



City Council Chamber
735 Eighth Street South
Naples, Florida 33940

City Council Regular Meeting - January 6, 1993 - 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
Leighton Westlake, Engineering Manager
John Cole, Chief Planner
Ann Walker, Planner II
David Lykins, Enterprise Operations Supervisor
George Henderson, Sergeant-At-Arms
Marilyn McCord, Deputy City Clerk

Mrs. Lyle (Bunny) Richardson
Werner W. Haardt
Ned Putzell
Charles Andrews
Robert Tiffany
Charles Reinbolt
Peggy Sealfon
Hugh Parsons
Elaine Curia
Norman F. de la Chapelle
Robert Noble
Charles Basinait
Other interested citizens and visitors

Media:

Eric Staats, Naples Daily News
Tim Engstrom, Fort Myers News-Press

City Council Regular Meeting - January 6, 1993

ITEM 1

INVOCATION AND PLEDGE OF ALLEGIANCE

Reverend Arthur Hannaway
St. Ann's Catholic Church

ITEM 3

ITEMS TO BE ADDED

Mayor Muenzer announced that the following items were to be added to the agenda:

12. Resolution authorizing indemnification for Mary Morgan, Supervisor of Elections.
13. Resolution honoring the late Lyle Richardson, former Council Member.
14. Resolution appointing a member to the Board of Appeals.
15. Special Event - Third Street Association "Dancing Under The Stars."

MOTION: To add Items 12, 13, 14 and 15 to the January 6, 1993 agenda.

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

ITEM 4

ANNOUNCEMENTS

4-a Mayor Muenzer

Mayor Muenzer reviewed the Council Meeting procedures and announced the times set for Items 5,

City Council Regular Meeting - January 6, 1993

6, 7 and 8. It was the consensus of Council that Item 15 would be considered at 11:15 a.m.

4-b City Manager Woodruff

Dr. Woodruff announced that a Special City Council Meeting was scheduled for Monday, January 11, 1993 at 8:30 a.m., to consider the impasse between the City and the International Association of Fire Fighters and Fire Lieutenants. He also informed everyone that because Martin Luther King Day falls on Monday, January 18, the next City Council Workshop will be held on Tuesday, January 19, 1993.

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

ITEM 9

APPROVAL OF MINUTES

City Council Workshop Meeting	December 7, 1992
City Council Special Meeting	December 14, 1992
City Council Regular Meeting	December 16, 1992

RESOLUTION NO. 93-6832

ITEM 10

A RESOLUTION AWARDED CITY BID #93-29 FOR THE PURCHASE OF FOUR SUBMERSIBLE SEWAGE PUMPS; AUTHORIZING THE CITY MANAGER TO ISSUE A PURCHASE ORDER THEREFOR; AND PROVIDING AN EFFECTIVE DATE.

ITEM 11

BUDGET AMENDMENTS--1992A WATER & SEWER BONDS:

Issuance of bonds for the purpose of refunding utility tax debt and transfer from the Water & Sewer Fund to the Utility Tax Fund; budgeting for bond issuance costs	\$2,200,000.00
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Reduce debt service budget and establish transfer to Water & Sewer Fund	260,458.00
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City Council Regular Meeting - January 6, 1993

Increase debt service and record transfer in from Utility
Tax Fund

206,001.00

MOTION: To **APPROVE** the consent agenda,
consisting of Items 9, 10, and 11.

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

RESOLUTION NO. 93-6833

ITEM 12

A RESOLUTION OF THE CITY OF NAPLES AGREEING TO INDEMNIFY, HOLD HARMLESS AND DEFEND THE SUPERVISOR OF ELECTIONS FROM ANY AND ALL ACTIONS, IN LAW OR IN EQUITY, FROM LIABILITY OR CLAIMS FOR DAMAGES TO ANY PERSON OR PROPERTY WHICH MAY RESULT NOW OR IN THE FUTURE FROM THE VERIFICATION OF VOTER REGISTRATIONS AND SIGNATURES ON THE REFERENDA PETITION RELATED TO THE REZONING OF COASTLAND MALL AND THE PETITION REQUESTING AMENDMENT OF THE HIGHWAY COMMERCIAL ZONING DISTRICT WITH REFERENCE TO SHOPPING CENTER SIZE AND PARKING; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Chiaro.

In response to Council Member Korest's question, City Attorney Chiaro said that this indemnification was unrelated to Ms. Morgan's standard contract with the City. Because of the subject matter, however, Ms. Morgan had some concerns and requested this indemnification. City Manager Woodruff told Council that Ms. Morgan had taken the position that verifying the petitions was outside of her normal contractual duties with the City.

City Council Regular Meeting - January 6, 1993

Council Member Anderson expressed her concern about this situation, stating, "I think that Mrs. Morgan is probably correct in believing that there may well be litigation that comes from this act, but it gives me a feeling that we are double burdening City residents to not only pay County taxes but then to additionally say that the City will suffer the costs of any and all litigation that should arise from the functioning of her duties as Supervisor of Elections for Collier County. If that is not an accurate view, please correct my thinking, but that's how I look at it. I understand that there are some quirks in our Charter that give her concerns over her extent of responsibility with the City and its actions and some communications that have transpired previously that basically say our Charter is the governing document and give her some concerns over her authority and the State's legislation. But, I would recommend that we immediately correct that language, and I know that we have the report coming back from the Charter Review Committee later this month. I think it is appropriate for those persons in the audience and that may be viewing today to know that we have that report coming back, and that the language, hopefully, will be cleared up in the Charter that gives rise to such concerns on behalf of the Supervisor of Elections, and that in the future, we don't have to enter into agreements that, again, I believe doubly tax the City of Naples residents in the event of such litigation coming out of performing her duties. I'm not happy about this. I will support this only because I feel that our Charter has some, as I previously stated, some quirks, that give her reason to have some legitimate concerns and that because I feel that she may well be right in anticipating that there may be litigation coming out of this specific action. But I do not support the citizens being doubly charged, and I recommend that we move ahead full steam on getting the Charter amended so that we don't experience this situation again, and I'm sorry that this one came to the forefront."

Mayor Muenzer remarked that the report should be available in early February. He concurred that problems exist with the Charter.

City Attorney Chiaro informed Council that language will be added to the resolution stating that Ms. Morgan will be permitted to select her own attorney. She verified that Ms. Morgan was not represented by the County Attorney's Office.

City Council Regular Meeting - January 6, 1993

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

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

RESOLUTION NO. 93-6834

ITEM 13

A RESOLUTION IN REMEMBRANCE OF LYLE S. RICHARDSON WHO SERVED THE CITY OF NAPLES AS A COUNCIL MEMBER FROM NOVEMBER 2, 1982, TO FEBRUARY 6, 1990; AND PROVIDING AN EFFECTIVE DATE.

Title read by Mayor Muenzer.

Mrs. Richardson and former Mayor Ned Putzell were invited to the podium where the Mayor presented Mrs. Richardson with the above resolution, signed by all Members of Council. Mrs. Richardson thanked everyone on behalf of her late husband.

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

Anderson	M	Y
Herms		Y
Korest	S	Y
Pennington		Y
Sullivan		Y
VanArsdale		Y
Muenzer		Y
(7-0)		
M=Motion S=Second		
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RESOLUTION NO. 93-6835

ITEM 14

A RESOLUTION APPOINTING ONE MEMBER TO THE BOARD OF APPEALS TO FILL THE VACANCY CREATED BY THE EXPIRATION

City Council Regular Meeting - January 6, 1993

OF THE TERM OF SERGIO MONTES; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Chiaro.

City Manager Woodruff explained that there had been some difficulty recruiting applicants for the Board of Appeals although this vacancy had been advertised twice. Dr. Woodruff told Council that Mr. George Hermanson was willing to accept the appointment.

MOTION: To appoint George Hermanson to the Board of Appeals.

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

Council Member Herms requested that staff formulate policy whereby citizens and developers will be aware of the Board of Appeals process.

RESOLUTION NO. 93-

ITEM 5

A RESOLUTION GRANTING VARIANCE PETITION 91-V5 FROM SECTION 9-3-4(F) OF THE COMPREHENSIVE DEVELOPMENT CODE TO CONSTRUCT LOADING DOCKS AT THE REAR OF THE NORTH END OF THE NAPLES SHOPPING CENTER, 2075 9TH STREET NORTH, SUBJECT TO THE CONDITIONS SET FORTH HEREIN; AND PROVIDING AN EFFECTIVE DATE.

Title not read. It was the consensus of Council that this item would be discussed only. No action will be taken at today's meeting.

City Manager Woodruff reviewed the petition request and Planner II Ann Walker gave the historical background. The requirement to close this "short-cut" originated from property owners complaints. Engineering Manager Leighton Westlake told Council that there was a problem with the height of hedges at this entrance.

Council Member Anderson remarked that, in her opinion, much of the problem could be corrected by appropriately striping the portion of the parking lot involved. Mr. Westlake agreed that the lack

of traffic designation was confusing adding that that was an internal problem that should be corrected by the owner.

Council discussed the situation and Council Member Van Arsdale asked whether an intersection problem was evaluated by the number of accidents. Mr. Westlake said that staff did not have data on that particular entrance to Naples Shopping Center. However, he said, "On two different occasions I had two near misses. That was enough to convince me that entrance was a dangerous location." Mr. Westlake said that there was concern about cutting off this access and forcing additional traffic onto U.S. 41. In the analysis and review of this matter, however, Mr. Westlake noted that an entrance or exit onto Mooringline Drive would be desirable.

Public Input:

Hugh Parsons, 494 Spinnaker Drive

Mr. Parsons told Council that in many years of driving in that particular area, he had seen only one minor accident. He said that he believed the problem would be increased by keeping the "short-cut" closed. Mr. Parsons concluded, "The best answer is to reopen and suffer the small amount of traffic difficulties."

Charles Andrews, Naples

Mr. Andrews commented that he had driven on the alley under discussion for over twenty years and had experienced many "close calls." He said that it was ridiculous to wait for serious accidents to occur and asked that the entrance remain blocked.

Elaine Curia, 750 Mooring Line Drive

Ms. Curia presented a petition signed by residents of the Fairfield Condominium Association in opposition to the reopening of the gated entrance. (This petition is contained in the original file for this meeting, in the City Clerk's Office.) Ms. Curia commented that this area had always presented a traffic hazard.

Charles Reinbolt, 222 Harbour Drive

Mr. Reinbolt said that he too had used this particular entrance and exit for over twenty years, stating, "I think we're missing the point. You won't solve anything whether you open it or close it. People are using the same exit. In twenty years I've never seen a fender bender there. We are careful and know it's dangerous." Also, said Mr. Reinbolt, since the entrance had been blocked off, the increased traffic in the alley has resulted in many ruts in the roadway."

Council Member Pennington requested that staff further study the situation at the Naples Shopping Center and determine whether a better solution existed. Staff will also issue a work order to repair the ruts in the alley behind the Naples Shopping Center.

RESOLUTION NO. 93-6836

ITEM 6

A RESOLUTION GRANTING CONDITIONAL USE PETITION 92-CU10 TO BUDGET RENT-A-CAR FOR AN AUTOMOBILE RENTAL AGENCY TO BE LOCATED IN THE PARKING AREA ADJACENT TO THE SEARS AUTOMOTIVE CENTER AT COASTLAND MALL, MORE PARTICULARLY DESCRIBED HEREIN, SUBJECT TO THE CONDITIONS LISTED HEREIN; AND PROVIDING AN EXPIRATION DATE AND AN EFFECTIVE DATE.

Title read by City Attorney Chiaro.

Planner Walker reviewed the conditional use petition, requesting approval for an automobile rental agency satellite office, to be located in the kiosk to the northwest of the Sears automotive center at Coastland Mall. The agency proposes to use a maximum of twelve parking spaces for automobiles to be rented. Ms. Walker distributed copies of the portion of the Tax Assessor's map which indicates that the parking area is all within property owned by Sears. (A copy of this map is located in the original file for this meeting, in the City Clerk's Office.) Staff found that the criteria listed for the granting of conditional uses had been met and recommended approval of this request with the following conditions:

1. A maximum of twelve automobiles to be rented will be permitted on the site at any one time.
2. No car washing will be allowed at this location.
3. Signs in the windows of the automobiles, advertising the cars for rent to the passing public, will not be permitted.

At the PAB meeting of December 9, 1992, it was unanimously decided to recommend approval of this petition subject to staff conditions and two additional stipulations addressing the landscape buffering if the Coastland Mall expansion does not take place and necessary changes to the site plan if the expansion does occur:

1. If a landscaped buffer is not installed along the northwest perimeter of the site as stipulated in the approved Planned Development, the petitioner must submit a landscape buffering plan to be reviewed and approved by staff.
2. If a change to the site plan is necessitated by the expansion of the Mall, a plan

City Council Regular Meeting - January 6, 1993

showing alternate office and parking locations, traffic circulation, and buffering is to be reviewed and approved by staff.

Attorney Charles Basinait, of the firm Henderson & Franklin, representing the petitioner, addressed Council. He assured Council that no more than twelve vehicles would be parked at the location at any one time. Attorney Basinait related that it was the opinion of the owner that there would never be more than one or two people at any one time at the kiosk. He told Council that car rental satellites were fairly standard operations at Sears locations around the country and to the best of his knowledge there had been no safety problems. Attorney Basinait pointed out that during the evening of January 5th, many of the center dividers had been repainted in order to make them more recognizable. There will be no problem should additional signage be needed, he assured Council.

Council Member Anderson and Vice Mayor Sullivan expressed their concerns about a potential safety problem. Mrs. Anderson said that she did not believe sufficient space existed for the proposed purpose, adding, "It's one of the most congested areas on the entire site."

Attorney Basinait mentioned the fact that should the Mall expand, a perimeter road will be built which could result in the removal of the kiosk.

MOTION: To **APPROVE** the resolution, based on the condition that it be reviewed on or before February 15, 1994.

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

BREAK: 10:40 a.m. - 10:53 a.m.

RESOLUTION NO. 93-6837

ITEM 7

A RESOLUTION GRANTING VARIANCE PETITION 92-V23 FROM SUBSECTION 9-1-5(A)(1) OF THE COMPREHENSIVE DEVELOPMENT CODE WHICH LIMITS FENCE HEIGHTS IN FRONT YARD SETBACKS TO THREE FEET IN ORDER TO PERMIT A 7'6" HIGH FENCE WHICH ENCROACHES APPROXIMATELY 20 INCHES INTO A FRONT YARD SETBACK AT 80 FIFTH STREET NORTH; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Chiaro.

Planner II Ann Walker reviewed the variance request. The fence was built according to submitted plans, said Ms. Walker, however, only after it was in place was it discovered that the fence was in violation of the Code. She told Council that typically, a permit for a fence is not included with a building permit. In response to Council Member Anderson's question, Ms. Walker verified that the petition was filed without an application fee. Staff had found that all of the criteria listed for the granting of variances had not been met and recommended denial of this request. The PAB voted unanimously at its December 9, 1992 meeting to recommend approval of this petition, finding special circumstances in the building permit being issued in error and noting that the encroachment was insignificant. Ms. Walker informed Council that all of the neighbors were very much in favor of the improvements which had been made.

Mr. and Mrs. Mel Wetherington, the petitioners, were present to answer questions. Mr. Wetherington explained that they were not aware of the setback regulation until the fence was built.

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

Mayor Muenzer commended the petitioners, noting that their property improvements had upgraded the entire area.

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

RESOLUTION NO. 93-6838

ITEM 8

A RESOLUTION APPROVING EASEMENT VACATION PETITION 92-EV2 VACATING A TWENTY SQUARE FOOT PORTION, MORE

**PARTICULARLY DESCRIBED HEREIN, OF A DRAINAGE EASEMENT
IN LOT 14, BLOCK 9, PARK SHORE UNIT 1; AND PROVIDING AN
EFFECTIVE DATE.**

Title read by City Attorney Chiaro.

Planner Walker reviewed the item requesting the vacation of a two foot by ten foot portion of an existing drainage easement. She said that staff found no foreseeable necessity for the retention of the full width of this easement and recommended approval of the petition. The PAB, at its meeting on December 9, 1992, had also recommended approval of this petition.

Mr. George Hermanson of the firm Hole, Montes and Associates, agent for the petitioner, told Council that the encroachment was an oversight. Ms. Walker said that Hole, Montes and Associates had notified staff when they discovered the oversight at the time the survey was done.

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

Anderson	S	Y
Herm		Y
Korest		Y
Pennington		Y
Sullivan	M	Y
VanArsdale		Y
Muenzer		Y
(7-0)		

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

ITEM 15

SPECIAL EVENT - 3RD STREET "DANCING UNDER THE STARS"

Enterprise Operations Supervisor David Lykins told Council that the Third Street Association was requesting permission to host a "Dancing Under the Stars" event every Friday night in the month of February from 6:30 p.m. to 9:30 p.m. The event will include live music and will take place under a large tent. Mr. Lykins said that the event would require the closing of one block on Third Street for each Friday night that the event is scheduled. No alcoholic beverages will be sold.

Public Input:

Robert E. Noble, 1100 Ninth Street South

Mr. Noble reported that the Old Naples Association had reviewed plans for the event. Some members were opposed, he said, but some were of the opinion that it was important to support activities that will help Third Street continue to thrive and prosper, especially in light of competitive pressures from other shopping areas. Mr. Noble did say, however, that he believed it was

City Council Regular Meeting - January 6, 1993

inappropriate to approve all four events and that approval of the last three nights should be contingent on the results of the first night's event.

Peggy Sealfon, Director of Marketing, Third Street Area Association

In response to Council Member Herms' question, Ms. Sealfon said that the Association was planning to do print media advertising and the distribute posters with the intent to make this an elegant event in an effort to give something back to the community. She noted that because this will be a first-time event, there was no way of knowing how many people would attend. Event organizers estimate a crowd of 175. Underground parking and all other parking areas will be available. Ms. Sealfon told Council that the Association hoped that the Third Street shops will show their support for the event by remaining open for business those Friday nights.

Council Member Korest commented that Council should show their support to or for the petitioners, noting that should any problems arise those can be handled administratively. Council Member VanArsdale agreed, adding that noise from the dance band would be confined to the tent.

Vice Mayor Sullivan reminded Council that concerns were expressed last year pertaining to evening jazz performances in the Third Street area, yet those created no significant problems. Mr. Sullivan emphasized that a healthy and viable economic base on Third Street was imperative and this was one way to compete with the competition.

MOTION: To **APPROVE** the Third Street "Dancing Under The Stars" event.

Council Member Herms requested that staff determine whether any problems exist at the events.

Mr. Norman de la Chapelle of the Third Street South Area Association reported that the community has responded favorably to the new signage project.

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

City Council Regular Meeting - January 6, 1993



City of Naples

Index

City Council Regular Meeting

January 6, 1993

Convened 9:00 am / Adjourned 11:25 am

CORRESPONDENCE AND COMMUNICATIONS

Council Member Herms requested that discussion of a Naples Arbor Day program be placed on a Workshop agenda in the near future.

OPEN PUBLIC INPUT

No registered speakers.

ADJOURN: 11:25 a.m.

PAUL W. MUENZER, MAYOR

Janet Canon
City Clerk

Marilyn McCord
Deputy City Clerk

These minutes of the Naples, City Council were approved on 1/20/93.

City Council Regular Meeting - January 6, 1993

ANNOUNCEMENTS	2
City Manager Woodruff.....	2
Mayor Muenzer.....	2
 APPROVAL OF MINUTES	
12/07/92 Workshop, 12/14/92 Special, 12/16/92 Regular	3
 BUDGET AMENDMENTS	
1992A Water & Sewer Bonds	3
 CORRESPONDENCE AND COMMUNICATIONS.....	13
 DISCUSSION OF SPECIAL EVENT	
Third Street "Dancing Under the Stars"	12
 OPEN PUBLIC INPUT	13
 RESOLUTION NO. 93-	
Variance Petition 91-V5/Naples Shopping Center (Discussion only).....	7
 RESOLUTION NO. 93-6832	
Award Bid for Purchase of Four Submersible Sewage Pumps	3
 RESOLUTION NO. 93-6833	
Indemnification of Supervisor of Elections (verifying petitions)	4
 RESOLUTION NO. 93-6834	
Remembrance of former Council Member Lyle Richardson	6
 RESOLUTION NO. 93-6835	
Appoint one Member to the Board of Appeals	6

City Council Regular Meeting - January 6, 1993

RESOLUTION NO. 93-6836

Conditional Use Petition 92-CU10/Budget Rent-A-Car8

RESOLUTION NO. 93-6837

Variance Petition 92-V23/80 Fifth Street North (fence height)10

RESOLUTION NO. 93-6838

Easement Vacation Petition 92-EV2/The Colonade at Park Shore11