF THERESA A. HUNT; AND PROVIDING  
AN EFFECTIVE DATE.**

**MOTION:** To **APPOINT** George M. Dondaville as  
Alternate and move Dave Rice from  
Alternate to regular membership.

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

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**\*\*\*\*CONSENT AGENDA\*\*\*\***

**ITEM 17**

**APPROVAL OF MINUTES**

City Council Workshop Meeting	July 13, 1992
City Council Workshop Meeting	July 20, 1992
City Council Workshop Meeting	July 21, 1992
City Council Workshop Meeting	July 22, 1992
City Council Workshop Meeting	August 3, 1992
City Council Regular Meeting	August 5, 1992

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**RESOLUTION NO. 92-6717**

**ITEM 18**

**A RESOLUTION APPROVING AN INCREMENT INCREASE FOR CITY MANAGER RICHARD L. WOODRUFF PURSUANT TO THE EMPLOYMENT AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.**

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**BUDGET AMENDMENTS**

Finance Director Harrison distributed a revised budget amendment summary, "Salary & Benefits -General Fund," (Attachment #7) to address issues discussed at the August 17th Workshop Meeting.

Anderson		Y	
Hermes			A
Korest	M	Y	
Pennington		Y	****
Sullivan	S	Y	
Van Arsdale		Y	ITEM 19
Muenzer		Y	
(6-0)			
<b>M=Motion S=Second</b>			
<b>Y=Yes N=No A=Absent</b>			

**MOTION:** To **APPROVE** consent agenda.

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**\*\*\*\*END CONSENT AGENDA\*\*\*\***

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It was the consensus of Council not to renew the National League of Cities membership in the amount of \$968 annually.

Mayor Muenzer advised that on Thursday, August 20th, he would meet with representatives of Citizens to Preserve Naples Bay and the Collier interests to discuss a Collier proposal on the Sabal Bay issue. Natural Resources Manager Staiger and representatives of The Conservancy will also participate in the meeting. Depending upon the proposal presented, a subsequent Council workshop discussion may be necessary.

Dr. Woodruff announced that he would meet on Thursday, August 20th, with representatives of the Civic Association to review their questions and concerns with reference to the proposed increase in utility tax (see Agenda Item 12).

It was determined that the August 24th workshop would be scheduled at 2:00 p.m. to allow members of Council to attend a Save The Bays presentation that morning.

Dr. Woodruff announced that he would convene a post-fire review that afternoon at 4:00 p.m. to discuss the performance of the utility system and the fire and police response to the Naples Floor Covering fire. A report is due in approximately one week.

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**OPEN PUBLIC INPUT:** None.

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**ADJOURN:** 4:09 p.m.

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Paul W. Muenzer, Mayor

Janet Cason  
City Clerk

Marilyn McCord  
Deputy City Clerk

Tara A. Norman  
Deputy City Clerk

These minutes or the Naples City Council approved on 9/2/92.

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