



City Council Chamber  
735 Eighth Street South  
Naples, Florida 33940

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**City Council Regular Meeting - March 17, 1993 - 9:00 a.m.**

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Mayor Muenzer called the meeting to order and presided.

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**ROLL CALL**

**ITEM 2**

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

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  
William Harrison, Finance Director  
Jon Staiger, Ph.D., Natural Resources Manager  
Ann Walker, Planner II  
Missy McKim, Community Development Director  
Mark Thornton, Community Services Director  
David Lykins, Recreation and Enterprise Superintendent  
Dan Mercer, Public Works Director  
George Henderson, Sergeant-At-Arms  
Marilyn McCord, Deputy City Clerk  
Many City employees who were recognized for years of service

See Supplemental Attendance List - Attachment #1

**ITEM 1**

**INVOCATION AND PLEDGE OF ALLEGIANCE**

Reverend Dr. John A. Lindell  
St. Matthew's House

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**ITEM 3**

**ITEMS TO BE ADDED**

None.

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**ITEM 4**

**ANNOUNCEMENTS**

**4-a Mayor Muenzer**

Mayor Muenzer announced that the Council Meeting would temporarily adjourn for the St. Patrick's Day Parade at approximately 9:50 a.m. and reconvene at 1:30 p.m.

**4-b City Manager Woodruff**

Dr. Woodruff expressed his appreciation to all of the City employees who had helped in recovery work after the recent storm, noting that cleanup began as early as 3:00 a.m. He said, "We are fortunate to have such dedicated employees." On behalf of the employees, Dr. Woodruff also expressed gratitude to those citizens who called in to say thank you.

**Employee Recognition Program**

Dr. Woodruff recognized those City employees who had been employed with the City for five, ten, fifteen, twenty, twenty-five, and thirty years of service. Those employees were called to the podium and presented with longevity awards by Dr. Woodruff. Council also congratulated each of the

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**City Council Regular Meeting - March 17, 1993**

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recognized employees. Those receiving awards were as follows:

## City Council Regular Meeting - March 17, 1993

### Five Year Award

Susan Golden	Planner	Community Development
Eugene Figurelli	Service Worker II/Recreation	Community Services
Thomas Cobb	Equipment Op. III/Pks. & Pkwys.	Community Services
Lee Hawn	Service Worker III/Pks. & Pkwys.	Community Services
Gregory Martsolf	Fire Lieutenant	Fire
Annette Reblin	Firefighter/EMT	Fire
Thomas Vogel	Fire Lieutenant	Fire
Mary Kay McShane	Human Resources Director	Human Resources
Kyle Clark	Police Officer	Police
James Gomory	Police Officer	Police
Brian Wingo	Police Officer	Police
Mary Lentovich	Administrative Assistant I	Police
Joseph Popka	Police Officer	Police
David Sugrue	Police Officer	Police
Robert Niven	Police Officer	Police
James Anderson	Service Worker III/Water Dist.	Utilities
Kenneth Kondel	Laboratory Supv./WW Treatment	Utilities
Barry Gardner	Service Worker III/Water	Utilities
Adam Rivera	Crew Leader III/Wastewater	Utilities

### Ten Year Award

Ralph LaCivita	Chief Accountant	Finance
Mark Houghton	Fire Lieutenant	Fire
Ciro Dominguez	Police Sergeant	Police
Doug Harkey	Plant Oper. IV/WW Treatment	Utilities
James Heiny	Lead Mechanic/Equip. Services	Utilities
Michael Long	Equipment Operator III/Water	Utilities

### Fifteen Year Award

David Graff	Utility Maintenance Supt.	Utilities
David Fife	Traffic Control Tech./Streets	Utilities
Roy Beedles	Crew Leader III/WW Collections	Utilities
Bob Evans	Utilities Inspector/Water Distrib.	Utilities
Willie Troutman	Service Worker II/WW Collections	Utilities
Joseph Ruggiero	Traffic Control Technician/Streets	Utilities

### Twenty Year Award

Paul S. Dykes	Data Processing Coordinator	Finance
Mae M. Davis	Secretary to Mayor	Mayor/Council

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**City Council Regular Meeting - March 17, 1993**

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Glen Chesebrough                      Training Chief                      Fire

**Twenty-Five Year Award**

George T. Smith                      Fire Chief                      Fire

**Thirty Year Award**

Luther Jones                      Right-of-Ways Maint. Super.    Community Services  
   Parks & Parkways

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

**NOTE:**            At Council's request, Items 16, 18-a, 18-b and 18-c were removed from the Consent Agenda to be considered separately.

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**ITEM 15**

**APPROVAL OF MINUTES**

March 3, 1993                      Regular Meeting  
March 8, 1993                      Workshop Meeting

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**RESOLUTION NO. 93-6867**

**ITEM 17**

**A RESOLUTION APPROVING AN INCREMENT INCREASE FOR CITY ATTORNEY MARIA J. CHIARO, PURSUANT TO THE EMPLOYMENT AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.**

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**City Council Regular Meeting - March 17, 1993**

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**MOTION:** To **APPROVE** the  
Consent Agenda, consisting of Items 15 and 17.

Anderson		Y
Herms	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>		

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

**ORDINANCE NO. 93-**

**ITEM 5**

**AN ORDINANCE AMENDING SECTION 10-6, WATER RESOURCES, OF THE COMPREHENSIVE DEVELOPMENT CODE OF THE CITY OF NAPLES, ADDING A NEW SUBSECTION, 10-6-6, ESTABLISHING THE MOORINGS BAY SYSTEM ACCESS CHANNEL, ESTABLISHING PROCEDURES FOR PERMITTING ENCROACHMENTS INTO THE CHANNEL, AND ESTABLISHING A PERMIT PROCESSING FEE; PROVIDING A SEVERABILITY CLAUSE; A REPEALER PROVISION AND AN EFFECTIVE DATE.**

Title read by City Attorney Chiaro.

Natural Resources Manager Dr. Jon Staiger reviewed the proposed amended ordinance, which would provide a method of permitting encroachment into the Moorings Bay Channel, with the Moorings Bay Taxing District Advisory Board as the permitting entity.

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**City Council Regular Meeting - March 17, 1993**

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Council Member Korest reminded Council that every Member of the Moorings Bay Taxing District Advisory Board must be a taxpayer of that district, so they have an interest in the area. Mr. Korest suggested that language be added to the ordinance: "No consideration shall be given for encroaching into the channel based on size of the vessels." City Attorney Chiaro said that the additional language will be added after Sections (C)(1) and (2) of the ordinance.

**MOTION:** To **APPROVE** the ordinance at first reading, with amendments to the language being made before second reading as follows: "No consideration shall be given for encroaching into channel based on size of the vessels."

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 Manager Woodruff verified that the fee for this type of variance will be less than for others because there is no requirement for newspaper advertisement; only immediate neighbors must be notified. There is no fee for an appeal.

Council Member Herms said that he would not want the public to think Council had regulated all of the dock sizes. Dr. Staiger explained that this was simply a recognition of a condition that existed prior to the establishment of the Taxing District. Council Member Pennington pointed out that this ordinance pertained to encroachment into the channel and had nothing to do with dock size.

**Public Input: None.**

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**ORDINANCE NO. 93-6368**

**ITEM 6**

**AN ORDINANCE OF THE CITY OF NAPLES, FLORIDA, RELATING TO COMMUNITY REDEVELOPMENT; CREATING A COMMUNITY REDEVELOPMENT AGENCY, PURSUANT TO SECTION 163.356, FLORIDA STATUTES; AUTHORIZING THE AGENCY TO EXERCISE POWERS WITHIN THE COMMUNITY REDEVELOPMENT AREA; APPOINTING A BOARD OF COMMISSIONERS OF THE COMMUNITY REDEVELOPMENT AGENCY; DESIGNATING A CHAIRMAN AND VICE CHAIRMAN OF THE BOARD; PROVIDING FOR TERMS OF OFFICE OF THE COMMISSIONERS; PROVIDING FOR AN EFFECTIVE DATE.**

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## City Council Regular Meeting - March 17, 1993

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Title read by City Attorney Chiaro.

City Manager Woodruff reported that with the adoption of this ordinance the City Council would become the Community Redevelopment Agency (CRA).

### Public Input:

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

Mr. Smith, referring to himself as a property owner in the affected area, distributed information for Council's consideration (available in original meeting file in the City Clerk's Office). Mr. Smith gave some historical background of the zoning ordinance in the City and noted that Naples was one of the first cities in the United States to adopt a Comprehensive Plan, long before it was mandated to do so. However, said Mr. Smith, the City's planning was completed in 1953 and professional planners have not been back since that time.

Mr. Smith stated that in his opinion Council was in the process of violating one of the most volatile rules of zoning, that of allowing individual zones within the City to be dealt with separately. To compound the problem, said Mr. Smith, staff planners are being used for planning, when their primary job should be coordinating the Comprehensive Plan. Mr. Smith urged Council to take the necessary time to plan and to bring in professional planners. Otherwise, he said, Naples may witness an exodus from such areas as Port Royal and Aqualane

Anderson	S	Y
Hermes		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>		

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**City Council Regular Meeting - March 17, 1993**

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Shores. Mr. Smith concluded by saying, "Don't get into spot zoning. That will destroy your planning."

City Manager Woodruff agreed with Mr. Smith in that the zoning requirements City-wide need to be reviewed.

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

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**ORDINANCE NO. 93-6869**

**ITEM 7**

**AN ORDINANCE AMENDING SUBSECTION 5-3-2 (A) OF THE COMPREHENSIVE DEVELOPMENT CODE OF THE CITY OF NAPLES, "SURVEY OF BUILDING FOUNDATIONS PRIOR TO COMPLETION OF CONSTRUCTION"; PROVIDING AN EXCEPTION FOR THE NEED OF A FOUNDATION SURVEY; DELETING SUBSECTION 5-3-2 (C) WHICH EXEMPTS CERTAIN STRUCTURES; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION, AND AN EFFECTIVE DATE.**

Title read by City Attorney Chiaro.

**Public Input:** None.

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

Council Member Anderson commented that she was very pleased to have this pro-active regulation adopted.

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

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ORDINANCE NO. 93-6870

ITEM 8

AN ORDINANCE AMENDING SUBSECTIONS 11-1-2(B)(4) AND 11-1-5(G)(4) OF THE COMPREHENSIVE DEVELOPMENT CODE TO DELETE THE REQUIREMENT FOR PAYMENT BY CASHIER'S CHECK; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.

Title read by City Attorney Chiaro.

Public Input: None.

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

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

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RESOLUTION NO. 93-6871

ITEM 9

A RESOLUTION PERMITTING THE SALE OF ALCOHOLIC BEVERAGES ON SUNDAY, APRIL 4, 1993, BETWEEN THE HOURS OF 11:00 A.M. AND 5:00 P.M. BY THE KIWANIS CLUB OF NAPLES-ON-THE-GULF OR ITS AUTHORIZED AGENTS AT THE ANNUAL SEAFOOD FESTIVAL HELD AT THE NAPLES AIRPORT IN THE CITY OF NAPLES TO RAISE FUNDS FOR STEP BY STEP, JUNIOR ACHIEVEMENT OF SOUTHWEST FLORIDA, EXPLORER POST 777, AND THE IMMOKALEE CHILD HEALTH CENTER; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Chiaro.

Public Input: None.

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

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

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City Council Regular Meeting - March 17, 1993

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**RESOLUTION NO. 93-6872**

**ITEM 10**

**A RESOLUTION PERMITTING THE SALE OF ALCOHOLIC BEVERAGES ON SUNDAY, MAY 2, 1993, BETWEEN THE HOURS OF 12:00 NOON AND 4:00 P.M. BY THE COLLIER COUNTY RESTAURANT ASSOCIATION OR ITS AUTHORIZED AGENTS AT THE "TENTH ANNUAL TASTE OF COLLIER" HELD ON THIRD STREET SOUTH IN THE CITY OF NAPLES TO RAISE FUNDS FOR THE MENTAL HEALTH ASSOCIATION OF COLLIER COUNTY AND THE SCHOLARSHIP FUND OF THE FLORIDA RESTAURANT ASSOCIATION, CHAPTER 15; AND PROVIDING AN EFFECTIVE DATE.**

Title read by City Attorney Chiaro.

City Manager Woodruff reported that language had been added to the permit prohibiting the use of glass containers.

**Public Input: None.**

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

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

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**ITEM 11**

**APPROVE NAPLES TROPICOL FET ACTIVITIES APRIL 30-MAY 16:  
APPROVAL OF 27 ACTIVITIES DURING THE ANNUAL TROPICOL  
FESTIVAL.**

City Manager Woodruff informed Council that the annual street dance would not be held at Crayton Cove this year; it will be held at Grand Central Station.

**Public Input:**

**Robert E. Noble, 1100 Ninth Street South**

Mr. Noble remarked that he was very pleased to learn that the location of the street dance had been changed, noting, "That was one of the least desirable activities in our neighborhood." He told Council that during the Great Dock Canoe Race event last year, he took photographs of improperly parked vehicles and discussed the situation with Dr. Woodruff and Captain Paul Sireci. Mr. Noble reported that Dr. Woodruff had assured him that this year's sponsors had been requested to pay for extra police patrol and to block off the hydrants in the area, creating no-parking zones. Mr. Noble expressed his appreciation for staff's cooperation. He did voice concern, however, about the continuing use of alcoholic beverages on City property. City Manager Woodruff said that no alcoholic beverages will be allowed on the Dock itself; that will be enforced by the Police Department. Staff will also investigate the establishment of capacity limits for the Dock.

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

Mrs. Smith told Council that although she did not oppose the existence of special events, she did oppose the fact that events are allowed but not properly monitored. She said, "Take the responsibility to monitor those things. We're watching you one more time and we will see. I hope you will provide for everyone you invite; work with the sponsors. Over all of that, I hope you look at the area; the first problem should be to preserve the integrity of that area."

**MOTION:** To **APPROVE** the Naples Tropicool Fest activities.

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

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

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**NOTE:** Mayor Muenzer temporarily adjourned the Meeting at 10:15 a.m.; the Meeting was reconvened at 1:30 p.m. Roll call was taken and all Council Members were present.

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**ITEM 12**

**ANNUAL FINANCIAL REPORT BY KPMG PEAT MARWICK FOR  
FISCAL YEAR ENDING SEPTEMBER 30, 1992: A SUMMARY OF THE  
ANNUAL FINANCIAL REPORT BY REPRESENTATIVES OF KPMG  
PEAT MARWICK.**

KPMG Peat Marwick Senior Manager Jack R. McCurdy, Jr. and Managing Partner Hillard M. Eure III were in attendance. Finance Director Bill Harrison reviewed the City's revenues and expenditures for the year. Mr. Harrison noted that the property tax millage levy has remained quite constant for the last five years and commented, "The City accounts for about nine cents on the dollar for those who own homes in Naples." Mr. Harrison reminded Council that at the same time Council adopted a roll back tax rate, it approved City labor agreements and the hiring of additional firefighters. The results were to be expected, said Mr. Harrison. In 1992 the trend was reversed and the City operated at a slight surplus.

Mr. Harrison reported that the major area of concern in the two years he has been Finance Director is the Water and Sewer Fund, which has experienced major losses on an annual basis. Council was forced to increase water and sewer rates in December, 1990 and again in June, 1992; the changes have been effective and the Fund is currently operating at almost a break-even point. Mr. McCurdy and Mr. Eure assured Council that financial problems have been properly addressed. Mr. McCurdy told Council that last year his firm had reported several weaknesses; this year there are no compliance issues to report.

Mr. McCurdy reviewed the Management Letter, which is a part of the Annual Financial Report. In summary, he reported, "We found things at the City to be much improved. You are now using budgeting data as a management tool as it should be. The other housekeeping items, including lax controls, have been cleared up. We commend management and City Council for its oversight."

In response to Council Member Korest's question, Mr. Eure said that the City's internal controls are adequate.

Council Member Herms brought attention to unbilled water and asked what percentage of unbilled water auditors are now accepting from other municipalities. Mr. Eure explained that much depends on the billing cycle and assured Council that if the percentage of unbilled water was extreme, an analytic review would be done to determine the discrepancy.

Mr. Eure went on to report that all bond covenants as related to financial requirements have been met. Mr. Herms referred to the City Charter, which sets out audit requirements. He cautioned that the Charter should be either complied with or amended. Council Member Anderson said, for the

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**City Council Regular Meeting - March 17, 1993**

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record, "It is appropriate to know the unbilled sliding average. Nineteen percent was a spike, but the average had been between fifteen and seventeen percent."

**Public Input:**

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

Mrs. Smith noted that the auditors allow a six-month period after the end of the fiscal year for the City to send its report and suggested that perhaps the City was not complying with that requirement.

She said, "How you work with the system should perhaps work with our Charter, not fit around it."

Mrs. Smith referred to the fact that since 1987 problems in the Water Department had been brought to Council's attention and that perhaps an intense study was needed.

Mrs. Smith requested that several questions be answered, as follows: "Can you show us in this year's Audit, by page, where the comprehensive statement relative to the general clearing account...where would we find that? Can you show us where we can find a comparative statement between the fiscal year 1992 and 1991 relative to the general clearing account? Where can we find that? Can you point out the page where we can find a comprehensive schedule of investments for the City of Naples for fiscal year 1991 for each individual City fund? Can you point out the page in the Audit where I can find a comprehensive comparative statement between 1992 and 1991 fiscal years relative to the investments for each individual City fund? And last, can you point out by page for us, please, in the Audit for this 1992 year where we can find the activities and retained balances of the various bond escrow funds established in the name of General as well as Enterprise Funds?"

Mayor Muenzer assured Mrs. Smith that her questions would be answered.

**MOTION:** To **ACCEPT** the City's Annual Financial Report.

Council Members Herms requested a careful review of the unbilled water situation during next year's audit and the issue of whether the City's report must be received by January 1st or at a later period with a change to the Charter.

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

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**RESOLUTION NO. 93-6873**

**ITEM 13**

**A RESOLUTION ENDORSING PURCHASE, BY THE STATE OF**

**FLORIDA, OF CERTAIN UNDEVELOPED LANDS AND SUBMERGED BOTTOM LANDS ON AND ADJACENT TO KEY ISLAND, PRESENTLY OWNED BY BARRET C. OTT AND LUCILLE M. DRACKETT, SUCCESSOR CO-TRUSTEES UNDER LAND TRUST AGREEMENT DATED JUNE 19, 1989, SO THAT SAID LANDS AND SUBMERGED BOTTOM LANDS SHALL BE INCORPORATED INTO THE ROOKERY BAY NATIONAL ESTUARINE RESEARCH RESERVE; AND PROVIDING AN EFFECTIVE DATE.**

Title read by City Attorney Chiaro.

Community Development Director Missy McKim used visual aids to review the matter, noting that the present owners will retain ownership of the Keewaydin Club and some adjacent vacant land, as well as the Shore Station. Staff recommends approval of the resolution endorsing the purchase by the State of Florida.

Attorney George Vega, Jr., representing the Dracketts, pointed out that the County Commission had endorsed the purchase. He also reminded Council that any changes to the property would go through the normal process of staff, advisory board, and Council review. Attorney Vega encouraged Council to endorse this purchase, which, he said, would be to the benefit of the community and the State.

Attorney Tom Conroy, who represented the Dracketts in negotiations with the State, addressed Council with respect to Paragraph 23 of the contract, which had been questioned by Council Member Pennington. Attorney Conroy explained that Paragraph 23 does not obligate the State or the City to grant the amendment to the PD (Planned Development) which the Dracketts intend to submit. The purpose of that paragraph, he said, was to make it possible to withdraw from the sale to the State should the PD not be granted.

**Public Input:**

**Jim Lennane, 4228 Gordon Drive**

Mr. Lennane stated that the documents displayed by staff had been disavowed by the petitioner. Mr. Lennane read from notes he had taken during a discussion with Mrs. Drackett, as follows: "As we stated, insofar as the proposed transaction impacts the quality of our neighborhood, we and the members of the Cutlass Cove Association are diametrically opposed to any intensified use of the sixty acres which her family has retained at the northern tip of the island. As per information supplied to us today, we understand the contract of sale you have negotiated with the Nature Conservancy sets forth a development restriction of 102,462 square feet, an increase of 64,805 square feet above the current facilities of 37,657 square feet. Since the terms and conditions of the sale agreement have the approval of the State of Florida, we believe this clearly stated size limitation

constitutes tacit approval for uses up to that limit. We believe the State has improperly, if not illegally, granted development rights without holding public hearings. Due to the lack of specific plans for the increased use, the residents of our area are concerned this 272% increase in size will result in additional traffic including buses, service vehicles, purveyors, and tour boats as well as a general intensification of the use of the Shore Station itself." Mr. Lennane said that the number of people on the island was also discussed and he outlined the opposite possibility, which was a far denser use of the additional square footage for convention facilities or day trip excursions. He suggested a written agreement which would limit the maximum number of persons which may be allowed on the Island at any one time as a possible way to cap the uses of the Island, not only for today but for all future owners and operators.

Mr. Lennane went on to say that the major concern of the residents involves the uses of the Shore Station which exceed current uses and the volume of arrivals and departures. He related a suggestion made by Mr. Ken Main for establishing agreements with the County for installation of a dock at Bayshore Park to transport guests and provisions to the Island. Mr. Lennane read further: "I believe a formal written agreement of such a strategy together with a written commitment for no intensified use of Gordon Drive Shore Station will remove a great deal of the anxiety the Cutlass Cove residents expressed at our recent breakfast meeting."

Referring to Paragraph 23, Mr. Lennane noted that it had an absolute pre-condition to closing, that either a revised PD is granted by the City or the Dracketts must waive the transaction. He said that in his opinion that places the PAB and Council in the middle of the negotiating process. Mr. Lennane pointed out that Council is the primary agency to protect the citizens of Naples, and that it was inappropriate to endorse this transaction without knowing all of its content and ramifications. He concluded, "I don't believe your endorsement is required for this to pass to the State or the Governor, as I'm sure it's on a roll and it's going to pass. I just believe that you need to keep yourselves fully arms length, objectively look at the petitioner's new petition for a PD, hold open hearings, and then make your decisions."

Community Development Director McKim stated, for the record, "The information I provided is what is allowed by the Planning Development that was approved by City Council in June of 1989. It is not, and let me emphasize, it is not what anyone has proposed. That is what was approved by City Council and is in the PD approved by City Council. And those are the only uses that I presented on those overheads." In reply to Mr. Lennane, Ms. McKim said that she had mapped in square footage what the PD allows today in Parcel A. She also clarified that the existing PD does not allow for expanded use of the Shore Station.

Responding to Council Member VanArsdale's question, City Attorney Chiaro verified that by approving the resolution, Council was simply endorsing the purchase by the State and not endorsing any agreement.

**Attorney Nancy Stroud, representing the Thomas J. Hickey estate**

Ms. Stroud told Council that in her opinion they would be making a mistake to approve this resolution. Her biggest concern in terms of the sale, she said, was the fact that the newspapers reported "All the environmentalists are happy." That is not the case, said Ms. Stroud. She asked Council to not support the sale under such vague terms. Ms. Stroud concluded, "I hope this gives you pause. The developers will have you in a corner later. This is a bad deal. Please don't support this bad deal."

Attorney Conroy explained that Council was not being asked to endorse an option agreement and was not jeopardizing itself. He said that the petitioner was willing to give up a large amount of development rights in order to accomplish this sale to the State. Attorney Conroy reported that

the Audobon Society was satisfied with details of the sale. He said that lobbying efforts were currently taking place and the City's support was needed.

Community Development Director McKim asked to clarify certain calculations from the PD for the record, as follows: "The square footage of the existing buildings are found on page 1-37 of the PD submitted December 6, 1991 incorporating City Council's stipulations as part of their motion. Added to that, which is permitted by the PD, are eleven single family homes that have the maximum square footage of 5,000 square feet (found on page 1-12 and 1-13). Added in there was also the expansion that was permitted for the lodge and the restaurant, which are found on page 1-12 under Purpose and Description. Additionally I did add an expansion of guest units using the figure presented in the document on page 1-36 that the average size of the unit currently is 455 square feet. If they expanded each of those to the max of 600 that was an additional slightly over 6,000 square feet, and I added that in. That's all the numbers I added together; they're all provided for under Permitted Uses in the PD."

Natural Resources Manager Staiger clarified that the resolution itself endorses the purchase of the land, not the agreement or the option agreement. It does not endorse a specific price. Dr. Staiger said that he wrote the resolution to simply endorse the purchase, by the State, of the lands owned by the Dracketts. He emphasized the fact that the City would not be endorsing a particular agreement or a particular price.

**Dr. John H. Fitch, President, The Conservancy, 1455 Merrihue Drive**

Dr. Fitch announced that he would speak to the land acquisition by the State rather than to the PD. He stated, "The Conservancy believes that the proposed State acquisition of some 2,650 acres of natural coastal barrier communities on north Key Island will be a major step for conservation and for the people of Collier County. This area includes pristine barrier beach, it includes coastal strand, it includes pine flatwoods, it includes scrub oak, coastal hardwood hammock, and mangrove forest communities. We strongly support the proposed acquisition by the State for the following reasons:

- 1) The land will become part of the Rookery Bay National Estuarine Research Reserve, and in fact it's going to add about 28% of land area to that Reserve.
- 2) State funding is actually available for this important acquisition because of its ranking.
- 3) Funding for the management of this land is available from State and Federal sources. Very often, I think, there is a tendency to purchase land without having adequate management funds. In this case there are funds already available for the management.
- 4) There is a draft management plan for conservation and environmental education on this property. The Conservancy plans to work closely with the Department of Natural Resources staff on programs as it does in the rest of Rookery Bay.
- 5) We believe that the proposed acquisition is critical in assuring the long-term viability of the Rookery Bay estuarine ecosystem. That is an ecosystem that the Conservancy has been

involved in protecting for the last 27 years.

With these points in mind, we respectfully urge you to endorse the proposed land acquisition of north Key Island by the State of Florida for the Rookery Bay National Estuarine Research Reserve. We look forward to working with the Reserve to support environmental protection, management and educational efforts in the future."

**Don Vining, President of the Cutlass Cove Association**

Mr. Vining reported that the Conservancy had negotiated for a sale with the State without any input from the Association. The language of the resolution is not specific, said Mr. Vining. He said that the Association did not oppose supporting the purchase by the State, however the City should qualify its endorsement as being in support of the land purchase only and not in support of an indefinite agreement. Otherwise, said Mr. Vining, "You will paint yourself into a corner whereby the public perception will be such that if it refuses to change previous agreements in order to accommodate the intended expansion which is a condition precedent to the seller's obligation to sell, it will therefore be charged with killing the deal to purchase this valuable natural treasure. We would therefore respectfully request that an endorsement, if any, be qualified as blessing only the purchase of the land and contain a boldly printed caveat to any endorsement that any such endorsement should not in any way be construed to imply directly or indirectly that any requests would necessarily be granted for expansion of existing uses or for changes to previously well reasoned agreements affecting the lands retained by the sellers. We are placing our trust in your inherent sense of fairness."

Council Member Anderson read that section which had been added to the resolution: "It is recognized that all development of State held or private property which is part of Key Island within the City of Naples shall be required to obtain development approvals by the City Council and that no such approvals are set forth or obligated by this document." Mr. Vining said that although the City Attorney had stated that was sufficient language, he was still concerned.

**Kenneth A. Main, 300 Cove Lane**

Mr. Main, representing himself and Cutlass Cove Association, agreed with Mr. Vining's comments, adding his concern that a change in the PD would intensify the use of the sixty acres. He said that it was understandable for the owners to want to make the parcel an economically sound investment, however neighboring property owners believed they had an agreement limiting the use of the Shore Station. Mr. Main stated, "We're all in favor of the purchase of the land by the State. What we see is a major confrontation between the owners of the sixty acres and the residents of the south end of Gordon Drive over intensification of activity on South Gordon Drive and at the Shore Station. We are already in disagreement with the owners about what they can or cannot do under the existing PD, and we think it's quite clear, but we have an honest disagreement on that. If you intensify the use

and if you have to look to that Shore Station where we already think the use is too intense, we are going to have a problem of horrendous proportions for that neighborhood. So, I think what we're all saying to you today is we all like the idea of the State buying the land but recognize that you are entering a new controversy that's going to make the last one look like a kindergarten party, because this one is really going to get bloody if a move is made to intensify the use of that Shore Station."

**Gary Lytton, Manager of the Rookery Bay National Estuarine Research Reserve  
Florida Department of Natural Resources**

Mr. Lytton described the process by which land acquisitions are ranked for funding purposes and said that he was very proud that some funds may be used in Collier County. He recognized the efforts of the Drackett family and others who had worked hard on this project. Environmental programs will be addressed, said Mr. Lytton, as well as resource enhancement of the Island. Mr. Lytton told Council that \$200,000.00 has been specified for management of the property, and he anticipates long standing private and public management. He concluded, "This is a very unique, very important opportunity."

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

Mrs. Smith commented, "I remember when the Norris family sold the property; many hoped that it could be bought by the City and County. The Drackett family bought that and through great generosity on their part the State can set land aside. You're having a second chance around. I beseech you, please do all you can to work with the Dracketts and the State, that these lands can be set apart."

Council Member Pennington requested a public commitment that installation of a sewer line would not be pursued in the future. Attorney Vega assured Council that they were happy to make that commitment. He also agreed that uses of the Keywaden Dock would not be increased above the levels approved in the PD.

Council Member Anderson referred to the parking situation at the Shore Station and asked Dr. Woodruff to comment on monitoring the parking. Dr. Woodruff told Council that the Police Department was aware that restrictions on Bay Road have been violated; orders have been given to ticket any vehicle violating those restrictions. The Engineering Department has been requested to place signs on the right-of-way that clearly state buses cannot park on that right-of-way. Dr. Woodruff said that in addition, the owners of Keywaden are aware that no overflow parking will be allowed outside of the present parking area. He agreed that the PD document must be strictly enforced.

In response to an inquiry by Council Member Herms, Dr. Woodruff said that permits for expansion can be pulled at any time, however that would require a complete review of the PD so that all stipulations have been met prior to any future development.

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**City Council Regular Meeting - March 17, 1993**

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Council Member VanArsdale stated, "Obviously, we all feel it's in our interest to move ahead with this purchase and it wouldn't make sense to stand in the way of it, so obviously I'm going to support the resolution. But I think to alleviate speculation and maybe help with the planning process to come up with a new PD, it would certainly, in my mind, be helpful to just express somewhat how I feel. In general, from my standpoint any intensification of use of this property is something that just doesn't make sense. And furthermore, I might state, with the amount of money that's being spent to purchase 31 lots, we should possibly, reasonably expect the deed intensification of use. We just have to be very sensitive to the fact that this...any intensification of use of activity on Keywadin Island directly impacts a very sensitive residential neighborhood. I usually don't like to jump the gun on issues because I know we'll get it back as a PD document, but I think a lot of times when we just endorse proposals such as we're doing now, a lot is construed from just a simple yes or no vote that is not necessarily factual and calls aren't made to clarify things. But I think it's helpful, it's certainly helpful to me and I think it will be helpful to people to understand how I feel. I think there's some value to expressing my feelings."

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

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

(7-0)

**M=Motion S=Second**

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

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**BREAK: 4:00 p.m. - 4:05 p.m.**

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**RESOLUTION NO. 93-6874**

**ITEM 18-a**

**A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF NAPLES AND FLORIDA CITIES WATER COMPANY TO PROVIDE RAW WATER FOR EMERGENCY SITUATIONS AND SCHEDULED MAINTENANCE; AND PROVIDING AN EFFECTIVE DATE.**

Title read by City Attorney Chiaro.

City Manager Woodruff reviewed the agreement, noting that a hydrological study should be done every five years. Dr. Woodruff told Council that the utility companies would be responsible for

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## City Council Regular Meeting - March 17, 1993

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paying for the studies. Finance Director Harrison added that the scope of study will be determined by the City.

In response to Council Member Herm's question, Dr. Woodruff said that the rate being considered is 24.5 cents per one thousand gallons. He stated that every customer of the City Water Department should be reminded that the City is selling water at the very lowest rate of any utility in this County.

Dr. Woodruff also pointed out that whether or not the contract is signed, at some time the City will need to add additional wells to its system. Staff is recommending that any revenue from this contract goes directly back into the wellfield account.

Council Member Herms said that in his opinion a consultant should be hired so that the City is properly represented in this matter. Dr. Woodruff explained that the rates can be adjusted at any time.

Michael Slayton, Administrator of the Big Cypress Basin, South Florida Water Management District, told Council that the District supports the inner connection for backup emergency water supply. The District has been urging Florida Cities Water Company to do so for years, he noted. Mr. Slayton invited the City to participate in the master planning effort in east Collier County.

Dr. Woodruff announced that in late April, 1993 a public water symposium will be held for the purpose of educating the public.

### **Public Input:**

#### **Jim Lennane, 4228 Gordon Drive**

Mr. Lennane told Council that in his opinion selling a natural resource was a growth inducing act and he was opposed to the action. The City should retain all of its own water supply, he said, and asked Council to consider supplying limited amounts of water to neighboring communities for a limited period of time. Mr. Lennane concluded, "There is definitely something incompatible to the idea that I can't water except during limited times but we can sell to someone else."

#### **Fred Tarrant, 175 Third Street South**

Mr. Tarrant said that he totally endorsed Mr. Lennane's comments. He admitted to being frightened about the issue at hand, commenting, "You'll end up with the mother of all disasters in Naples. First, you may have the legal right to play with our natural resources, but I don't believe you have the moral or ethical right to do this to the citizens. You're playing fast and loose with my home and every citizen of this City. Water is far, far more precious than sand on the beach but you talk about it as if it's something you can barter and sell. The City water system is losing close to twenty percent each year - you don't know where - while this massive leakage process is going on you're talking about selling more."

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**City Council Regular Meeting - March 17, 1993**

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Vice Mayor Sullivan reminded everyone that there are three resolutions before Council. One is to approve an agreement to provide raw water for emergency situations and scheduled maintenance. That is a responsibility the City should assume, said Mr. Sullivan. The other two resolutions involve feasibility studies and are not final actions nor do they commit the City, he pointed out. Mr. Sullivan remarked, "There are a lot of questions. You get the answers with a feasibility study."

Council Member Herms recommended that language in Section 7 of the agreement be amended to read as follows: "...The City shall have the right to increase the commodity charge to the Utility at any time." In addition, language shall be included to state that if the study determines that the rate should be higher than 24.5 cents, it will be adjusted and Florida Cities Water Company will be backbilled for the difference.

**MOTION:** To **APPROVE** the resolution with language in the agreement to be amended.

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

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**RESOLUTION NO. 93-6875**

**ITEM 18-b**

**A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF NAPLES AND FLORIDA CITIES WATER COMPANY FOR THE PURPOSE OF STUDY IN THE FEASIBILITY OF THE CITY OF NAPLES PROVIDING A RAW WATER SUPPLY TO SERVICE CUSTOMERS OF FLORIDA CITIES WATER COMPANY; AND PROVIDING AN EFFECTIVE DATE.**

Title read by City Attorney Chiaro.

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**City Council Regular Meeting - March 17, 1993**

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City Manager Woodruff reviewed the agreement and Council Member Anderson recommended that the resources of the utilities companies and their staffs, rather than City staff, be responsible for the work program. Council Member Korest commented that in order to be entirely fair to the citizens of Naples, he would recommend that the City hire a consultant and language be included in the agreement for reimbursement to the City by the utilities companies.

**Public Input: None.**

**MOTION:** To **APPROVE** the resolution. The studies shall be undertaken by the City based on reimbursement by Florida Cities Water Company contingent upon finalization of the sales contract, otherwise reimbursement to be as it exists in the agreement.

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

(7-0)

**M=Motion S=Second**

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

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**RESOLUTION NO. 93-6876**

**ITEM 18-c**

**A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF NAPLES AND SOUTHERN STATES UTILITIES COMPANY, INC. FOR THE PURPOSE OF STUDYING THE FEASIBILITY OF THE CITY OF NAPLES PROVIDING A RAW WATER SUPPLY TO SERVICE CUSTOMERS OF THE SOUTHERN STATES UTILITIES COMPANY, INC.; AND PROVIDING AN EFFECTIVE DATE.**

Title read by City Attorney Chiaro.

**MOTION:** To **APPROVE** resolution as presented, that the studies be undertaken by the City based on reimbursement by Southern States Utilities Company, Inc. contingent upon finalization of a sales contract, otherwise reimbursement to be as it exists in the agreement.

Anderson		Y
Hermes	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**

For the record, City Manager Woodruff confirmed that

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**City Council Regular Meeting - March 17, 1993**

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staff was authorized to proceed with obtaining proposals for consultant services.

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**ORDINANCE NO. 93-6877**

**ITEM 14-a**

**AN ORDINANCE AMENDING SECTION 13.1 OF ARTICLE 13 OF THE CHARTER OF THE CITY OF NAPLES TO PROVIDE FOR THE SPECIFIC ADOPTION AND INCORPORATION OF THE STATE ELECTION LAWS; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.**

Title read by City Attorney Chiaro.

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

Anderson	M	Y
Herns		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>		

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**ORDINANCE NO. 93-6878**

**ITEM 14-b**

**AN ORDINANCE AMENDING SECTION 13.3, "ELECTIONS; CANVASS OF RETURNS" TO PART A, ARTICLE 13, OF THE CHARTER OF THE CITY OF NAPLES, FLORIDA; PROVIDING A SEVERABILITY CLAUSE,**

**A REPEALER PROVISION AND AN EFFECTIVE DATE.**

Title read by City Attorney Chiaro.

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

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Anderson	M	Y
Herns		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>		

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**RESOLUTION NO. 93-6879**

**ITEM 16**

**A RESOLUTION APPROVING A CONTRACT BETWEEN THE CITY OF NAPLES AND JOSEPH O'SHAUGNESSY FOR OPERATION OF THE RETAIL SALES AND EQUIPMENT RENTAL CONCESSIONS AT LOWDERMILK PARK; AND PROVIDING AN EFFECTIVE DATE.**

Title read by City Attorney Chiaro.

City Manager Woodruff verified that Council has the right to establish conditions of the contract. If Council believes the percentages are not acceptable, he said further, staff can proceed to negotiate further.

Community Services Director Mark Thornton reviewed the background of the issue, noting that staff had been directed to modify operations at the Pier and continue that operation with current staff. A contract has been drafted outlining the responsibilities and conditions agreed upon by Mr. O'Shaugnessy and the Community Services Department. Mr. Thornton said that staff would recommend Council's approval of the agreement, giving exclusive privilege of operating the concession operations at Lowdermilk Park to Joseph O'Shaugnessy.

A motion was made by Council Member Korest and seconded by Council Member Herns to approve the resolution, based on a 15% override. Mr. Korest subsequently withdrew that motion.

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**City Council Regular Meeting - March 17, 1993**

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Council and Mr. O'Shaughnessy discussed their understanding of paragraph 23 in the contract which denotes the monthly concession fee.

**MOTION:** To **APPROVE** the resolution with amended language in paragraph 23 of the Contract to reflect that the percentage of gross sales shall be calculated per annum and to be calculated from the first dollar of sale retroactively.

Anderson		Y
Herms	S	Y
Korest	M	Y
Pennington		Y
Sullivan		N
VanArsdale		Y
Muenzer		Y
(6-1)		
<b>M=Motion S=Second</b>		
<b>Y=Yes N=No A=Absent</b>		

Vice Mayor Sullivan voted in the negative, commenting, "Not because I'm opposed to Mr. O'Shaughnessy's running the operation, but I am not satisfied that this has been properly advertised and feel substantive changes were made within the bid process without being rebid." Mr. Thornton reviewed the procedures which had been used throughout the bid process. He said that no changes had been made until the time of the submittal process, when the applicants had been narrowed to only two.

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### **CORRESPONDENCE AND COMMUNICATIONS**

City Manager Woodruff advised Council that a professional diving group had inspected the Pier and reported that it had not received unusual damage during Hurricane Andrew. However, the Pier is not in good condition; the pilings from the bait house to the beach have deteriorated. The Pier will be open on calm days, said Dr. Woodruff, however during rough weather it will be necessary to close. He stressed that this was not an emergency situation but one that Council would need to consider within the next six months.

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Council Member Herms announced that for the next thirty days a special State program had been instituted for Lee and Collier Counties for the rebuilding of structures along the beach that need additional fill material. Staff will research this matter and report back to Council.

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### **OPEN PUBLIC INPUT**

## **City Council Regular Meeting - March 17, 1993**

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### **Jim Lennane**

Mr. Lennane told Council that there appeared to be intense Police enforcement on a one-mile stretch of road in the area of Goodlette Road and U.S. 41. He said, "I don't think we need the revenue so desperately that we have to give tickets to tourists."

Next Mr. Lennane referred to the recent Naples Daily News article attributing a highly insubordinate quote to the City Manager. Mr. Lennane asked, "Why didn't you terminate him?" Mayor Muenzer stated that Dr. Woodruff was not challenging Council at the time but that the comment was made as part of another conversation.

Dr. Woodruff said that he appreciated the opportunity to clarify the situation and went on to review the circumstances involved. He commented, "I assure you and Council and the public, the comment wasn't issued in an arrogant fashion." Mr. Lennane in turn said, "The paper needs to be talked to straight," and Mayor Muenzer said that he had sent a letter to Jeff Lytle of the Naples Daily News.

Council Member Herms said that the discussion at issue came up because the City Manager had not been notified of a sensitive incident. Mr. Herms stated that his own perception of that conversation was that the City Manager would not allow past kinds of incompetence with the Water Department to continue which would give Council a reason to terminate him. Mayor Muenzer and Council Member Korest both commented that it was important to hear comments in their context.

### **Sue B. Smith**

Mrs. Smith said that some of the citizens had been to Council Meetings often and attempted to present problems. However, she said, they are not getting the proper kind of response and in addition are experiencing a certain amount of harassment. Mrs. Smith commented further, "If you are indeed accountable and believe in the credo that you are here to improve the quality of life, I challenge you to really do that. For just one month, see what happens here. Tell us what is wrong. You're not listening to us, and if you are, you're not really hearing. Would that not be staff accountability? It's Council's accountability to your citizenry that things get done."

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**ADJOURN: 6:15 p.m.**

**PAUL W. MUENZER, MAYOR**

**City Council Regular Meeting - March 17, 1993**

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Janet Cason  
City Clerk

Marilyn McCord  
Deputy City Clerk

These minutes of the Naples City Council were approved on April 7, 1993.



**Index**  
**City Council Regular Meeting**  
**March 17, 1993**  
Convened 9:00 am / Adjourned 6:15 pm

<b>ANNOUNCEMENTS .....</b>	<b>2</b>
<b>ANNUAL FINANCIAL REPORT</b>	
KPMG Peat Marwick.....	10
<b>APPROVAL OF MINUTES .....</b>	<b>4</b>
<b>CORRESPONDENCE AND COMMUNICATIONS.....</b>	<b>23</b>
<b>OPEN PUBLIC INPUT .....</b>	<b>24</b>
<b>ORDINANCE NO. 93- (First Reading)</b>	
Establish Moorings Bay System Access Channel .....	5
<b>ORDINANCE NO. 93-6368</b>	
Establish Community Redevelopment Agency .....	6
<b>ORDINANCE NO. 93-6869</b>	
Survey of Building Foundations .....	7
<b>ORDINANCE NO. 93-6870</b>	
Delete Requirement for Payment of Cashier's Check.....	8
<b>ORDINANCE NO. 93-6877.....</b>	<b>21</b>
Amend Charter/Adopt and Incorporate State Election Laws .....	21
<b>ORDINANCE NO. 93-6878</b>	
Amend Charter/Elections;Canvass of Returns .....	22
<b>RESOLUTION NO. 93-6867</b>	
Increment Increase for City Attorney Maria J. Chiaro .....	4
<b>RESOLUTION NO. 93-6871</b>	
Permit Sale of Alcoholic Beverages at Seafood Festival .....	8
<b>RESOLUTION NO. 93-6872</b>	
Sale of Alcoholic Beverages at "Taste of Collier" .....	9
<b>RESOLUTION NO. 93-6873</b>	
Purchase of lands on and adjacent to Key Island by State of Fl.....	12

<b>RESOLUTION NO. 93-6874</b>	
Purchase of raw water by Florida Cities Water Company.....	18
<b>RESOLUTION NO. 93-6875</b>	
Agreement with Florida Cities Water Company/feasibility study.....	20
<b>RESOLUTION NO. 93-6876</b>	
Agreement with South States Utilities/feasibility study .....	21
<b>RESOLUTION NO. 93-6879</b>	
Lowdermilk Park concessions/contract with Joseph O'Shaugnessy .....	22
<b>TROPICOOOL FEST ACTIVITIES.....</b>	<b>9</b>

**SUPPLEMENTAL ATTENDANCE LIST  
MARCH 17, 1993**

Mr. & Mrs. Fred Tarrant  
Werner W. Haardt  
John A. Smith  
Captain Frederic H. White, Jr.  
Gary Lytton  
Don Vining  
Nancy Stroud  
George Vega  
James Clark  
Jack McCurdy  
Nicole Polayse  
John VanArsdale

Reverend Dr. John Lindell  
Justyna Ford  
Sue B. Smith  
Robert Noble  
K.A. Main  
Dr. John H. Fitch  
James Lennane  
Tom Conroy  
Ann Collabrese  
William Eurie  
Mike Slayton

Other interested citizens and visitors.

**Media:**

**Eric Staats, Naples Daily News**  
**Traci Griffith, WNOG**

(Start Index Here)