



City Council Chamber
735 Eighth Street South
Naples, Florida 33940

City Council Workshop Meeting - August 31, 1992 - 9:50 a.m.

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
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
Ann (Missy) McKim, Community
Development Director
John Cole, Chief Planner
Tom Smith, Fire Chief
Chris Christianson, Senior
Construction Inspector
Susan Golden, Planner I
George Henderson, Sergeant At Arms
Marilyn McCord, Deputy City Clerk

County Commissioner Burt Saunders
Attorney Dudley Goodlette
Werner W. Haardt
Lyle Richardson
Tom O'Riley
Frank Fry
Calvin Pratt
Andrea Clark Brown, AIA
Norman F. de la Chapelle
Other interested citizens and visitors

ITEM 1

**COUNTY COMMISSIONER BURT SAUNDERS WILL BE AVAILABLE TO
DISCUSS CITY/COUNTY ISSUES.**

County Commissioner Burt Saunders told Council to notify him whenever he may be of help in support of any issue.

Mayor Muenzer asked about the feasibility of arranging a joint City/County dredging program. Commissioner Saunders replied that the Save The Bays Association had advised that there was a good possibility of obtaining a jointly-owned dredge which could be utilized for cleanup of canals. Commissioner Saunders said that it may be possible to include Lee County in the ownership of such equipment. He said that in his opinion, TDC (Tourist Development Council) taxes could be used for the acquisition and operation of dredging equipment. Commissioner Saunders will present the concept to the County Commissioners and ask them to begin research of the project which would take about one year. Commissioner Saunders added, "It would be great to get an annual dredging permit from the DNR (Department of Natural Resources)." Council Member Herms said that perhaps even Charlotte County could be included in joint ownership.

City Manager Woodruff noted that Natural Resources Manager Jon Staiger would be reviewing documented dredging for the past five years, from Lee to Collier County. Council Member Pennington said that pass management plans will make up a large portion of the City's and County's consideration and agreed that it was time to begin gathering information.

Council discussed the dredging equipment which had been described during a presentation to a Save The Bays gathering. Vice Mayor Sullivan said that the equipment presented was capable of being transported on a flatbed truck, adding that it could be used on some of the retention lakes and ponds and could be fitted with oil containment equipment in the event of an oil spill. Council Member Korest noted that there had been very limited use of that particular machine in salt water. He told Council that maintenance costs must be considered carefully. Mr. Korest said, "Remember, we tend to be going toward privatization."

Council Member Korest suggested the institution of a joint laboratory for the purpose of analyzing and researching all information. He said that it would make sense to coordinate planning efforts and to have such things as uniform software. Commissioner Saunders said that he would conceptually take this suggestion to the County Commissioners. Should there be any interest in the

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project, he will proceed to request it be placed on the next City/County Joint Meeting agenda. Commissioner Saunders agreed that it was critical to coordinate monitoring efforts and said that he would provide Council with copies of any communications pertinent to the matter.

Mayor Muenzer commented that cooperation between the City and the County had been outstanding during and after Hurricane Andrew struck. Commissioner Saunders said that he was more concerned about what may have been done incorrectly. The County would welcome any suggestions from the City, as well as assistance in the after-storm evaluation. Commissioner Saunders referred to the relief effort in Miami, noting that it was indicative of the need to prepare procedures for the aftermath of a storm.

Council discussed evacuation procedures with Commissioner Saunders noting that local officials had no legal authority to force people to leave the area. He emphasized the need for a coastal disaster plan to ensure recovery efforts. Commissioner Saunders also thanked those people who had volunteered their help during the storm.

City Manager Woodruff told Council that Commissioner Saunders will be discussing the County landfill situation with County Manager Neil Dorrill. Dr. Woodruff described the present temporary horticultural dumping situation on the Pulling property. He said that the City hoped to get some assistance with tipping fees. Staff estimated that the volume of material presently on the ground was equal to six month's worth of horticultural waste.

In response to Council Member Pennington's question, City Manager Woodruff said that all appropriate forms had been submitted to the proper agencies for financial assistance.

Commissioner Saunders told Council that he was concerned about the friction existing between the City and the County. He complimented Council for its continual review of what the taxpayers were paying to the County for services. Commissioner Saunders said that as each Commissioner's district grows, the City becomes less of a political factor and even less of an economic factor to the County Commissioners. He said, "Perhaps we can keep that communication open." Council Member Anderson commented that she was uncomfortable about the continuing comments with relation to dissention between the City and the County. Commissioner Saunders noted that it was the desire of every County Commissioner to work with the City, however, they must be concerned with their individual districts. Once again Commissioner Saunders complimented Council on the excellent job it was doing to protect the residents of the City and stressed the need for developing a more formal line of communication between the two entities. He suggested that Council meet more often with the County Commissioners in a formal setting rather than in informal workshop meetings. City Manager Woodruff informed Council that he had recently been in contact with Commissioner Saunders every other week and that Mr. Saunders had made a concerted effort to maintain a good

relationship with staff as well as Council.

BREAK: 10:40 a.m. - 10:50 a.m.

ITEM 2

DISCUSSION OF PALMER CABLEVISION FRANCHISE AGREEMENT.

City Manager Woodruff began with a review of the two existing ordinances which deal with cable regulations in the City. Dr. Woodruff informed Council that Palmer Cablevision exceeded all FCC (Federal Communications Commission) requirements.

Palmer arranged for TCS Cable, Inc. to perform an independent signal evaluation. The resulting document states that after reviewing the system, it was TCS's opinion that Palmer exceeds all FCC requirements with regard to signal quality. Palmer maintains an office in the City, in compliance with the law.

Dr. Woodruff reviewed Section 8 of Ordinance No. 3388 which deals with preferential or discriminatory practices being prohibited. He explained that Palmer had established different classes of service and billing. Bulk billing rates are determined by criteria such as the number of dwellings, number of seasonal residents, etc. Dr. Woodruff said that he had found no evidence that Palmer had been in violation of Section 8.

Next City Manager Woodruff reviewed the 1979 franchise agreement. He said that at no time had Palmer failed to properly file necessary documents with regulatory agencies. Palmer is in full compliance with Section 12 of the agreement, which deals with payment to the City. Dr. Woodruff informed Council that prior to 1984 the City was required to approve every rate change, however in 1984 FCC regulations assumed the rate-setting role. He said that no situation had been found where Palmer was not complying with State and Federal laws.

In 1989 Ordinance No. 5844 was adopted by Council as the Federal government had done away with exclusive franchises. This ordinance addresses anyone who wants to have a cable business in the City.

City Attorney Chiaro noted that the rights that Palmer obtained in 1979 could not be in doubt by enactment of the 1989 ordinance. The City Attorney will determine whether the requirements within Section 4 of the 1989 ordinance will be applicable to a transfer.

With respect to the time element involved, Attorney Dudley Goodlette, representing Palmer

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Cablevision, said that the transfer phase should be completed by the end of 1992. He expressed the intent to work with the City in a spirit of cooperation to effect the transfer, noting that he did not foresee any impediments to that transfer. Attorney Goodlette thanked Council and staff for the cooperation they had displayed to date.

Mr. Frank Fry, Director of Community Relations for Palmer Cablevision, assured Council that official notice of the transfer would be given as soon as the final document of sale was completed. City Manager Woodruff announced that the City had been officially notified by Palmer of the request-for-renewal option. City Attorney Chiaro explained that Council had first to deal with the transfer, then the renewal issues would be dealt with.

Vice Mayor Sullivan noted that because of the emasculation of the City by the Federal regulations, Council did not have much influence. However, with the transfer arrangements, he said that he believed there was room for negotiation. One of the key issues, said Mr. Sullivan, was what determines competition. He referred to the Naples Civic Association's suggestion that an expert in the field be retained in order to be able to appropriately interpret some of the rules and regulations that Council are not familiar with. Also, such an expert could offer some guidance as to what Council could do and expect in terms of the renewal application. Mr. Sullivan said that in his opinion, it was only fair that Council have some guidance to indicate what is appropriate and generally found to be fair and equitable in other like circumstances. He strongly suggested retaining an expert in order to protect the rights of the City and its citizens. Mr. Sullivan emphasized that he was not questioning the abilities of the company, however, Palmer would protect its own self interests and the City should do the same.

In response to Council Member Korest's question, the City Attorney stated that the time of transfer was always an ideal time to clear up any conflict. She said that in this particular field, it was common if not routine, to bring in a specific expert relating to this particular kind of agreement. Attorney Chiaro informed Council that an attorney may not be needed to do this analysis. The money involved is not insignificant, she said, so if there is an opportunity of increasing the amount which would come to the City, it would seem that bringing in an expert to protect that money would be appropriate.

City Manager Woodruff noted that staff had reviewed the performance of Palmer Cablevision relative to the franchise agreement and to the general cable ordinance. That review clearly indicated that Palmer is in compliance with all aspects of the franchise agreement and the cable ordinance except where Palmer believes that sections of the cable ordinance do not apply based upon the existing franchise contract.

Dr. Woodruff outlined staff's recommendations, which are as follows:

The administration recommends that Council accept staff's analysis as documentation of compliance with the franchise agreement and compliance with City Ordinance 89-5844. The analysis performed shows that Palmer Cablevision is within the guidelines of the franchise agreement and cable

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ordinance of the City. Even so, the following recommendations are made:

1. Request that the City Attorney research the FCC guidelines relative to local competition. Obtain a clear definition and understanding of the FCC guidelines for competition and their actual application with the City of Naples.
2. Discussion should be held with Palmer Cablevision relative to the elimination of certain fees and charges for additional services, such as second and third outlets within the same residence.
3. City Council Members should notify the City Attorney of specific legal questions which they want researched relative to the procedure for reassigning the franchise agreement from Palmer Cablevision to the Providence Journal Company.
4. Coordinate with Collier County to insure that the reassignment of the franchise agreement for the City is in line with the reassignment of the franchise agreement for the County.

It was the consensus of Council to proceed with staff's recommendations. The City Attorney will research the competition clause and report back to Council. In addition, the City Attorney will research the cost of retaining an outside expert for consultation purposes.

Council further discussed the hiring of a consultant and Vice Mayor Sullivan said that the transfer agreement could provide for payment to the consultant by the transferee. There will be an opportunity to include this as a part of the renewal agreement.

The final item of discussion with respect to Palmer was its performance during and after Hurricane Andrew impacted the area. Mr. Fry related that the company's employees worked throughout the storm and afterward in order to restore cable service as quickly as possible. He was not certain that Palmer could make a financial adjustment to those customers who experienced outages since it would be very difficult to identify which areas were out of service and for how long.

Mr. Fry distributed copies of a document entitled "Palmer Cablevision Franchise Renewal Submission." (A copy of this document is located in the original meeting file in the City Clerk's Office.) He informed Council that many of the questions which had been brought up by Council and other interested groups were answered within the document. Mr. Fry asked Council to examine the document and submit any additional questions to him in writing so that he may respond.

LUNCH RECESS: 12:30 p.m. - 1:30 p.m.

ITEM 3

THIRD STREET ASSOCIATION - SIGNAGE & LANDSCAPING PLAN.

City Manager Woodruff announced that representatives of the Third Street area had approached staff several months ago with respect to instituting a joint improvement effort between Third Street and the City. Dr. Woodruff told Council that he believed they would find today's presentation exciting and one which would help continue to make Third Street a viable area.

Chairman of the Third Street Merchants Association Task Force on Area Identification, Mr. Norman de la Chapelle, addressed Council. He explained that today's presentation would represent an overview of what has been discussed for the last five months. The Task Force needs the City's help, support and action, said Mr. de la Chapelle. The Task Force was established as a result of the growing awareness that the Third Street area was losing its competitive viability. Mr. de la Chapelle said that the Third Street Merchants Association itself had been completely restructured. A new sales and promotion program with a budget this year of \$250,000.00 has been launched. Strengths and weaknesses in the area were identified and a master plan developed. The Task Force retained local architect Andrea Clark Brown, AIA, to develop a plan. In addition, the Task Force has been working with the City Manager, Chief Planner John Cole and other agencies within the City structure. Also, funding has been secured for Third Street's portion of the program. At the most recent Association meeting, approval to proceed with the plan was given by the membership. Mr. de la Chapelle referred to his group as "the Task Force to Avoid Redevelopment," and stressed the importance of expediency, especially since fierce competition is expected with the opening of The Waterside Shops.

Ms. Brown proceeded to give her presentation with the use of visual aids. She told Council that much of the master plan involves simple street furnishings. Ms. Brown explained that every phase of the plan would not be implemented in the first season. She distributed copies of the Task Force for Area Identification information packets (a copy of which is in the original meeting file in the City Clerk's Office).

Phase I of proposed general intentions of the Third Street and the Avenues improvements include:

1. Establish a clear idea of the whereabouts of the Third Street and Avenues.
2. Provide clarity to the beginning and end of the Third Street Shopping Corridor.
3. Identify major entry to the area via addition of pedestrian amenity and spatial structuring of Broad Avenue (The "Gallery District").
4. Establish and strengthen avenue boundary definition through signage, landscape and activity closure.

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5. Provide convenient directory of area merchants and businesses, as well as parking locations.
6. Improve readability of building signage in areas of low visibility.

Ms. Brown next outlined those improvements which would involve City assistance, including the implementation of remote signage. City Manager Woodruff explained that the merchants will purchase the signs but have asked that the City install them and once installed become part of the City's regular maintenance program. Dr. Woodruff said that from staff's standpoint this proposal would represent very little difficulty as the signs have a fairly long life span and require little maintenance.

Council Member Herms suggested that other areas will want signs as well. Mr. de la Chapelle suggested to Council that establishment of a "loop" to connect Tin City, Coconut Grove, Third Street, Fifth Avenue, etc. might be considered. Council Member Anderson suggested the possibility of devising one logo for all of the Old Naples shopping areas, with each area having its own identifying logo.

Council discussed the possibility of allowing banners to be hung in the Third Street area. Chief Planner Cole said that the variance process will be the avenue used to permit banners.

Mr. de la Chapelle reiterated that the area landlords were making major financial commitments to this program. Council Member Van Arsdale suggested consideration of establishing some funding source such as a taxing district for future phases of the plan.

City Manager Woodruff stated that in his opinion, the success of the merchants in the area was at stake. This represents the preservation of the City, he stressed, adding, "We have to decide at which point we acquiesce and let the City go downhill. We will look for ways to make this project happen now. We have to have this plan ready for this shopping season."

Council agreed to support the concept of the Task Force plan and authorized staff to further study the signage and landscaping plan and to provide a per-item breakdown of charges. Staff should also meet with representatives of the Fifth Avenue and Crayton Cove areas to discuss and coordinate the proposed signage. City Manager Woodruff said that funds for the project would have to come from the CIP (Capital Improvement Plan) budget. Staff will provide an analysis of the present CIP. Council Member Anderson noted, for the record, "With regard to budgeting, we need to be aware that these things come up. We need to have funds in contingency."

NOTE: Finance Director Bill Harrison verified the CIP balance and told Council that there would be no difficulty in spending between \$10,000.00 and \$12,000.00 for the Third Street project.

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BREAK: 3:05 p.m. - 3:10 p.m.

ITEM 4

UPDATE AND GENERAL DISCUSSION OF AFFORDABLE HOUSING SITE.

Planner I Susan Golden announced that the City had received a letter indicating the reasons why the affordable housing site near the Naples Daily News had not been approved. Considerable community support had been received in favor of the site for senior citizen affordable housing.

Ms. Golden said that an appeal to HUD's decision had been submitted and HUD should be making its determination today, however, the City would have to wait for written confirmation of the decision made.

City Manager Woodruff reminded Council that although HUD had not approved the application at this point, that did not mean that housing could not be built on that site. He reviewed the three other proposals, each with a different funding source, which had been made. Council's second choice was the Sunrise Seniors, which proposed using a combination of State and Federal funding. The Naples Cooperative Association was the third choice and Habitat for Humanity was the fourth choice.

Council requested that this issue be discussed at a Workshop Meeting and placed on the Regular Council Agenda of September 16, 1992. Council authorized the City Manager to contact the second choice, Sunrise Seniors, and ascertain whether they would still be interested in developing the City's affordable housing site, should the 202 appeal be denied by HUD.

ITEM 5

DISCUSSION OF GUEST HOUSES/GUEST SUITES.

Community Development Director Missy McKim reviewed the staff memorandum to Council which included concerns about renting guest houses, the definition of guest houses as compared to guest suites, and the issue of a guest house becoming the principle structure when a main house is demolished. Mrs. McKim noted that under current City regulations, when a main house is demolished, the guest house becomes the main residence. Staff has not found an easy solution to this dilemma. Mrs. McKim said that staff believes that the vesting of guest houses is important. If guest houses do constitute a valuable entity and make a contribution to the ambiance that is Naples, then main houses should be allowed to be demolished and rebuilt, while the guest house remains

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intact as a guest house. Permits to demolish and build would be issued concurrently. Staff recommends this as an amendment to the Code. City Manager Woodruff said that very clear direction was needed from Council. It was the consensus of Council that demolition and building permits must be applied for at the same time, for the rebuilding of a house that also has a guest house on the property. The building permit will be non-renewable unless the guest house is removed.

Council next discussed the issues of guest suites, compared to guest houses and the renting of guest houses. Council Member Pennington stated, "If we are going to prohibit renting, it should be strictly enforced, registered, etc." Mr. Pennington also brought up the question of whether guest houses should be considered as a part of affordable housing stock. It was the consensus of Council that rental of guest houses will continue to be allowed, with some controls. Staff was authorized to further study the matter and return to Council with recommendations pertaining to registration, licensing, etc.

Vice Mayor Sullivan stated that the City would open itself to liability if guest houses are not recognized. The City needs to insure that they are in compliance of Code, he added. Mrs. McKim said that fire inspections are done on all multi-family residences and staff will build into the ordinance the requirement that guest houses must also be inspected. Council Member Anderson reminded everyone that a policy was needed to insure that certain situations will be accommodated, such as live-in nurses, relatives, etc.

ITEM 6

REVIEW OF AGENDA ITEMS FOR SEPTEMBER 2, 1992 REGULAR MEETING.

Item #5 - Variance petition/Bangkok Restaurant

Council Member Herms requested a review and analysis of the building's entire parking situation.

Item #6 - Satellite/antenna text amendment

Staff will review the ordinance and amend any inconsistent language. Staff will also review the language referring to screening requirements.

Staff will supply copies of actual advertisements which have been published in the local newspaper and the contents of same.

Staff will add a penalty clause to the ordinance stating that in the event that a permit is not obtained before installation of a satellite dish antenna, an "after-the-fact" permit will cost \$500.00.

Staff will supply information at the September 2nd Council Meeting as to the County's requirements for the licensing of satellite dish installers.

In the section entitled "Public Notice," include property owners' associations where appropriate.

Item #7 - Stormwater utility system

Page 3, Exhibit "A" - Amend the Impervious Area section as follows: **roofed, paved or compacted areas, etc.** Page 4, Exhibit "A" - Add language to include guest houses, to be charged at the rate of \$1.43 per month.

Staff will confirm the ARU (Average Residential Unit) square footage definition and the definition of "total impervious area."

Item #8 - Miscellaneous water/sewer fee increase

Staff will delete from the ordinance Section 4, which deals with the water reuse system. Staff will formulate some type of incentives for reverse consumption.

Item #10 - Educational Impact Fees Interlocal Agreement

Page 4, Section 6(a) of the Agreement entitled General Duties and Responsibilities: Eliminate the word **immediately**.

Item #16 - Traffic and street signs

Staff will provide more details about the lowest bidder, including performance history.

ANNOUNCEMENTS/CORRESPONDENCE/COMMUNICATIONS

Council Member Anderson said that she had received a telephone call with respect to free labor which the Job Training Partnership Act (JTPA) would have provided to the City. City Manager Woodruff responded that twenty people were authorized to work last Friday, however, only four came in. Mrs. Anderson asked that the City Manager document that in writing.

Mayor Muenzer announced that a letter had been sent from Council to those employees who worked such long hours throughout the hurricane recovery efforts. "They really worked hard," he said, and deserved to be recognized.

City Manager Woodruff gave a brief update of hurricane cleanup activities. Estimates show that the hurricane produced enough horticultural waste to equal six months of the usual material picked up. The tipping fees at the County Landfill will be over \$250,000.00. The Federal government has agreed to pay the City 75% of its costs, and the County has been asked to waive the balance. Dr. Woodruff told Council that they should be proud of the job the employees had done.

Vice Mayor Sullivan told Council about the donated goods which had been collected by City employees and taken to the hurricane victims in Miami. For the record, Mr. Sullivan said that those who received the goods had expressed tremendous gratitude.

The City Manager outlined the policy which would allow a City employee to volunteer to work in the Dade County area and be paid by the City for three days, at their regular rate of pay.

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ADJOURN: 6:15 p.m.

PAUL W. MUENZER, MAYOR

Janet Cason
City Clerk

Marilyn McCord
Deputy City Clerk

These minutes of the Naples City Council were approved on 9/16/92.