



City Council Chamber  
735 Eighth Street South  
Naples, Florida 33940

---

**City Council Regular Meeting - October 21, 1992 - 9:00 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  
Missy McKim, Community  
Development Director  
William Harrison, Finance Director  
Dan Mercer, Interim Public  
Works Director  
Mark Thornton, Community  
Services Director  
Leighton D. Westlake,  
Engineering Manager  
John A. Cole, Chief Planner  
Jon C. Staiger, PhD, Natural  
Resources Manager

Stewart K. Unangst, Purchasing Agent  
David K. Lykins, Enterprise  
Operations Supervisor  
Nicholas E. Long, Dockmaster  
Sheldon P. Reed, Fire Marshal  
John E. Reble, Fire Lieutenant  
Terry L. Fedelem, Parks &  
Parkways Superintendent  
George Henderson, Sergeant at Arms  
Tara A. Norman, Deputy City Clerk  
Marilyn McCord, Deputy City Clerk

See Supplemental Attendance List  
(Attachment #1)

---

**City Council Regular Meeting - October 21, 1992**

---

**INVOCATION AND PLEDGE OF ALLEGIANCE**

The Reverend James Hervey, Moorings Presbyterian Church

\*\*\*\*

\*\*\*\*

\*\*\*\*

**ITEMS TO BE ADDED TO THE AGENDA**

Item 22 Resolution authorizing leasing of equipment to incinerate horticultural materials generated as a result of Hurricane Andrew.

Item 23 Resolution authorizing a contract with Suboceanic Consultants for the Doctors Pass Management Plan.

Item 24 Resolution authorizing emergency repairs to Mooring Line Drive, Harbour Drive and Park Shore Drive bridges.

**MOTION:** To **ADD** the above items to the agenda.

Anderson		Y
Herms		Y
Korest	S	Y
Pennington		Y
Sullivan	M	Y
Van Arsdale		Y
Muenzer		Y
(7-0)		
<b>M=Motion S=Second</b>		
<b>Y=Yes N=No A=Absent</b>		

\*\*\*\*

\*\*\*\*

\*\*\*\*

**ANNOUNCEMENTS**

Item 4-a Mayor Muenzer  
Red Ribbon Week - October 24-31 (Anti-Drug Campaign)

Mayor Muenzer and Council Members received red ribbons from Collier County teacher Patricia Davis and students of St. Ann School. Dr. Woodruff called on Community Services Director Mark Thornton, the City's representative for the 1992 Red Ribbon Week Activities and Deputy City Clerk Tara Norman, who represented the City in 1991. Mr. Thornton announced various activities such as the Red Ribbon Run and Mile of Quarters and Mrs. Davis outlined various drug education programs

---

**City Council Regular Meeting - October 21, 1992**

---

underway in Collier County Schools.

Item 4-b            City Manager Woodruff  
                     Employee Certification - Fire Department

Dr. Woodruff introduced Fire Marshal Sheldon Reed who presented Fire Lieutenant John Reble with plaques commemorating the fire inspector certifications Lieutenant Reble recently received from the Southern Standard Building Congress. Fire Marshal Reed explained that it is the City's goal to maintain high expertise in the fire profession, and Lieutenant Reble's achievement signifies that he has attained Level 1 and Level 2 certifications which are recognized nationally by both the building industry and professional organizations within the fire service.

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

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

Dr. Woodruff noted that it had been requested that Item 9 (lease of hand-held computerized parking citation systems) be continued to a later meeting and that the resolution for Item 6 (purchase of limerock and cover material) had been revised so that each type of material was shown as awarded separately to the low bidder in each case. Council Member Herms requested that Item 8 (water and sewer master plan) be removed from the Consent Agenda for separate discussion.

Mayor Muenzer also noted the corrected minute pages which had been received (September 28th Workshop, October 5th Workshop, and October 7th Regular Meeting).

Anderson		Y
Herms	M	Y
Korest		Y
Pennington		Y
Sullivan	S	Y
Van Arsdale		Y
Muenzer		Y
(7-0)		
<b>M=Motion S=Second</b>		
<b>Y=Yes N=No A=Absent</b>		

**MOTION:** To **APPROVE** Items 5, 6, and 7 of the Consent Agenda, deferring Item 9.

\*\*\*\*

\*\*\*\*

\*\*\*\*

**APPROVAL OF MINUTES**

**ITEM 5**

City Council Workshop Meeting  
City Council Special Meeting

September 28, 1992  
September 30, 1992

**City Council Regular Meeting - October 21, 1992**

---

City Council Workshop Meeting  
City Council Regular Meeting  
City Council Workshop Meeting

October 5, 1992  
October 7, 1992  
October 12, 1992

\*\*\*\*

\*\*\*\*

\*\*\*\*

**RESOLUTION NO. 92-6775**

**ITEM 6**

**A RESOLUTION AWARDING CITY BID #93-13 FOR THE ESTABLISHMENT OF A TWO-YEAR CONTRACT TO PURCHASE LIMEROCK AND COVER MATERIAL; AUTHORIZING THE CITY MANAGER TO ISSUE A PURCHASE ORDER THEREFOR; AND PROVIDING AN EFFECTIVE DATE.**

\*\*\*\*

\*\*\*\*

\*\*\*\*

**RESOLUTION NO. 92-6776**

**ITEM 7**

**A RESOLUTION AWARDING CITY BID #93-19 FOR THE ESTABLISHMENT OF A TWO-YEAR CONTRACT FOR THE RENTAL OF INDUSTRIAL UNIFORMS AND ENTRYWAY MATS; AUTHORIZING THE CITY MANAGER TO ISSUE A PURCHASE ORDER THEREFOR; AND PROVIDING AN EFFECTIVE DATE.**

\*\*\*\*

\*\*\*\*

\*\*\*\*

**RESOLUTION NO. 92-**

**ITEM 9**

**A RESOLUTION AWARDING CITY BID #93-09 FOR THE LEASE OF FOUR HAND-HELD COMPUTERIZED PARKING CITATION SYSTEMS; AUTHORIZING THE CITY MANAGER TO ISSUE A PURCHASE ORDER THEREFOR; AND PROVIDING AN EFFECTIVE DATE.**

\*\*\*\*

\*\*\*\*

\*\*\*\*

**RESOLUTION NO. 92-**

**ITEM 8**

**A RESOLUTION AUTHORIZING THE PURCHASING DIVISION TO ADVERTISE FOR REQUESTS FOR PROPOSAL REGARDING A COMPREHENSIVE WATER, WASTEWATER, AND RECLAIMED**

**WATER MASTER PLAN; AND PROVIDING AN EFFECTIVE DATE.**

---

**City Council Regular Meeting - October 21, 1992**

---

**MOTION:** To **REMOVE** Item 8 from the Consent Agenda for consideration separately.

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

Dr. Woodruff noted that answers to specific questions posed by Council Members at the October 19th Workshop had been addressed in a memo from Interim Public Works Director Dan Mercer, a copy of which had been provided to them.

Mr. Mercer then elaborated on the information contained in this memorandum (a copy of which is contained in the file for this meeting in the City Clerk's Office) stating that research of City records over the past several months had not yielded a water and wastewater master plan document although the several plans from 1976 to 1988 listed in his memorandum had addressed specific problem areas. Although there had been reference, however, to a master plan of 1976, this document had not been found.

Dr. Woodruff also explained that the resolution currently before the City Council would begin the process of drafting a new master plan by authorizing advertising for RFP's (Requests for Proposal) from consultants. The eventual study would address such areas as: funding of depreciation to replace aging infrastructure in the system; all water and wastewater lines in the system to establish a replacement schedule; system requirements for lines and processing facilities when the service area (which extends beyond the city limits) is completely built out; and a description of the system as a whole to be used for future bonding purposes.

In response to further questions from Council, staff indicated that the master plan would also outline permitting requirements for upgrading plants in order to eliminate any flow of reuse water into Naples Bay which now occurs in the rainy season when golf course irrigation demand is low. Some of the information needed by the consultant eventually chosen to draft a new master plan would be derived from previous studies and from data on hand, such as the City's atlas of water and wastewater lines and from results of on-going television inspection of sewer lines. Nevertheless, it is anticipated that a master plan covering a period of 10 to 15 years would be updated at five to seven year intervals. These updates would take into account such things

---

**City Council Regular Meeting - October 21, 1992**

---

as changes in technology and the fact that when the wastewater treatment system undergoes a permit renewal in November of 1993 discharge into the Gordon River will have to be eliminated.

Council Member Korest suggested that the computerized material already on hand for stormwater utility purposes be provided to the consultant in preparation of a master plan and that the consultant's tasks be set apart so that they could be prioritized to determine whether some activities could be delayed or could be accomplished in-house. Mrs. Anderson also suggested that an estimate of man hours be included so that it could be determined whether additional City staff would be needed on elements to be handled in-house.

Council Member Herms said that he could not support a proposal as broad as the one now being discussed due to the likelihood that the consultant would duplicate work which had already been done. He said that a consultant could merely bring back information from past studies in a different form. Mr. Herms also expressed reservations about the necessity of having a consultant describe the City's current system.

Dr. Woodruff, however, pointed out that because the City would find it necessary to obtain bonds for major upgrades, a master plan describing the entire system would be required by bond rating agencies. For example, an upgrade of as much as \$15-million could be required should the City be prohibited from discharging any of its reuse water into the Gordon River by the 1993 permit renewal. He stressed that the intent of the proposed master plan was not to simply rewrite previous work but to put the system in a mode of replacement which none of the previous studies have done.

Dr. Woodruff, nevertheless, recommended that, in order to provide the Council with further information on this issue, the item be scheduled for additional discussion at a future Workshop. Council Members indicated their concurrence with this suggestion. In conclusion, Dr. Woodruff commended the Utilities Division for its work in eliminating the operating deficit in the system, a change which was reflected in the annual financial statement which had been published that day.

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

**RESOLUTION NO. 92-6777**

**ITEM 10**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NAPLES,  
FLORIDA, CONSENTING TO THE TRANSFER AND ASSIGNMENT OF  
CABLE TELEVISION FRANCHISE; AND PROVIDING AN EFFECTIVE  
DATE.**

Title read by City Attorney Chiaro.

## **City Council Regular Meeting - October 21, 1992**

---

Dr. Woodruff reviewed various elements of the transfer being proposed, noting the information contained in the staff report (a copy of which is contained in the file of this meeting in the City Clerk's Office). The franchise could not be transferred from Palmer Cablevision to another entity without approval of the City Council, he explained. The request before Council at this time was simply a transfer and had no bearing on renewal of the 15 year franchise which had not yet expired. Dr. Woodruff also noted that in accordance with a 1989 ordinance, the company requesting the transfer is required to pay \$5,000 to underwrite expenses of evaluating the application. Although Palmer Cablevision had taken the position that this did not apply to them because their franchise was governed by the 1979 ordinance which established the franchise, they had nevertheless remitted the amount. Collier County imposes a \$10,000 charge for a similar review, he added.

Dr. Woodruff then recited other transfer-related issues addressed in the 1989 ordinance requirements and the new franchisee, Colony Cablevision of Florida, had been found to be in compliance, he said; namely, that Colony has provided a list of individuals owning 15 percent or more of the company; that they have fully accepted the obligations of the franchise (Dr. Woodruff suggested that their attorney testify to this for the record); that the company has experience in providing cable service; and that financial reports are in order.

Dr. Woodruff explained that Colony operated cable systems throughout the country and that staff had surveyed those cities in Florida where cable systems are owned by Colony. Those responding had rated Colony either satisfactory or above, or excellent, in such areas as picture quality, response to citizen complaints, response to city requests, and provision of community programming. Although the franchise transfer was currently being requested, Dr. Woodruff explained, Colony had actually been participating in a management contract with Palmer for operation of the local cable system since 1990; therefore, customers in this region had already experienced nearly two years of experience with Colony management. The audited financial information supplied by Colony had been reviewed by the City's Internal Auditor and was deemed to be in order. Therefore, Dr. Woodruff concluded, the administrative staff had no basis upon which the request for transfer of the cable television franchise should be denied.

City Attorney Chiaro then commented on the legal aspects of the transfer. The Council, she noted, had authorized retention of a consultant to evaluate the City's options with respect to the transfer request and any impact it might have on the upcoming franchise renewal process. Unless there is substantive evidence to the contrary, she said the Council's option is to approve the transfer. Ms. Chiaro noted the consultant's recommendation that there was no basis upon which the City should not approve the transfer and that formal linkage between the renewal process and this transfer might, in fact, subject the City to a legal challenge. Although there had been expressions from Colony that the renewal process should begin immediately, the transfer is not conditioned upon any of those issues, Ms. Chiaro concluded. It was noted that this was considered Option 1 in the consultant report, and Attorney J. Dudley Goodlette, representing Palmer Cablevision, indicated that this was



the option his client favored. Mr. Goodlette also confirmed that the application for renewal would be processed separately with review at a time amenable to the City staff.

**Public Input:** Two individuals registered to speak (in addition to the petitioners and their representatives).

**W. Duke Haardt, 4900 Whispering Pine Way**

Mr. Haardt indicated that he represented the Cable Committee of the Greater Naples Civic Association. He expressed the hope that Colony would meet with the Civic Association to discuss the feelings of the citizens which the group represents. He said the Association also looked forward to participating in the renewal process in 1994.

**Ray Karpowicz, 5960 Pelican Bay Blvd.**

Prefacing his remarks by stating that he had no complaint with reference to the transfer now before the Council, Mr. Karpowicz explained that he owned two low-power television broadcast stations in this area, one licensed to Fort Myers and one to Naples. While the Fort Myers channel was carried by the cable operator in that area and the Golden Gate system carried his Naples station, he had been unable to reach an agreement with Palmer to include his Naples programming on its system. Palmer facilities, he said, would give better access by the community to the station's 24-hour programming schedule which includes sports (games which are not carried on traditional cable), movies in syndication, and local programs; all would be provided to the Palmer cable system at no charge. "We look at cable as the gatekeeper. If you can't get on cable in an area like this where cable is heavily carried, it is impossible for an over-air station to reach people and to make a dent in the City. That's the problem. We hope some consideration can be given to community stations wanting service which can now only be reached with rabbit ears (antennas)," Mr. Karpowicz noted.

Attorney Goodlette told Council that Palmer representatives had had many conversations with Mr. Karpowicz and that there were many issues to address regarding access by his Naples station to the cable system.

Also in response to Mr. Karpowicz, Richard Alman, Palmer Cablevision General Manager, explained that, in addition to the carrying capacity of the system and customer preference issues, this particular low-power television station's signal had not yet met Palmer's standards, although it was his understanding that Mr. Karpowicz was attempting to correct this deficiency. Mr. Alman also noted that the Fort Myers cable operator had experienced similar problems with the signal from the Karpowicz station there. After further discussion with reference to the possible customer need which might be filled by the programming on his Naples low-power television station, Mr. Karpowicz indicated that he would indeed upgrade his equipment to provide Palmer with a "perfect signal or nothing."

The discussion then turned to Palmer's response to requests for service and it was clarified by Mr. Alman that Palmer complies with the terms of the franchise with reference to response to calls for service and that the company has received a national seal of approval for quality service. Regardless of the time when a call is received, problems are corrected within 24 hours, although during evenings and weekends, a threshold of three service calls in one area is established in order to give service personnel an indication of where a general outage may be before a service truck is dispatched. All problems, however, are corrected within 24 hours; if a call for service is received on Friday evening, a Saturday service call is scheduled, Mr. Alman explained.

Council Member Herms then asked for clarification on a proforma estimate of projected rate increases of 6-7% and inquired whether this estimate was based on the purchase price paid by Colony to Palmer for the cablevision system. Dody Church of Colony indicated that, although she did not at the time have in her possession documentation to this effect, the increases were not based on the purchase of the system. Palmer General Manager Alman further explained that the proforma estimated was based partially on subscriber growth but a significant element was the projected increase in programming costs. Indicating that he shared Mr. Herms' concerns, Vice Mayor Sullivan noted that a detailed review of rates, service and other issues would be the subject of discussion when the franchise came to Council for renewal. There was currently, however, no defensible reason to delay action on the transfer, he added.

Council Member Anderson expressed concern that the Council might be waiving its ability to address past inadequacies of service by Palmer if the operator was Colony and not Palmer when the franchise came up for renewal. City Attorney Chiaro said that if the Council determines that inadequacies of service are substantial and that Palmer is not in compliance with its franchise, the transfer should be declined on that basis. This situation, however, is not what was being expressed either by staff or the members of the public who had spoken at that meeting, she observed. Nevertheless, she said, the City Council did not waive its ability to remedy service issues by approving the transfer from Palmer to Colony.

Dr. Woodruff, however, confirmed that Palmer had requested to begin the franchise renewal process but that he had rejected the request at this time for three reasons: the transfer of franchise had been pending; it was over two years until the franchise renewal date; and there were changes underway on the Federal level which applied to local cable regulations. He said he would be recommending that Council's franchise renewal process seek public input through questionnaires and other means with reference to problems and concerns on such topics as rates, responsiveness to service, channels offered, and the like.

In response to Mrs. Anderson, Dr. Woodruff indicated that the City's Internal Auditor had determined that the 3% franchise fee on gross revenue had been computed by Palmer fairly and

---

**City Council Regular Meeting - October 21, 1992**

---

equitably.

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

**City Council Regular Meeting - October 21, 1992**

---

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

\*\*\*\*

\*\*\*\*

\*\*\*\*

**Deputy City Clerk Tara Norman acted as recording secretary for the preceding portion of the meeting while Deputy City Clerk Marilyn McCord acted as recording secretary during the afternoon and until adjournment**

\*\*\*\*

\*\*\*\*

\*\*\*\*

**RECESS:** 10:55 a.m. to 11:00 a.m.

\*\*\*\*

\*\*\*\*

\*\*\*\*

**ORDINANCE NO. 92-6778**

**ITEM 11**

**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.

City Manager Woodruff briefly reviewed the rezone petition which had been approved at first reading on October 7, 1992.

Mr. Bruce McDonald, representing his mother, whose property is adjacent to Chef's Garden,

addressed Council. Mr. McDonald referred to the litigation pending between his mother, the City and Neapolitan Enterprises. If staff had been more responsive, he noted, the litigation would not be at its present point. Mr. McDonald displayed copies of his mother's 1991 tax bills, noting that her taxes represented almost one-third of her Social Security income. Her taxes for 1991 were almost equal to the taxes paid on Lot #6, which contains two restaurants and Lot #7. Mr. McDonald said, for the record, that this appears to be a lack of equality.

Council Member Pennington commented that although Council had no control over assessed property value, there did appear to be some inequity. Perhaps when the property is rezoned, he suggested, an inquiry can be made relative to the taxes. Mayor Muenzer noted that it may be possible to request that the County reassess the property value.

Mr. McDonald referred to the increased degradation of his mother's quality of life once the rezoning is accomplished and the nuisance factor involved. City Attorney Chiaro verified that the lawsuit, as presently postured, did not contain any nuisance related to this parcel. She stated that she did not believe the litigation had any effect on this rezoning.

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

**Sue B. Smith, 15 11th Avenue South**

Mrs. Smith, a resident of the Old Naples area, noted that this was a matter affecting her neighborhood and it was her understanding that according to the City's Comprehensive Plan, commercial use would not encroach onto residential use. This rezoning would allow commercial use to encroach even further, she said. Mrs. Smith asked if a parking garage was in fact planned for the property in question, reminding Council that a garage was to be built on the Fleischmann property prior to any further development. Mrs. Smith commented that she continued to see Council and staff utilize only one set of zoning regulations for the entire City.

City Manager Woodruff pointed out that the change before Council was based upon the Comprehensive Plan. The land use map on page 59 of the Comprehensive Plan identifies this property as commercial. For the record, Dr. Woodruff stated that the action before Council today was in compliance with the Comprehensive Plan. He went on to review the background of the rezoning petition. Staff had discovered in 1991 that, although the Comprehensive Plan stated that at some point this property should be zoned commercial, it had never actually been done. The Fleischmanns were requested to either cease commercial activity on the site or to file the necessary applications so that Council could rezone the property.

In response to Mrs. Smith's inquiry, Mayor Muenzer said that he had not discussed the rezoning with the Fleischmann interests. Vice Mayor Sullivan said that last summer he met with Mr. Barry and Mr. Grant to discuss the rezoning and all three of them had simply explained their positions to one

another. Council Member Korest noted that he had also shared views of the issue with Mr. Barry and Mr. Grant. Mr. Korest reiterated Dr. Woodruff's statement that the property has been used commercially for approximately fifteen years and needed to be shown as commercial on the future land use map. Council Member Pennington stated that he had also met with Mr. Barry and Mr. Grant, at their request, at City Hall. They primarily had asked Mr. Pennington if he had any questions relative to this issue since he was not on Council when it originated. Mr. Pennington said that he did not have any questions and recognized that this action was to bring an area into compliance with the Comprehensive Plan. Council Member Anderson answered that she talked to the parties involved, adding that she normally talked to all petitioners if they called her.

Mrs. Smith told Council that the City had violated her residential atmosphere, therefore, perhaps she should request a zoning change as well. Mrs. Smith went on to say in reply to Council Member Pennington's question, that her property was residential, however, it had been violated by the use of commercial parking meters, and numerous violations to her privacy and quality of life. She said further, "I think, in light of that, you should bring me up to Code." Mrs. Smith also stated for the record, "You are using, in an unfair manner, one Code. You use it for one set of people who are in your favor in one manner, and you use it for other people who are also citizens of the area, you use the same Code in a quite different manner. Time and time again we have this. I have quite a file listing of these, I think, infractions against our City Code and certainly it's not a nice way for government to behave toward its citizenry."

**Oliver Durfey, Naples Resident**

Mr. Durfey questioned the fact that the time set for this item had been changed. The last time Council changed a time certain, he said, was when an expenditure of \$4,500.00 was approved for the Swamp Buggy Parade. Mr. Durfey stated, that in his opinion, set times should not be changed "at will." City Attorney Chiaro clarified that Council was in no way compelled to honor times set for particular items. She explained that times were set as a courtesy to the petitioners and had no legal impact on the policy of Council. Attorney Chiaro added that it was Council's responsibility to amend the agenda at the beginning of Council meetings, noting that this change had been announced at the October 19th Workshop as well as at the beginning of today's meeting. Mayor Muenzer also explained that this procedure was simply for the convenience of the applicants and times were only changed after the interested parties were notified.

When asked if he had a statement pertinent to this issue, Mr. Durfey said, "My concern about this issue is that it should be taken up at a public forum at 1:15."

Council Member Herms noted that the important components of this issue went back to the time the Comprehensive Plan was developed and for some reason, these two lots remained residential. Mr. Herms said that he had asked staff for an analysis of how this all occurred, yet no one seems to know. He stated that in his opinion a simple amendment to the Comprehensive Plan should be done

and the thirty-three foot buffer should remain between the properties.

---

**City Council Regular Meeting - October 21, 1992**

---

Council Member Van Arsdale pointed out that sometime during the 1970's a deck and patio were added to the restaurant. The Comprehensive Plan was drawn to accommodate what was already existing, therefore complicating the issue.

Council Member Herms noted, "If this was any other property owner in the City that had done this, the Code Enforcement Board would go in and say 'Cut it back four feet,' and that's what would happen. And that's what we should have done. We should have just gone in and said, 'You've gone four feet over the line.' If, at that time, we had requirements of a survey as we do today, we would've known that, and we've had residential buildings that we've gone through all kinds of contortions with that have been a few inches or a foot off, and this is a very simple process." Mr. Herms added, "It's not a difficult issue to make this a conforming structure."

City Manager Woodruff said that there was no question that a zoning violation existed. He repeated the two courses of action which were available to the applicant: Cease commercial activities or file an application for rezoning. The Fleischmanns had not been aware that they were in violation.

Council discussed the Declaration of Covenants and Easement. Attorney Richard Grant, representing the petitioner, told Council that he believed the fourth paragraph in that document addressed their concerns. Attorney Grant read a part of that paragraph into the record: "The purpose of this requirement is to permit the City and its Council to determine that any such proposed construction and development does not create or constitute an unreasonable intrusion on the residential land to the south and west and to afford the City and its Council the opportunity to ensure that the location, configuration, design and buffering of any such proposed construction or development is designed to mitigate any such intrusion which is found by City Council to be unreasonable." The intent of the covenant language, said Attorney Grant, was to give Council the liberty and ability to make judgments relative to intrusion. He noted that nothing could be done on the property without first coming to Council, and Council in turn could control and place limits.

City Attorney Chiaro reminded Council that they cannot disapprove something based upon arbitrary and capricious criteria. If all of the City's criteria are met, Council must have some basis to disapprove.

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

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



## **City Council Regular Meeting - October 21, 1992**

---

Before the vote was taken, City Attorney Chiaro made inquiry of Council as to whether there were any other conversations with the opponents or proponents to this application and to disclose any substantive conversations they had had, either in support of or against this application and in addition to anything else which was previously represented.

Mayor Muenzer replied that he had discussed the matter, prior to it being submitted to Council, with Bruce McDonald and his mother Harriet McDonald in May or June. Vice Mayor Sullivan said that he had received a letter from Mrs. McDonald. Council Member Van Arsdale stated that he had spoken with Attorney Grant once on the telephone. Council Member Herms said that he spoke with Mr. McDonald eight or nine months ago and was requested by him to visit Mrs. McDonald's home. Mr. Herms spoke with Mrs. McDonald after first reading of the item. He stated that he had not talked with any of the Fleischmann interests or their attorneys, nor had he been contacted by them. Council Member Korest said that he had not discussed the matter with the McDonalds or with anyone else in the community. In fact, noted Mr. Korest, there seemed to be very little community interest in the issue except where it pertains to the parties directly concerned. He said that he had visited the site and had one other telephone conversation with Attorney Grant. Council Member Pennington noted that other than the contact previously disclosed, he had not engaged in any discussions. He visited the site and had a brief conversation with Mr. Barry and Attorney Grant, as disclosed earlier. Council Member Anderson said that Mr. Barry had called her approximately three weeks ago to inquire whether she had any questions; she also visited the site.

The vote was then taken. Council Member Anderson voted in the affirmative. Council Member Herms voted in the negative, stating that this action was going in the opposite direction of what the Comprehensive Plan stated. Intrusion into residential areas goes against the Comprehensive Plan, he said, and in his opinion, there was an error made in the drawings to the benefit of a few property owners. The fact that there was no documentation to prove how the drawings were made was suspicious, noted Mr. Herms. He added that in his opinion, this action sets a bad precedent and negates the meaning of not intruding onto residential areas.

Council Member Korest voted in the affirmative, noting that he was satisfied that Council could turn down future encroachment and was not setting a precedent and was totally committed to preserving residential neighborhoods.

Council Member Pennington described this action as an attempt to bring something into compliance and was not a method of continued encroachment. He voted "Yes."

Vice Mayor Sullivan pointed out that this was a remedial action which would allow Council to more carefully ensure such things do not occur in the future. He noted that it appeared to be more expeditious to proceed on this matter than to create additional problems through changing the Comprehensive Plan. Mr. Sullivan voted in the affirmative, saying that the covenants provided

---

**City Council Regular Meeting - October 21, 1992**

---

Council with sufficient recourse.

Council Member Van Arsdale concurred with Council Members Korest, Pennington and Sullivan and also voted "Yes."

Mayor Muenzer stated that he would vote "No" until the Fleischmanns honored the parking garage commitment. He agreed with Council Member Herms that the rezoning was not justification to correct an error.

At Council's direction, at the time of the Comprehensive Plan review, staff and Council will examine the entire block where the McDonald and Chef's Garden properties are located.

\*\*\*\*

\*\*\*\*

\*\*\*\*

**ORDINANCE NO. 92-**

**ITEM 16**

**AN ORDINANCE ADDING SUBSECTIONS 11-1-4(A)(4),(B)(4), (E)(8) AND (F)(3) TO THE COMPREHENSIVE DEVELOPMENT CODE, ENTITLED "WATER SERVICE" TO PROVIDE FOR MANDATORY WATER CONNECTION, SERVICE DEPOSITS, AND FEES FOR DISCONTINUED SERVICE AND METER RE-READS IN THE JOINT SERVICE AREA OF UNINCORPORATED COLLIER COUNTY; AMENDING SUBSECTIONS 11-1-4(E)(2) AND (4) OF THE COMPREHENSIVE DEVELOPMENT CODE, ENTITLED "WATER SERVICE" TO PROVIDE FOR REQUIRED BILLING TO PROPERTY OWNERS AND MONTHLY BILLING IN THE JOINT SERVICE AREA OF UNINCORPORATED COLLIER COUNTY; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.**

Title not read. This item to be continued at a future date.

\*\*\*\*

\*\*\*\*

\*\*\*\*

**RESOLUTION NO. 92-**

**ITEM 17**

**A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF NAPLES AND COLLIER COUNTY, RELATING TO THE CONSOLIDATION OF METER READING AND UTILITY BILLING IN**

**CERTAIN AREAS OF UNINCORPORATED COLLIER COUNTY;  
PROVIDING FOR PAYMENT FOR SERVICES RENDERED; AND  
PROVIDING AN EFFECTIVE DATE.**

Title not read. This item to be continued at a future date.

\*\*\*\*

\*\*\*\*

\*\*\*\*

**ITEM 18**

**REQUEST FOR CO-SPONSORSHIP OF MAJOR SPECIAL EVENTS**

**NOTE:** Council Member Anderson declared a conflict of interest for this particular item and filed the appropriate form (Attachment #2).

City Manager Woodruff explained how employee costs for major special events are calculated and said that these costs were reflected in the budget.

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

**Sue B. Smith, 15 11th Avenue South**

Mrs. Smith said, for the record, that she had discussed the Fourth of July event with former Special Events Coordinator Tara Norman. Mrs. Smith noted that the event had grown into a commercial enterprise. She asked if City officials received complimentary seats. Mayor Muenzer verified that Council never received free seats to the event. City Manager Woodruff said that the City did receive some parking passes, which were given to those workers involved in the event activities. He stated that no administrative staff person had passes to the reserved seats or to the fireworks.

Mrs. Smith next asked how much profit the Jaycees realized from the event and whether Council was in fact allowing the Jaycees to utilize City property in a commercial manner. She commented, "I don't think you have the right to do these things without being accountable to the citizenry. If you do, other enterprising people should be allowed to do the same." Council Member Pennington referred Mrs. Smith to the staff report dated October 21, 1992, which contained the Jaycees final revenue and expense report.

**MOTION:** To **APPROVE** the City's co-sponsorship

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

---

**City Council Regular Meeting - October 21, 1992**

---

of major special events for 1992-93.

\*\*\*\*

\*\*\*\*

\*\*\*\*

**ITEM 19**

**SECOND ANNUAL MAYOR'S CUP FISHING TOURNAMENT/FESTIVAL**

**MOTION:** To **APPROVE** the 2nd Annual Mayors Cup Fishing Tournament/Festival.

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

\*\*\*\*

\*\*\*\*

\*\*\*\*

**RESOLUTION NO. 92-**

**ITEM 20**

**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.**

Title not read. This item will be continued at a future meeting.

\*\*\*\*

\*\*\*\*

\*\*\*\*

**ORDINANCE NO. 92-6779**

**ITEM 21**

**AN ORDINANCE APPROVING REZONE PETITION 92-R8, REZONING THE PROPERTY DESCRIBED HEREIN, FROM "R1-7.5", SINGLE FAMILY RESIDENCE, TO "PD", PLANNED DEVELOPMENT, ALLOWING FOR THE CONTINUATION OF AN EXISTING MOBILE HOME PARK AS A CONFORMING LAND USE; ESTABLISHING 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.

In response to Council Member Herms' inquiry, City Attorney Chiaro confirmed that the mobile home park could be rezoned from "PD" (Planned Development) back to single family residential at a future time.

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

Anderson		Y
Herms	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**

\*\*\*\*

\*\*\*\*

\*\*\*\*

**LUNCH RECESS: 12:30 p.m. - 1:35 p.m.**

\*\*\*\*

\*\*\*\*

\*\*\*\*

**NOTE:** Vice Mayor Sullivan was not present immediately after the lunch recess and did not vote on Items 12, 13 and 14. Mr. Sullivan returned to the meeting at 2:55 p.m.

\*\*\*\*

\*\*\*\*

\*\*\*\*

**ORDINANCE NO. 92-6780**

**ITEM 12**

**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 Chiaro.

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

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

\*\*\*\*

\*\*\*\*

\*\*\*\*

**RESOLUTION NO. 92-6781**

**ITEM 13**

**A RESOLUTION AUTHORIZING A DREDGE AND FILL PERMIT TO  
EXCAVATE A BOAT SLIP INTO A REAR YARD FACING A MAN-MADE  
CANAL AT 475 15TH AVENUE SOUTH; AND PROVIDING AN  
EFFECTIVE DATE.**

Title read by City Attorney Chiaro.

Community Development Director Missy McKim reviewed the item, and the petitioner, Mr. Donald

---

**City Council Regular Meeting - October 21, 1992**

---

L. Arnold, 475 15th Avenue South, addressed Council. Mr. Arnold told Council that his request had been made so that he could have two boats docked on his property. Although in the past the City had made a decision to refuse boathouses, Mr. Arnold said that he knew of no prohibition on boat slips. He displayed an aerial photograph of the Aqualane Shores area, depicting a total of 134 boat slips and boat houses. This should indicate the character of that community, commented Mr. Arnold, adding that one of the major reasons for people living there was so that they could enjoy and use the water. Mr. Arnold expressed the desire to work with his neighbors. He told Council that his two boats were fifty-seven and thirty-eight feet long and that the tapered boat slip design was now required by DER (Department of Environmental Regulation) in order to maintain the water quality.

---

**City Council Regular Meeting - October 21, 1992**

---

Mr. Harry Hoffmeister, representing the petitioner's agent, William J. Johnson, Ph.D., P.E., then spoke before Council. He said that the proposed boat slip was compatible with the character of the community. Regarding Council's concerns about the length of the slip, Mr. Hoffmeister pointed out that many boat slips in the area were much deeper. He had been notified that DER had no objection to the plans. Extensive water quality testing has been done and some adjustments made, the design to allow maximum flushing to prevent pollutants collecting there.

In reply to Council Member Van Arsdale's question, Mr. Arnold said that to date \$10,000.00 had been spent in order to comply with regulations. Natural Resources Manager Jon Staiger confirmed that the DER now required extensive water quality monitoring. The proposed boat slip is quite shallow, said Dr. Staiger, and therefore the water quality in the slip will be maintained equal to what is in the canal.

Dr. Staiger told Council that letters had been sent to the neighbors on both sides and to the one directly across the canal. Mrs. Rosine Robinson, 505 15th Avenue South, was the only neighbor who responded. The Aqualane Shores Association was not notified. Council Member Korest said that criteria should be established for boat slips. Staff will schedule, for a future Workshop item, the establishment of criteria for boat slips.

Mayor Muenzer said that he was comfortable with the situation, pointing out that the petitioner was giving up lawn area in order to excavate the boat slip, which in his opinion was preferable to using the public canal. Council Member Pennington agreed that boat slips were more advantageous than having boats in the canals, however, in some instances it may impose on neighbors.

Mrs. Robinson, the petitioner's neighbor, asked how she could be assured of the boat slip's actual depth when built.

Council Member Anderson explained that the permit was based on plans, and the boat slip must be built exactly as the design indicates.

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

Anderson		Y	
Harms	M	Y	
Korest		Y	
Pennington		Y	
Sullivan			A
VanArsdale	S	Y	
Muenzer		Y	
(6-0)			

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

\*\*\*\*

\*\*\*\*

\*\*\*\*



RESOLUTION NO. 92-6782

ITEM 14

**A RESOLUTION GRANTING VARIANCE PETITION 92-V16 FROM SUBSECTION 9-3-4(E) (3) OF THE COMPREHENSIVE DEVELOPMENT CODE WHICH REQUIRES A REAR YARD SETBACK OF 100 FEET FOR SHOPPING CENTERS THAT ADJACENT ANY LAND ZONED RESIDENTIAL, IN ORDER TO ALLOW A 3,600 SQUARE FOOT ADDITION TO THE PUBLIX STORE IN NAPLES SHOPPING CENTER WHICH WILL ENCROACH TO WITHIN APPROXIMATELY 20 FEET OF THE REAR PROPERTY LINE; AND PROVIDING A EFFECTIVE DATE.**

Title read by City Attorney Chiaro.

Representing Publix Supermarkets, Inc., was Mr. Jeffrey Scott of Forsythe Architects. Mr. Scott informed Council that attempts had been made to correct deficiencies behind the shopping center and that the petitioner planned to add screening and new landscaping. Council Member Herms asked whether the loading dock could be enclosed or designed so that trucks could back in. Displaying sketches of the planned improvements, Mr. Scott explained that trucks backing in would block the arcade. Also, said Mr. Scott, often there is more than one truck at a time coming to the facility, which would create additional problems if the trucks had to back into the loading dock.

Council Member Korest commented on the importance of maintaining and improving the stability of the City's commercial areas.

The number of required parking spaces will not change, said Mr. Scott, and Chief Planner Cole told Council that there were presently more spaces than were required.

**MOTION:** To **APPROVE** the resolution, with the additional requirement of extending the loading dock canopy ten feet to the north.

\*\*\*

\*\*\*

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

\*\*\*

RESOLUTION NO. 92-6784

ITEM 22

**A RESOLUTION ESTABLISHING A TWO-MONTH LEASE AGREEMENT WITH MCPHERSON AIR CURTAIN INCINERATOR TO BURN**

**HORTICULTURAL DEBRIS FROM HURRICANE ANDREW; AND  
PROVIDING AN EFFECTIVE DATE.**

Title read by City Attorney Chiaro.

City Manager Woodruff told Council that Community Services Director Mark Thornton and Parks and Parkways Superintendent Terry Fedelem had accompanied Council Member Herms to Miami in order to view the McPherson Air Curtain Incinerator operation. Mr. Herms commented that the noise from the diesel engine was barely audible and described various aspects of the operation.

City Manager Woodruff announced that existing manpower and equipment would be used for the burning operation, and reminded Council that the City was eligible for 75% reimbursement from FEMA (Federal Emergency Management Agency). Mr. Thornton reviewed the various purchase and lease prices. The manufacturer will provide on-site training.

Council discussed the size of the equipment and the environmental concerns. Council Member Pennington noted that many people may not be aware that the horticultural debris from Hurricane Andrew was presently stored on private property and could not remain there indefinitely.

**NOTE: Vice Mayor Sullivan returned to the meeting at 2:55 p.m.**

At Council Member Anderson's request, Natural Resources Manager Staiger will be involved in the oversight of the horticultural waste burning operation.

City Attorney Chiaro reminded Council that should an ultimate purchase of this equipment be made, it would in all likelihood fall under the City's competitive bid requirements. In one month, staff will schedule a Workshop review of the burning operation so that Council can determine whether it will proceed with the purchasing process.

Dr. Woodruff announced that there had been considerable "disinformation" regarding this process. From the very beginning, he said, the City had been working with DER on all of the burning. Permits are not required for the first six months after a storm, however, DER can close the operation if it is emitting more smoke than the standards allow. The air curtain process meets DER standards, therefore, using this technology, DER has no problem issuing a long-term permit.

---

**City Council Regular Meeting - October 21, 1992**

---

**MOTION:** To **APPROVE** the lease/purchase of a thirty-foot McPherson Air Curtain Incinerator, after staff reviews the costs from at least two other manufacturers.

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

\*\*\*\*

\*\*\*\*

\*\*\*\*

**RESOLUTION NO. 92-6783**

**ITEM 24**

**A RESOLUTION AUTHORIZING FUNDS FOR MAINTENANCE AND REPAIR WORK ON MOORING LINE DRIVE BRIDGE, HARBOUR DRIVE BRIDGE AND PARK SHORE DRIVE BRIDGE ON AN EMERGENCY BASIS; AND PROVIDING AN EFFECTIVE DATE FOR APPROVAL OF THIS RESOLUTION.**

Title read by City Attorney Chiaro.

City Manager Woodruff noted that although Council had been apprised of the project from the beginning, a resolution authorizing the necessary funds had not yet been approved. The repair will halt any further deterioration of the walls and is projected to cost \$57,895.00. Engineering Manager Leighton Westlake informed Council that the State would probably place the Mooring Line Drive Bridge into its long-range repair program this year, therefore, staff was recommending that only interim repairs be made.

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

Council Member Anderson voted in the affirmative, noting, "I'm sorry it was after-the-fact."

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

---

**City Council Regular Meeting - October 21, 1992**

---

\*\*\*\*

\*\*\*\*

\*\*\*\*

**BREAK:** 3:15 p.m. - 3:20 p.m.

\*\*\*\*

\*\*\*\*

\*\*\*\*

**RESOLUTION NO. 92-**

**ITEM 15**

**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.**

Title read by City Attorney Chiaro.

Pursuant to the City Attorney's request, the Clerk administered an oath to the following individuals prior to their testimony: Chief Planner John Cole, Attorney William Harris, and petitioner Marilyn Andrews.

Chief Planner John Cole reviewed background information on this item, noting that it had been the subject of Code Enforcement Board deliberations. The principal residence on this property is in an advanced state of deterioration and has been cited by the Building & Zoning Division for violation of the Housing Code. At its April 23, 1992 meeting, the Code Enforcement Board established a time schedule for abatement of the property's deterioration. The Board was later informed of the Development Agreement petition and agreed to stay its earlier order, pending the outcome. The applicants had requested approval to demolish the existing home and guest house and subsequently construct two dwelling units according to "R1-10" development standards. The Planning Advisory Board (PAB), however, had voted 5-0 to recommend denial of the Development Agreement.

Attorney William P. Harris, 7700 North Kendall Drive, Suite #506, Miami, Florida, representing the petitioner, noted that although the property at issue was listed in the Historic Register, no City Historic District designation existed and it was not mandatory that the owners maintain the original structure. Attorney Harris also noted that the Development Agreement had been amended to reflect construction of one dwelling and one guest house. He reviewed the history of the property. Mrs. Andrews, he said, has owned it since 1969 and the guest house has been used for over twenty-three years, exclusively by the Andrews family. Attorney Harris also emphasized the fact that Mrs.

Andrews did not plan to rent the guest house at any time in the future.

Attorney Harris went on to explain that Mr. and Mrs. Andrews want to comply with the law and hope that they are able to reach an accord with the City. He told Council that he had experienced full cooperation from Community Development Director Missy McKim and her staff. It had been suggested that a Development Agreement be drafted, and the Agreement was submitted on June 5, 1992, at a cost of \$1,000.00 to the petitioner. A revised Development Agreement was submitted on August 24, 1992, and all issues have been addressed with staff. Attorney Harris reiterated that the petitioner was requesting one main house and retention of the guest house as a residence until the main house is rebuilt, at which time the guest house would be demolished and rebuilt. He assured Council that the construction would comply with the character and aura of the Old Naples area.

In further testimony, Attorney Harris maintained that the owners had a grandfathered right to the existing guest house, that sometime within five years of demolition, a new main house would be erected under the terms of the Development Agreement, and that the petitioners hope to erect a new guest house closer to the new main house when the Certificate of Occupancy is issued on the new main house. During the interim, the property will be maintained and not become an eyesore; Mrs. Andrews will maintain the property after the house is demolished.

Attorney Harris assured Council that Mr. and Mrs. Andrews had every desire to proceed legally and properly. However, a unique situation exists, in that the property is in Old Naples where many people pass by. He described the adjoining properties, pointing out several existing nonconformities. The property to the north is sometimes referred to as the "Mariner's Annex" because the Mariners Motel sends its overflow there. At the corner of 12th Avenue South and Gulf Shore Boulevard, said Attorney Harris, a room can be rented for periods of less than a month. The parking lot across the street from the property is nonconforming, and Palm Cottage (to the east) is a commercial enterprise. His clients were nevertheless trying to comply with the law, even though their property is in the midst of many nonconforming uses, Attorney Harris said.

In summary, Attorney Harris contended that the overriding issue was one of fairness. Mr. and Mrs. Andrews, he commented, want their elderly parents and their daughter to be able to stay in the guest house and they had never violated the law pertaining to renting the guest house. "They want to be treated fairly. We're asking City Council to let them have what they've always had, a main house and a guest house. And, please, correct the other violations going on there so they can enjoy their property. There's no requirement for the Historic District. Density is not a problem. There are no architectural standards. Please be fair and grant their request," he concluded.

Chief Planner Cole clarified that staff's initial objection to this matter was not based upon any violation of the Historic Ordinance. The initial application requested three structures, which would have been in violation of density standards.

In reply to a question from Marilyn Andrews, City Attorney Chiaro explained that it was not normal procedure to place those coming before Council under oath, but since a court reporter was present making a verbatim recording, she had asked that testimony be sworn in the event it was necessary to defend the verbatim transcript.

Mrs. Andrews told Council that she and her husband had not lived in the main house mainly because of storm damage, but since they were unable at the time to travel to Naples, they saw no point in renovating. The guest house would only be used by family members. She also said she could not understand how the nonconformities all around her were allowed while she was having such difficulty gaining approval for a main house and a guest house on her property.

Council discussed FEMA and setback requirements. During the course of discussing guest house standards, Council Member Herms asked about the conformity of a guest house on 11th Avenue South, two lots away from Gulf Shore Boulevard. Staff will review and report on the history of that property.

Community Development Director McKim told Council that, in most cases, a demolition permit is issued and a building permit applied for at a later date. Based on Council's direction, if Mrs. Andrews desired to demolish the existing house, applied for demolition and building permits simultaneously, and kept the guest house as it is, this Development Agreement would not be necessary. However, because Mrs. Andrews wants to demolish the main house without applying for a building permit and still retain rights to the guest house, this Development Agreement would allow her five years in which to apply for the building permit for the main house. Ms. McKim said that staff would be reporting to Council soon to further discuss changes to guest house regulations. Chief Planner Cole also explained that his recommendation to pursue the Development Agreement approach was based on desirability of retaining the existing guest house, which he said he believes to have some historic value. Ms. McKim added that this was a unique case and due to everyone's concern over the condition of the main house, staff was of the opinion that demolition and rebuilding in five years solved a community problem.

Council Member Van Arsdale said that Council would establish a very undesirable precedent should it approve this Development Agreement. If Council wants the citizens to make certain types of improvements to their properties, the issue should be addressed at workshops and public meetings, and a Code established. Vice Mayor Sullivan agreed that a certain formula was needed but said that he did not understand the need for five years. In this case, Attorney Harris then offered a compromise: that the petitioner would erect a new main house and a new guest house within three years rather than five.

Council Member Anderson noted that Council was in a position to improve a situation in which a house was allowed to deteriorate, although this is an important property. Mrs. Anderson pointed out

---

**City Council Regular Meeting - October 21, 1992**

---

that the Code Enforcement Board had been extremely generous by staying penalties in this case.

City Attorney Chiaro explained that should the Development Agreement not be approved by Council, the case would return to the Code Enforcement Board which would presumably lift the stay and the fines would proceed. She confirmed that no penalties would have accrued prior to submission to the Code Enforcement Board.

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

In voting

against the motion, Council Member Herms expressed concern that an unattractive guest house might be the result. He said he believed that the property owner was being left in a bad situation and a compromise would have allowed rebuilding to an attractive result.

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

(6-1)

**M=Motion S=Second**

**Y=Yes N=No A=Absent**

Council Member Korest said that although he was sympathetic to some of the requests, problems did exist. He said that he was upset that the house was allowed to become so rundown and that his main concern was that by approving the Development Agreement, Council could be setting an extremely farfetching precedent.

Vice Mayor Sullivan agreed that this could be a dangerous precedent and noted that certain conditions did exist in the Old Naples area which should be corrected. "We need to do our homework better," he added.

Mayor Muenzer stated that he believed a better attempt should have been made by the owner to maintain the property.

At Council Member Anderson's direction, staff will report on the status of the "Mariner's Annex" building north of the Andrews' home and the "boarding house" west of the Andrews' home.

\*\*\*\*

\*\*\*\*

\*\*\*\*

**NOTE: Mayor Muenzer left the meeting at 5:25 p.m.; Vice Mayor Sullivan presided over the remainder of the meeting.**

\*\*\*\*

\*\*\*\*

\*\*\*\*

**City Council Regular Meeting - October 21, 1992**

---



**CORRESPONDENCE AND COMMUNICATIONS**

City Attorney Chiaro announced that the Code Enforcement Board would be reviewing the status of the stay on the Andrews case at its meeting on October 22, 1992.

\*\*\*\*

\*\*\*\*

\*\*\*\*

**OPEN PUBLIC INPUT**

**Sue B. Smith, 15 11th Avenue South**

Mrs. Smith said that in her opinion the public had not received adequate answers to the City's problems and were not receiving adequate assistance from City Hall. Mrs. Smith also questioned whether citizens were getting their money's worth from City services or their fair share of County services.

Next Mrs. Smith told Council that she had requested from Human Resources Director Mary Kay McShane a list of the top four applicants for the Dockmaster position which had been filled the previous year. Ms. McShane, she said, had sent her a letter stating: "If you would please provide your request in writing so that we avoid any miscommunications in getting you the property documents ...". Mrs. Smith said that the letter arrived after she had been told by Ms. McShane that those documents were not available.

Mrs. Smith also commented on the new Assistant City Manager, Kevin Rambosk, asking if the taxpayers were going to pay \$55,000 per year to train him. She asked whether Mr. Rambosk would continue to be paid by the City while he attends a three-month FBI training school or whether he would take a leave of absence. If the City will be paying Mr. Rambosk, then at what rate, she inquired.

Mrs. Smith thanked Council Member Pennington for information he had given her on the Fourth of July fireworks. She said she had originally gone to Tara Norman, former Chairman of the Special Events Committee, who could not provide it. Mrs. Smith also questioned Mrs. Norman's present position in the City Clerk's Office and asked for information about her title and salary.

Mrs. Smith then took issue with a Special Events Committee report which mentioned a contact she had made with Community Development Director McKim at Mrs. McKim's home during which she complained about music from a fashion show in the Third Street area which was disturbing her husband at his nearby office. She said Mrs. McKim had in the presence of witnesses asked her to report violations in the Third Street area. The fashion show had not only disturbed Mr. Smith to the point that he was unable to participate in a conference call, but the fashion show sponsors had asked Mr. Smith to extinguish his office lights, she explained. Mrs. Smith said Mrs. McKim had not

---

**City Council Regular Meeting - October 21, 1992**

---

known that a permit had been issued for the fashion show, although a permit had been on file, Mrs. Smith pointed out, when she had subsequently researched City records. The mention of this incident in the Special Events Committee report had indicated that she had been imposing, she added. "It was almost like an assassination of character, the manner in which it was delivered and it was passed out to all of you. I want it on the record really well, so that you will know when it happens with other people when they come to you that this is a secret thing that is going on," she said.

Mrs. Smith continued, "You have problems here and the citizens have problems here because they can't come down here and come into a friendly place to get the answers or to get the answers to the problems they have. More than that, you have a staff member, some of them, who are generating problems. They are decisively and desperately creating a problem between the staff and your citizenry ... You cannot revitalize this City with all the problems that we have had as long as you have some of the prominent feature figures in it ... And for you to turn your faces and turn your heads and cover over as you have here today with your wishful hoping that the people will not look farther to see what you really are saying and what you really are doing, it's just not that way. You are not being fair. You are not being wise, and you are certainly not building a new, healthy City government here. It is a sad thing to witness. It is more grievous this time around to be observing."

\*\*\*\*

\*\*\*\*

\*\*\*\*

**ADJOURN: 5:43 p.m.**

**PAUL W. MUENZER, MAYOR**

Janet Cason  
City Clerk

Tara A. Norman  
Deputy City Clerk

Marilyn McCord  
Deputy City Clerk

---

**City Council Regular Meeting - October 21, 1992**

---

These minutes of the Naples City Council were approved on 11/4/92.

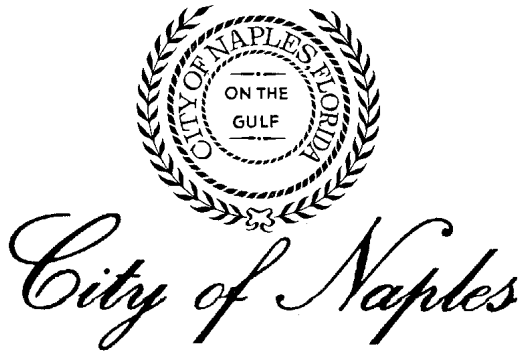
**Supplemental Attendance List**

J. Dudley Goodlette  
William Ryan  
Edward Chlumsky  
Oliver Durfey  
Frank Frye  
Roger Barry  
Sue Smith  
Bruce MacDonald  
Richard C. Grant  
Werner Haardt  
Charles Andrews  
Thomas O'Riley  
Don Arnold  
Harry Hoffmeister  
Jeffrey Scott  
Marilyn L. Andrews  
William P. Harris

Richard J. Aaron  
Ray Karpowicz  
Richard Alman  
Dody Church  
The Reverend James Hervey

**News Media:**

John Lunsford, Naples Daily News  
Eric Staats, Naples Daily News  
Jerry Pugh, Palmer Cablevision  
Wendy Fullerton, Fort  
Myers News-Press  
Traci Griffith, WNOG



## Index

### City Council Regular Meeting

October 21, 1992

Convened 9:06 am / Adjourned 5:43 pm

	Page
<b>ANNOUNCEMENTS</b> .....	2
<b>APPROVAL OF MINUTES</b>	
9/28/92 Wks, 9/30/92 Spc, 10/5/92 Wks, 10/7/92 Reg, 10/12/92 Wks .....	3
<b>CONSENT AGENDA</b> .....	3
<b>CORRESPONDENCE AND COMMUNICATIONS</b> .....	28
<b>INVOCATION AND PLEDGE OF ALLEGIANCE</b> .....	2
<b>ITEMS TO BE ADDED TO THE AGENDA</b> .....	2
<b>MAYOR'S CUP FISHING TOURNAMENT</b>	
Request for Council Approval .....	17
<b>OPEN PUBLIC INPUT</b> .....	28
<b>ORDINANCE NO. 92- (Continued)</b>	
Consolidation of Water Meter Reading with County .....	15
<b>ORDINANCE NO. 92-6778</b>	
Rezone Petition 91-R8 - Chef's Garden .....	10
<b>ORDINANCE NO. 92-6779</b>	
Rezone Petition 92-R8 - Naples Mobile Home Park .....	17
<b>ORDINANCE NO. 92-6780</b>	
Rezone Petition 92-R3 - Goodlette Office Park .....	18
<b>RESOLUTION NO. 92- (Continued)</b>	
Authorize RFP for Comprehensive Water, Wastewater Master Plan .....	4
Bid 93-09 - Lease Hand-held Computerized Parking Citation System .....	4
<b>RESOLUTION NO. 92- (Continued)</b>	
Affordable Housing - Authorize Negotiations with Developer .....	17
Consolidation of Water Meter Reading with County .....	15
<b>RESOLUTION NO. 92- (Denied)</b>	
Development Agreement - 111 12th Avenue South .....	24

	Page
<b>RESOLUTION NO. 92-6775</b>	
Bid 93-13 - Two-year Contract for Limerock and Cover Material .....	4
<b>RESOLUTION NO. 92-6776</b>	
Bid 93-19 - Two-year Contract for Uniforms and Entryway Mats .....	4
<b>RESOLUTION NO. 92-6777</b>	
Approve Transfer of Franchise - Palmer to Colony Cablevision .....	6
<b>RESOLUTION NO. 92-6781</b>	
Authorize Dredge & Fill Permit - 475 15th Avenue South .....	19
<b>RESOLUTION NO. 92-6782</b>	
Variance Petition 92-V16 - Publix Market, Naples Shopping Center .....	21
<b>RESOLUTION NO. 92-6783</b>	
Authorize Bridge Repair - Park Shore, Harbour, Mooring Line Dr. ....	23
<b>RESOLUTION NO. 92-6784</b>	
Air Curtain Incinerator/Horticultural - Authorize Lease .....	21
<b>ROLL CALL</b> .....	1
<b>SPECIAL EVENTS</b>	
Request for City Co-Sponsorship of Major Special Events .....	16